Perceptions of Institutions of Justice:

comparative study in English and Russian lower courts.

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Abstract

This dissertation examines how ordinary people in England and Russia form their perceptions of legal institutions in their experiences with lower courts. This work is based on a qualitative study involving interviews and observations in county and magistrates' courts in England and courts of Justices of the Peace in Russia, a number of focus groups with the court users and the judges, as well as a variety of secondary sources. The goal of this study is to investigate the inner workings of the English and Russian legal cultures through the analysis of stable attitudes towards legal institutions and their interplay with the people's perceptions of their individual experiences. My examination of these complex sets of ideas and images includes the analysis of people's preconceptions about institutions of justice, people's perceptions of administrative and procedural models, their interaction with court administration and legal professionals, and evaluations of the final outcomes of their cases. I argue that perceptions of legal institutions even at the lowest level are linked to the traditional images of courts in the Russian and English societies. The perceived position of legal institutions within the framework of the state, i.e. the level of their independence and impartiality, is one of the leading factors that shape people's long-standing attitudes of trust in legal institutions. The availability of administrative and procedural mechanisms that create and reinforce perceptions of transparency, equality, and reliability of legal institutions

in people's everyday experiences contributes to the creation of stable attitudes of institutional trust. People's perceptions of the English and Russian lower courts reflect how ordinary citizens see law and institutions of justice in their countries, and how they perceive their own ability to obtain justice with the use of official legal mechanisms. These perceptions reveal the underlying relationships between people, law, and legal institutions in different societies and, therefore, contribute to our understanding of legal cultures.

PART 1

Introduction

This study investigates how people perceive of institutions of justice in different legal cultures. In the complex organisation of modern-day societies people find themselves in a variety of situations in which problems need be solved with the use of legal institutions. These matters are brought to courts, institutions created for the purpose of solving disputes and restoring order. While courts perform similar functions in developed societies, people in different countries attach different ideas and images to these institutions and their ability to deliver justice. My research investigates how people's perceptions of their individual experiences in courts relate to more stable and generalisable ideas and images associated with the institutions of justice in different socio-legal environments.

The difficult task of analysing whether courts are seen to deliver justice has traditionally been approached with a variety of means, most commonly used of which aim to assess court independence, impartiality, efficiency of case resolution, and transparency of court activity. Depending on the goal of such evaluations, a large number of them are conducted with the use of measurable indicators in order to develop prescriptive standards of behaviour.[1] However, practice shows that the process of formation of people's perceptions of and attitudes towards institutions of justice is more subtle and complex. It requires multiple levels of analysis, starting from people's individual experiences with institutions of justice, bringing them in contrast with people's pre-existing ideas and expectations, and finally putting them into larger social contexts. One of the more nuanced aspects of this

[1] The use of indicators in the evaluation of people's attitudes towards institutions of justice has produced a number of large-scale studies aimed at transnational comparison. This approach has been criticized largely for the lack of substantive understanding of the meanings attached to different indicators in different societies. See S. E. Merry, et al., (ed.), *The Quiet Power of Indicators: Measuring Governance, Corruption, and the Rule of Law* (Cambridge: Cambridge University Press, 2015), pp. 1-27; T. C. Halliday and G. Shaffer, *Transnational Legal Orders* (Cambridge: Cambridge University Press, 2015).

investigation is the fact that people conceptualize the process of justice in ways that differ from their actual experiences in courts. The disparity between people's expectations and their actual experiences leads to the creation of different attitudes of trust towards the courts as institutions capable of protecting people's rights and interests. The degree of trust in legal institutions may lie not only in their performance, even arguably not so much, but in how they are perceived among the general public. Therefore, the investigation of the complex nature of people's perceptions of their experiences in courts will allow me to develop a better understanding of the process of formation of trust in legal institutions on a larger scale.

I approach the study of people's perceptions of courts from a bottom-up perspective of individual perceptions of court users, which is crucial in the understanding of the larger processes, such as development of long-term relationships between the public and legal institutions. I accept it as my assumption that confidence in and trustworthiness of institutions of justice are essential for the development of healthy and functioning regimes of governance able to provide equal and respectful treatment to all members of society. Therefore, a better understanding of the process of formation of stable attitudes towards legal institutions is particularly useful for research dedicated to the development of democratic regimes.

Building confidence and trust in legal institutions at the lowest level of social participation is particularly important for transitional regimes, such as post-Soviet countries transitioning from authoritarian regimes towards liberal democracies. The widely accepted democratisation efforts embrace the principles of judicial independence, transparency of the legal process, and procedural fairness via judicial reforms that aim to improve courts' performance by legislative methods. However, they concentrate on improving the effectiveness of courts without examining how courts are perceived among the general

population. This focus on the performance and output of institutions of justice is driven by the dominant evaluation system based on socio-political indicators. It largely ignores the fact that institutions are created for use by the public, and, therefore, the way that the public perceives and uses these institutions has to be given its due attention. The reforms based on the top-down reasoning do not take into account that societies are living organisms, held together by traditions, stereotypes, images, and ideas, commonly shared by people for extensive periods of time. These organisms are comprised of complex networks of relationships between people, their community, the state, and the institutions with which they interact in their everyday lives. My discussion will show that approaching problems of institutional trust with the primary use of statistical indicators overlooks a number of underlying issues that may offer explanation to the deeply-rooted problems of trust in particular legal cultures.

Therefore, the main goal of my research is to analyse people's perceptions of institutions of justice in their complexity. I will look at how perceptions of individual experiences fit into the collective ideas and images of institutions of justice that characterise particular societies. Individual experiences in court will be treated as units of analysis. In particular, I will investigate how images or courts emerge from such factors as people's perception of court administration, legal procedure, interaction with legal professionals, and evaluations of individual outcomes, among others. The analysis of individual perceptions in larger socio-legal context is essential for better understanding of how individual perceptions come together to comprise more stable and generalisable attitudes towards legal institutions that characterise different legal cultures.

In the first stage of my analysis I will approach people's perceptions of institutions of justice within the larger context of legal traditions, images, ideas, and attitudes about legal institutions that have become part of the larger legal cultures. Existing legal traditions and

their historical paths of development in societies shape people's perceptions of the role of courts and establish certain norms of interaction with state institutions in general. Therefore, I approach people's perceptions of courts as a complex interplay of the pre-existing ideas about their roles in people's lives, as well as the shared knowledge of how courts work procedurally and, and finally the ability of courts to answer the needs of the court users.

In addition to offering an insight into the process of formation of larger attitudes towards institutions of justice, my research will investigate to what extent perceptions of institutions of justice are shaped by the long-standing juxtaposition of forces in particular societies, by the traditional and historic relationships between people, state institutions, and state power. 'If we are to be consistent in our acceptance of the proposition that law has a constructed nature, then we must also bear in mind that to some extent every society is unique. The distinctive characteristics of the local configuration of values, traditions, and established institutional arrangements will produce changes in the meanings and roles attached to law …'[2] The perceived independence of courts from the state power (as opposed to the officially accepted and reported levels of independence) is a precondition for the development of regimes that treat all people equally and fairly. In addition, particular historical developments in legal traditions of different countries are larger contextual elements that need to be considered in the examination of people's perceptions of courts, and their connection to the shared attitudes of trust and confidence in legal institutions.

Individual perceptions of experiences in courts are also broadly shaped by the images and messages communicated by the mass media. The general expectations of the legal process and courts are actively shaped by the images of courts created and disseminated by the media, reflected in literature and film, and maintained in the common discourse over long periods of time. Therefore, in order to produce a nuanced study of people's perceptions

[2] M. Kurkchiyan, 'Perceptions of Law and Social Order: a cross-national comparison of collective legal consciousness', *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), p. 366.

of legal institutions, I will address the importance of larger socio-cultural phenomena in shaping individual perceptions of legal experiences.

I will show that our understanding of people's perceptions of institutions of justice and resulting attitudes towards them in the Western context are not always applicable to different societies. To illustrate this point, I adopt a comparative approach, in which I stress the need to develop our current understanding of the relationships between people and legal institutions from a cross-cultural perspective. Through my research I will show that the application of policies based on the research and precedents which took place in developed democracies is not appropriate in societies undergoing post-Soviet transition without careful consideration of existing socio-legal environment and the history of legal tradition. In order to show the complexity of the problem of trust towards legal institutions by means of comparison, I conducted a comparative study in people's perceptions of institutions of justice in lower courts in England and Russia.

My methodological approach allowed me to investigate how institutions of justice are seen in their real-life complexity. The analysis of my findings will reveal to what extent the configuration of factors previously identified as linked to the formation of general perceptions of justice is a universal or a culturally-contextual phenomenon. Moreover, I will be able to see if the factors themselves can be universally defined or need to be reconceptualised in non-Western contexts. Answering these questions will contribute to our understanding of the process formation of perceptions of legal institutions through individual experiences and of their link to the formation of trust in legal institutions in different societies.

Chapter I

Analytical Framework

This introduction to the theoretical framework of my dissertation will touch upon three areas: I will start with the discussion of approaches to people's perceptions of legal institutions in socio-legal research, I will proceed to the introduction of the concept of justice and relevant research in the areas of law and organisational behaviour research, and I will conclude with an overview of the link between perceptions of everyday experiences in legal institutions and larger attitudes of trust towards legal institutions. This discussion is intended to establish clear a link between the content of individual experiences and perceptions of legal institutions and the overarching shared attitudes towards state institutions that provide justice services. Attention to the formation of these attitudes is of primary importance for establishing trustworthy relationships between the public and the state in functioning civil societies.

A. Comparative study of legal cultures

What people think about legal institutions and how they interpret experiences in courts in light of their general ideas and attitudes towards law and justice in their societies is the area of research that belongs largely to the study of legal cultures. Legal culture refers to a 'way of describing relatively stable patterns of legally oriented social behaviour and attitudes'.[3] Within the overarching concept of legal culture, which can be identified on a variety of levels, from transnational to institutional and local, I will approach people's perceptions of their experiences in local courts and their overall attitudes towards legal institutions in Russia and England as two distinct units of analysis, distinguishable by the

[3] D. Nelken, 'Using the Concept of Legal Culture', *Australian Journal of Legal Philosophy*, vol.29 (2004), p. 1; ---, 'Disclosing / Invoking Legal Culture', *Social and Legal Studies*, vol. 4 (1995), pp. 435-452; ---, (ed.), *Comparing Legal Cultures* (Routledge, 1997), pp. 58-88; and ---, 'Comparative Sociology of Law' in R. Benakar and M. Travers, (eds.), *Introduction to Law and Social Theory* (Oxford: Hart, 2002), pp. 329-344.

legal traditions within which they operate, their historical paths of development, and their organisational structures. Approaching my study of attitudes towards legal institutions as a cultural enquiry I would like to stress the constitutive and interconnected nature of legal culture: people in England and Russia interpret legal experiences with the set of values and beliefs that exist in English and Russian societies. Thus, I will attempt to identify how English court users think about their legal institutions taking into consideration that they may see law as something that originates in courts. Court users in Russia, on the other hand, may approach courts differently due to the top-down nature of law in the Russian legal tradition.

My study fits within the interpretative approach to legal culture, which aims to understand how aspects of Russian and English legal cultures interplay, reflect, and complement each other, rather than tries to understand causational links between different elements of legal cultures.[4] Thus, I do not seek to understand whether negative or positive evaluations of experiences in courts lead to low or high levels of trust and confidence in legal institutions. I am driven by the desire to understand how local institutions of justice operate within larger English and Russian legal cultures. My aim is to capture and compare how people's attitudes to similar legal institutions correspond to the larger socio-cultural context.

There is an ongoing discussion as to the definition and usefulness of the term legal culture. It was introduced by Laurence M. Friedman in 1975 as 'a means of emphasizing the fact that law was best understood and described as a system, a product of social forces, and itself a conduct of those same forces.'[5] Friedman approached legal culture as a pattern of

[4] *Ibid*., p. 10, citing C. Geertz, 'Thick Description: Towards an Interpretive Theory of Culture', in C. Geertz, *The Interpretation of Cultures: Selected Essays* (New York, 1973), p. 3; D. Nelken, (ed.) *Comparing Legal Cultures* (Dartmouth: Aldershot, 1997).
[5] S. S. Silbey, 'Legal Culture and Legal Consciousness', *International Encyclopaedia of Social and Behavioural Sciences*, (New York: Elsevier, 2001), p. 8624.

attitudes, ideas, expectations, and opinions about law shared by people in a certain group or society.[6] Friedman identified three components of a legal system: social and legal forces that, in some way, press in and make "the law"; "the law" itself – or structure sand rules about right and wrong behaviour, duties and rights; and the impact of law on behaviour in the outside world.[7] 'Where law comes from and what it accomplishes – the first and the third terms - are essentially the *social* study of law.'[8] Friedman referred to legal culture as 'social forces ... constantly at work on the law,' 'those parts of general culture – customs, opinions, ways of doing and thinking – that bend social forces toward or away from the law.'[9] David Nelken referred to legal culture as 'relatively stable patterns of legally oriented social behaviour and attitudes.'[10] Susan S. Silbey suggested that legal culture as an analytical term emphasised the role of actions that are usually taken for granted and familiar within the operation of a legal system in its environment.[11] As a descriptive term legal culture is capable of identifying a number of phenomena: public knowledge of and attitudes toward the legal system, including judgments about the law's fairness, legitimacy, and utility, as well as patterns of behaviour in relation to the legal system. Therefore, my study of people's perceptions of their experiences will focus on identifying stable patterns of behaviour and attitudes towards legal institutions and is a part of the larger attempt to understand the internal logic of formation of stable attitudes towards legal institutions in different legal cultures.

'The identifying elements of legal culture range from facts about institutions such as the number and role of lawyers or the ways judges are appointed and controlled, to various

[6] L. M. Friedman, *The Republic of Choice: Law, Authority, and Legal Culture* (Cambridge, MA: Harvard University Press, 1990), p. 213.
[7] L. M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), p. 15.
[8] See supra note 6.
[9] See supra note 8.
[10] L. M. Friedman, 'The Concept of Legal Culture: A Reply', in D. Nelken, (ed.), *Comparing Legal Cultures*, (Aldershot, Dartmouth, 1997), p. 34.
[11] See supra note 6.

forms of behaviour, such as litigation or prison rates, and, at the other extreme, more nebulous aspects of ideas, values, aspirations, and mentalities.'[12] In other words, legal culture consists of 'the ideas, values, expectations, and attitudes towards law and legal institutions, which some public or part of the public holds. As it was noted by Cotterrell, Friedman used legal culture in a variety of ways ranging from the culture of the individual to that of whole societies.[13] In his original work, Friedman drew a distinction between internal legal culture of professionals working within a legal system and external legal culture of people dealing with the legal system from the outside.[14] This variety of levels of analysis offers a rich terrain for inquiry in socio-legal research; 'the fact that a number of different units at different levels of analysis can all be considered examples of legal culture does not show the concept to be otiose. It points rather to the intricacies of the lived legal culture.'[15] My investigation will look at legal cultures at the lowest level of interaction between the general public and legal institutions; it will also involve elements of external and internal legal culture analysis, as well as unifying aspects of transnational legal orders.

In a wide range of studies in legal culture two main empirical uses of this concept stand out: legal culture as a broad analytical concept within a more developed theory of social relations, and legal culture as concrete measurable phenomena useful in the comparative studies of more narrowly defined legal cultures.[16] Since the introduction of the concept of legal culture it was used in a variety of empirical studies. [17]. Multiple studies

[12] See supra note 3.
[13] R. Cotterrell, 'The Concept of Legal Culture', in D. Nelken, (ed.), *Comparing Legal Cultures*, (1997)
[14] *Ibid*.
[15] D. Nelken, 'Three Problems in Employing the Concept of Legal Culture', in *Explorations in Legal Cultures*, F. Bruinsma and D. Nelken, (eds.), *Recht der Werkelijkheid* (Reed Business, 2007), p. 15.
[16] See supra note 6; see also E. Blankenburg, 'Civil Litigation Rates and Indicators for Legal Cutlures', in D. Nelken, (1997), pp. 41-68.
[17] J. L. Tapp and L. Kohlberg, 'Developing Senses of Law and Legal Justice', *Journal of Social Issues*, vol. 27, no. 2 (1971), pp. 65-91; J. L. Tapp and F. L. Levine, 'Legal Socialization: Strategies for an Ethical Legality', *Stanford Law Review*, vol. 27 (1974), pp. 1-72. Tapp, Kohlberg, and Levine conducted a study of children's knowledge of and attitudes to law. See also: S. A. Scheingold, The Politics of Rights: Lawyers, Public Policy, and Political Change (New Haven, CT: Yale University Press, 1974). Scheingold presented a study in rights consciousness among Americans.

focussed on the comparative analysis of different groups and nation-states, to name just a few: perceptions of individualism in American and Japanese societies[18], individualism and collectivism between Kurdish, Lebanese, and German societies[19], Israeli legal culture[20], emerging rule of law in South Africa[21], and many others.

The need for a comparative approach to the study of local legal cultures was stressed by David Nelken when he suggested that the 'patterns of legal culture must be sought both at a more micro as well as at a more macro level than that of the nation state'.[22] He further suggested that 'at the sub-national level it will often be of interest to study differences in the "local legal culture" of the local court, the prosecutor's office, or the lawyer's consulting room.'[23] Therefore, my research project investigates elements of local legal cultures in Russia and England by taking people's experiences in the lower courts as units of analysis. By aiming to capture the unique elements of Russian and English legal cultures it can add a valuable perspective to the socio-legal research in the area of cross-national cultural comparison, as well as legal cultures in post-communist transitions.

It has been widely accepted that legal cultures cannot be analyzed in a vacuum; they have to be investigated within a broader historical, socio-economic, psychological and ideological context.[24] 'Cross-cultural comparison, i.e. comparison along four main legal cultural families, becomes a form of comparative law which draws heavily from a legal-sociological and legal-anthropological perspective, because every single legal rule, decision

[18] V. L. Hamilton and J. Sanders, *Everyday Justice: Responsibility and the Individual in Japan and the United States* (London and New Haven, CT: Yale University Press, 1992).
[19] G. Bierbrauer, 'Toward an Understandings of Legal Culture: Variations in Individualism and Collectivism between Kurds, Lebanese, and Germans', *Law and Society Review*, vol. 28, no. 2 (1994), pp. 243-64.
[20] G. Barzilai, 'Between the Rule of Law and the Laws of the Ruler: The Supreme Court in Israeli Legal Culture', *International Social Science Journal*, vol. 49, no. 2 (1997), pp. 143-50.
[21] J. L. Gibson and A. Gouws, 'Support for the Rule of Law in Emerging South African Democracy,' *International Social Science Journal*, vol. 49, no. 2 (1997), pp. 173-191.
[22] See supra note 1.
[23] *Ibid*.
[24] M. Van Hoecke and M. Warrington, 'Legal Cultures, Legal Paradigms and Legal Doctrine: Towards a New Model for Comparative Law', *International and Comparative Law Quarterly*, vol. 47, no. 3 (1998), pp. 495-936

or other practice can be understood only within a framework of a different world view and a fundamentally different conception of the law and its role in society.'[25] Therefore, I will attempt to capture people's attitudes towards legal institutions in the larger context of Russian and English understanding of the world.

As it has been mentioned above, legal cultures are not frozen phenomena; they undergo transformations caused by a number of historical and political factors.[26] These changes may shape particular 'sensibilities' and tendencies within legal cultures. Nelken stressed that 'a key task of those who study legal culture is to see how and why such sensibilities change, taking care as far as possible to distinguish between short, medium, and long-term trends.'[27] While my study of the Russian and English legal cultures does not include a thorough historical analysis, I will reflect on the interplay of the deeply-rooted as well as more current aspects of legal cultures in shaping people's attitudes to courts. The concept of legal culture in this sense carries a great exploratory potential. 'Any given elements of legal culture which are proposed as explaining given attitudes and practices will usually require further interpretation and explanation in a way that brings in larger national and international contexts'.[28]

Bringing the investigation of legal culture to a comparative level that transcends nation-state analysis of Russia and England, my research tries to see if the processes that take place within the local legal cultures are taking place cross-nationally, or if some particular developments are at work in order to transfer the Russian legal culture into a more democratic legal culture. As it has been previously argued, the hope of such legal transfers

[25] *Ibid.*, p. 496.
[26] M. Kurkchiyan, 'The Impact of Transition on the Role of Law in Russia', in F. Bruinsma and D. Nelken, (eds.), 'Explorations in Legal Cultures', *Recht der Werkelijkheid,* Special Issue (2007), pp. 75-93.
[27] See supra note 18; see also D. Nelken, 'Whom Can You Trust?', in D. Nelken, (ed.), *The Futures of Criminology* (London: Sage, 1994), pp. 220-42; see also J. Q. Whitman, 'The Comparative Study of Criminal Punishment', *Annual Review of Law and Social Science*, vol. 1 (2005), pp. 17-34.
[28] See supra note 15, p. 24.

and transplants, institutional or ideological, is usually that law may be a means of resolving current problems by bringing the same conditions of developed economy and healthy civil society into existing social context. Undoubtedly the reality of post-communist countries dictates the need for their incorporation in the developed world and therefore assigns that standard of development to the leading political forces.[29] Yet, is it possible to achieve success in transition to something that cannot be created with the same building blocks and while operating in different societal, political, and historical contexts? My research tries to trace the elements of legal culture in Russia that may be incompatible with their western equivalents and therefore could be evaluated or used to recreate western legal culture. This in an attempt to grasp the uniqueness of local legal culture and form this bottom-up perspective to trace the possibility of its comparison with other local legal cultures.

In the investigation of the elements that comprise legal cultures it is also necessary to mention that the increase in globalization of markets and intercultural communication leads to penetration of transnational legal order into legal cultures of given societies or nation-states.[30] According to Shaffer, translational legal ordering is a production of legal norms and institutional forms in particular fields and their migration across borders, regardless of whether they address transnational activities of purely national ones'.[31] This argument justifies my attention the legal culture of Russia within a larger effort to evaluate Russia's development towards a 'rule of law culture.' It is in fact possible to study Russian legal culture with the use of transnational concepts of rule of law, legality, corruption, bribery, and different levels of trust in legal institutions? Or is there a need for a more culture specific, ethnographically conditioned approach that can provide a more accurate picture of individual legal cultures and legal cultures on a cross-national level?

[29] *Ibid*.
[30] T. C. Halliday, G. Shaffer, (ed) *Translational Legal Orders* (CUP, 2015).
[31] G. Shaffer, *Transnational Legal Ordering and State Change* (New York: Cambridge University Press, 2013).

What do we refer to when speaking of 'Russian legal culture', 'English legal culture', 'Dutch legal culture,' etc.? In other words, what can be an effective analytical framework for studying different legal cultures? David Nelken pointed out that legal cultures refer to a mix of overlapping and potentially competing elements.[32] Laurence Friedman recommended that the term legal culture is particularly helpful in inquiries into why people use or do not use law.[33] My approach to the study of the elements that comprise legal cultures in Russia and England aims at uncovering elements that may be contradictory. Doing this, I attempt of show the reality as it plays out in the everyday operation of the lower courts, and not as it may fit within the existing analytical frameworks used for the analysis of transitional regimes. 'One of the most pressing tasks of the comparative sociologist of law is to try and capture how far in actual practice what is described as globalization in fact represents the attempted imposition of a one particular legal culture, in particular the Anglo-American model.'[34]

I shall adopt the approach that involves different layers of analysis of the ways in which people conceptualise law and legal institutions as it was discussed by Blankenburg and Bruinsma in their study of the Dutch legal culture. These authors argued that legal culture should be treated as a 'multi-layered' phenomenon which includes legal norms, salient features of legal institutions and their infrastructure, social behaviour in creating, using and not using law, as well as legal consciousness in the legal professions and among the public.[35] Different levels of analysis of legal cultures can identify the underlying similarities between the legal systems in different societies, as well as certain unique features linked to the historical traditions in particular countries.

[32] See supra note 1, p. 16.
[33] *Ibid*., p. 15; citing L. M. Friedman, 'The Concept of Legal Culture: A Reply', in D. Nelken, *Comparing Legal Cultures*, (1997), p. 34.
[34] *Ibid*., p. 23.
[35] E. Blankenburg and F. Bruinsma, *Dutch Legal Culture* (London: Kluwer Law International, 1994).

B. People's perceptions of courts in legal consciousness: from individual to collective

Within the more general discourse on legal culture it is possible to distinguish a number of threads that deserve special introduction: legal ideology, legal consciousness, and legality.[36] The concept of legal ideology explores the power at work in and though law. Studies of legal ideology focus on the power that is associated with legal signs and symbols.[37] Examination of legal consciousness is a study of a social construct of law as it is perceived and used by ordinary citizens, and of the way it fits into existing structures of social action, such as legality. 'The study of legal consciousness is the search for the forms of participation and interpretation though which actors construct, sustain, reproduce, or amend the circulating ... structures of meaning concerning law.'[38] Legal consciousness in this sense emphasises the daily, localized, repeated enactment of practice of social structure and serves as a link between the individual perceptions among general public and the larger notion of socially constructed collective legality.[39] Broadly speaking, the concept of legal consciousness offers me the necessary conceptual, as well as methodological tools for exploring the multitude of elements that constitute perceptions of justice in different legal environments.

Going back to the main research question, i.e. how people's perceptions of institutions of justice are shaped in different legal environments, I now turn to the discussion of existing approaches to the study of constructed images of legal institutions. A great deal of socio-legal research has been devoted to the study of the meanings that people attach to law, legal

[36] S. S. Silbey, 'Legal Culture and Cultures of Legality', in J. R. Hall, L. Grindstaff, and Ming-Cheng Lo, (eds.), *Handbook in Cultural Sociology* (London and New York: Routlege, 2010), p. 475.
[37] S. S. Silbey, 'Ideology, Justice, and Power', in B. Garth and A. Sarat, (eds.), *Justice and Power in Law and Society Research*, (Evanston, IL: Northwestern University Press, 1998), pp. 272-308; P. Ewick, *Consciousness and Ideology* (Aldershot, UK: Ashgate Publishers, 2006).
[38] S. S. Silbey, 'After Legal Consciousness', *Annual Review of Law and Social Science*, vol. 1 (2005), p. 332.
[39] See supra note 6.

institutions, and to people's everyday use of these institutions. My research will contribute to the current discussion by bringing out a number of previously overlooked linkages between individual experiences in court and complex perceptions of institutions of justice in different legal environments.

The concept of legal consciousness and the existing approaches to the study of legal consciousness provide me with the analytical tool for understanding how courts work from the perspective of court users, rather than that judicial reformers and legislators. The concept of legal consciousness has developed as a means of identifying and comparing the images, preconceptions, beliefs, and attitudes towards things that we commonly consider legal. With the use of legal consciousness analysis I will draw a link between individual perceptions of court users and the aggregate attitudes towards institutions of justice in different socio-legal contexts. Much of our current understanding of legal consciousness comes from research in developed democracies which examined the approaches and strategies that ordinary people use in their everyday interaction with the courts.[40] While studies in legal consciousness have been conducted in Russia during and after the breakdown of the Soviet Union, it has been largely applied in its original theoretical form, borrowed from the seminal studies described below.[41]

i. Cultural approach to legal consciousness

Legal consciousness research has developed along a number of main lines of enquiry into how people construct meanings of legal phenomena in their lives. The broadest approach defines legal consciousness as participation in cultural practice, 'the mediating

[40] P. Ewick and S. S. Silbey, *The Common Place of Law: Stories from Everyday Life* (University Of Chicago Press, 1998); see also D. B. Rottman, et al., 'Perceptions of the Courts in Your Community: The Influence of Experience, Race and Ethnicity', *Final Report* (National Center for State Courts, 2003); D. L. Rhode, *Access to Justice* (Oxford, New York: Oxford University Press, 2004).

[41] R. S. Wortman, *The Development of a Russian Legal Consciousness* (University of Chicago Press, 1976). See also: Kurkchiyan (2012), Hendley (2011).

process through which social interactions and local processes aggregate and condense into institutions and powerful structures'.[42] A typology of legal consciousness as a cultural practice developed out of ethnographic research in local courts, and as such is directly relevant to my research. One of the first studies in legal consciousness applied to courts was described by Patricia Ewick and Susan S. Silbey in their book *The Common Place of Law: Stories from Everyday Life*.[43] In their survey-based study of what ordinary people in New Jersey think about law in everyday situations, Ewick and Sibey aimed to develop a model of the lived experiences of legality, which was used interchangeably with legal consciousness. Legality for them refers to the meanings, sources of authority, and cultural practices that are commonly recognized as legal. Legality is a feature of social interaction that exists when people invoke legal concepts and terminology, associating law with other social phenomena. Legality relies on and invokes various commonplace schemas of everyday life. These schemas represent different types of legal consciousness, or different ways of participating in the process of constructing legality, or interpreting everyday events in terms of legal concepts or terminology. The breadth of the concept of legality includes various kinds of legal consciousness. In my research I will deal with those perceptions and ideas that are related to people's experiences with lower courts.

Ewick and Silbey identified three narratives that construct legal consciousness: *before the law*, legality is imagined and treated as an objective realm of disinterested action, removed and distant from personal interests of ordinary people; *with the law*, legality is depicted as a game, a terrain for tactical encounters through which people see themselves and others bound by a set of rules that they may also try to change; and *against the law*, the law is viewed as a product of power, legality is understood to be arbitrary and capricious, where people are unwilling to stand before the law and unable to play with law, thus people

[42] See supra note 40, p. 38.
[43] *Ibid.,* pp. 30-31.

challenge the law.[44] Each of these three stories or types of consciousness portrays legality as a particular configuration of capacity and constraint organized to achieve a normative ideal: objectivity, interested representation, or power. The inherent oppositions within these competing cultural tool-kits for construction of legality not only reflect the dialectical opposition between the ideal and reality in legal world, but also the variation between generalized accounts of law and specific experiences of actors. My research will show that previous analysis of the discrepancy between the general expectations of law and people's actual experiences cannot be directly applied in the analysis of the Russian legal culture. It fails to account for the situations in which people use legal institutions, play by the rules of the game, yet do not trust these institutions on the whole.

As it was suggested by Simon Halliday and Bronwen Morgan in their article 'I Fought the Law and the Law Won? Legal Consciousness and the Critical Imagination', this three-fold typology has to be reconsidered in light of Mary Douglas' 'Group – Grid' analysis of cultural types.[45] By looking at collective dissent Halliday and Morgan came to the conclusion that it incorporates elements of 'with the law' and 'above the law' narratives suggested by Ewick and Silbey. Halliday and Morgan argue that legal consciousness should be examined not in light of general legal hegemony, but in light of local hegemonic puzzles.[46] 'Viewed through the lens of cultural theory, legal consciousness research has more potential than is presently being pursued to explore collective senses of agency in response to the disadvantage that is sustained or ignored by law. Placing these enquiries in

[44] *Ibid*., pp. 45-48.
[45] S. Halliday and B. Morgan, 'I Fought the Law and the Law Won? Legal Consciousness and the Critical Imagination', *Current Legal Problems*, vol. 65, no. 1 (2013), pp. 1-32. Mary Douglas introduced four cultural types produced by the combination of a 'grid' dimension – which relates to the extent to which structural authority and differences of rank, position, and status are considered acceptable; and a 'group' dimension – which related to the extent to which groups constrain individual action. The emerging cultural types are: differential collectivism (high grid/high group), dissenting collectivism (low grid/high group), individualism (low grid/low group), and isolation or fatalism (high grid/low group). See M. Douglas, 'Introduction to Group-Grid Analysis' in M. Douglas, (ed.), *Essays in the Sociology of Perception*, Routledge and Kegan Paul, 1982, 2.
[46] *Ibid*., p. 30.

concrete contexts of the history and trajectory of particular social settings will re-energise the original spirit of legal consciousness research, enabling scholars to explore the ways in which cultural narratives about legality constrain and/or enable social action'.[47] My research attempts to place contemporary perceptions of lower courts in Russia and England within the larger context of historical and legal traditions in order to understand the process of formation of trust towards legal institutions on a more generalisable level.

Another useful element of the cultural approach to legal consciousness is its dynamic nature, which means that it constantly interacts with society, reflects its development, and processes changes. Ewick and Silbey stressed the need for a dynamic definition of legal consciousness in order to reflect its continuous transformation through a process in which people's understanding of the organizing legal principles interact with their experiences of the world.[48] Therefore, I will attempt to capture the interaction between people's attitudes towards legal institutions and their experiences in courts. I will show that certain constitutive elements emerging from people's experiences in courts are dynamic, while certain pre-existing ideas and attitudes attached to legal institutions are more static and persistent in their nature.

Therefore, my research will build upon the usefulness of legal consciousness as a conceptual tool. I will link people's individual perceptions of justice with more generalisable patterns of behaviour and attitudes towards legal institutions in order to get a better understanding of the factors that shape these attitudes in different legal environments.

ii. Ideological approach to legal consciousness

The ideological approach to legal consciousness is another attempt of identifying main types of attitudes to law in its operation in everyday lives of ordinary people. Research in

[47] *Ibid*., p. 32.
[48] See supra note 40.

this area was undertaken by Sally Engle Merry, whose 1985 study of everyday understandings of law in working-class America contained a frame of analysis of legal ideology.[49] Sally Engle Merry referred to legal consciousness as "ways people understand and use the law ..., the way people conceive of the 'natural' and normal way of doing things, their habitual patterns of talk and action and their common-sense understandings of the world". [50]

Legal ideology, or a set of categories by which people interpret and make events meaningful, is a concept that is often used interchangeably with legal consciousness. The concept of legal ideology stresses the importance of power and authority in the overall discussion of perceptions of law. In the sense that it was used by Merry, legal ideology combines the anthropological concept of ideology, as systems of meaning and belief, with the Marxist concept, viewing it as a way of maintaining relationships of power and dominance is society, thus adding a power dimension to a social construct of legality.[51]

Acceptance of authority has been identified as one of the main variables in the study of people's perceptions at the level of legal consciousness. As I have mentioned above, Halliday and Morgan applied the cultural theory of Mary Douglas to refine the dimensions of legal consciousness. They have shown that attitudes and judgments towards law can be analysed in light of people's acceptance of formal state authority.[52] Variation in acceptance of state authority has been shown to be related to the stances towards the law: higher acceptance of state authority is linked with higher perceived power of the law and

[49] S. E. Merry, 'Concepts of Law and Justice among Working-Class Americans', *Legal Studies Forum,* vol. 9, no. 59 (1985), pp. 59-71.
[50] S. E. Merry*, Getting Justice and Getting Even: Legal Consciousness among Working Class Americans* (Chicago: University of Chicago Press, 1990), p. 5.
[51] See supra note 49.
[52] M. Douglas, 'Introduction to Group-Grid Analysis', in M. Douglas, (ed.), *Essays in the Sociology of Perception* (Routledge and Kegan Paul, 1982), p. 2.

individual's distance from it, whereas lower acceptance of authority and hierarchy is linked to a critical approach to law and individual's likelihood to use law instrumentally.

The interplay between people's attitudes towards legal institutions and their acceptance of state authority is particularly useful in my discussion of how individual evaluations of fairness in courts relate to more stable attitudes towards institutions of justice. This variable brings the discussion of legal consciousness to a broader socio-cultural plane and shows the necessity to consider particular patterns of people's traditional interaction with authority, state, and sources of law within their socio-cultural environments.

Legal consciousness literature looking at the acceptance of state authority offers us tools for understanding the importance of the relationship between the state and legal institutions in formation of individual perceptions of justice. It directed my attention towards a closer analysis of authority, state authority in particular, in people's perceptions in England and Russia. Analysis of my findings in consideration of the role of authority allowed me to gain a better understanding of the complexity of people's perceptions of institutions of justice, as well as their relationship to larger attitudes of trust in and legitimation of legal institutions.

In her study of interpersonal cases brought to small claims courts in North-Eastern United States, Merry suggested that people create and use two types of legal consciousness: the *formal*, top-down legal ideology based on the dominant political ideology of American society, in which citizens are endowed with a broad set of legal rights guaranteed by the state; and the *informal*, relative ideology of situational justice, a bottom-up ideology, locally and situationally constructed and dependent on a number of social factors. Merry suggested that in American society both formal and informal legal ideologies are used by court officials in their everyday practice interchangeably, with the main emphasis on informal ideology making common sense of formal ideology in everyday life. Another conclusion

stated that ordinary people approach the legal system with the formal ideas of rights and due process, yet their experiences teach them to accept the informal set of ideas and discourses, in which a particular situation, strength of the case, and social status of the parties influence the outcome. The formal legal ideology is dominant only insofar as it is locally constructed and legally plural.

Merry expanded on the concept of legal ideology in her later work, *Getting Justice and Getting Even: Legal Consciousness Among Working Class Americans,* in which she presented a wider discussion of interpersonal cases being brought to small claims courts in Salem, Massachusetts.[53] Her findings indicated the existence of three main legal discourses, or frames of meaning used by ordinary people in the lower courts: the *legal* discourse, based on folk understandings of legal relations and procedures, in which general legal doctrines are mixed with ethical, political, and religious categories; the *moral* discourse, based on moral obligations and evaluations growing out of interpersonal relationships; and *therapeutic* discourse, based on psychological and emotional explanations and justifications of human behaviour rather than on assigning fault. Legal consciousness was therefore presented as interplay between these three categories of legal discourse and a struggle among them for dominating interpretation of events and actions of the parties.

Merry's later work introduced the concept of rights-based legal consciousness. In her study of factors necessary for adoption of rights-based consciousness, or rights-based subjectivity among battered women in Hawai'i, Merry came to the conclusion that a rights-defined identity in identity-shifting circumstances depends on individual's experiences with the law.[54] Merry followed Foucault in her argument that judicial system and an array of social services attached to it not only bring law into everyday life, but also influence

[53] *Ibid.*
[54] S. E. Merry, 'Rights Talk and the Experiences of Law: Implementing Women's Human Rights to Protection from Violence', *Human Rights Quarterly*, vol. 25, no. 2 (2003), p. 351.

individual perceptions of their selves, their subjectivities, and therefore their understanding of what law is, because law exists only as it is interpreted and understood within the wider society.[55] Therefore, if a state, and in particular its law enforcement and judicial institutions treat personal rights as significant, it will strengthen the rights-based legal consciousness of its citizens; and if it treats cases of rights violations as trivial and 'garbage' cases, it will lead to strengthening of the concept of legal ideology based on situational justice. In a number of articles Merry suggests that the basis for formal legal ideology, the understanding and acting upon individual feelings that a person is endowed with certain inalienable rights, depends upon the state as a guarantor of equal rights of its citizens and their uniform protection.[56] My research follows this discussion by asking to what extent the state is seen as a guarantor of these rights in Russia and England, and how legal institutions are seen as a result of people's perceptions of state power.

Other ethnographic studies of attitudes and approaches to law yielded results supporting Ewick and Silbey's main proposition that local legal cultures are composed of multiple elements, but created typologies close to those suggested by Merry. Thus, Conley and O'Barr in their work on *Ethnography of Legal Discourse*, observing litigants in small claims courts in order to determine how ordinary people identify and analyse legal problems, described two discursive styles, rule oriented and relationship oriented, which correspond to the formal and situational legal ideologies introduced in Merry's work.[57]

More recent research in popular perceptions and attitudes towards law examined how orientations toward law vary with reference to a particular event, location, or in particular

[55] *Ibid*., p. 352; citing M. Foucault, *Discipline and Punish: The Birth of the Prison*, (New York: Vintage, 1977).
[56] S. E. Merry, 'Popular Justice and the Ideology of Social Transformation', *Social and Legal Studies,* vol. 1 (1992), pp. 161-76; ---, 'Resistance and the Cultural Power of Law', *Law and Society Review,* vol. 29 (1995), pp. 11-27.
[57] J. M. Conley and W. M. O'Barr, *Rules Versus Relationships: The Ethnography of Legal Discourse* (Chicago: University of Chicago Press, 1987), pp. 9-11.

social groups.[58] Austin Sarat conducted an ethnographic study among welfare recipients; A. Marshall researched the construction of sexual harassment policies in workplaces and the interpretations of harassing behaviour by working women; Laura Beth Nielsen explored the relationships among gender, race, and legal consciousness and produced accounts of multiple, heterogeneous interpretations of the utility, availability, and legitimacy of using law to address issues of gender or racial harassment on the public streets; K.E. Hull in her study of legal discourses of gay and lesbian couples found that they employ a range of forms of legal consciousness in contrast to an assumption that as a stigmatized population they would adopt the consciousness of resistance to law.[59] Most of these studies employed Ewick and Silbey's typology of legal schemas to further the analysis of relationships between social groups, locations, and elements of legal doctrine and particular types of legality among people.[60]

These attempts at categorising legal consciousness and placing it in the context of everyday use of lower courts provided a variety of useful tools of analysis as well as categorical distinctions between different ways in which people perceive legal institutions. I will rely on these tools in the analysis of my findings, where I will attempt to draw identifiable parallels and distinctions between people's perceptions of their individual experiences in legal institutions and the larger attitudes towards them in Russia and England.

[58] S. S. Silbey, (2001); see also L. B. Nielsen, 'Situating Legal Consciousness: Experience and Attitudes of Ordinary Citizens about Law and Street Harassment', *Law and Society Review*, vol. 34, no. 4 (2000), pp. 1055-1090.

[59] A. Sarat, 'Access to Justice: Citizen Participation and the American Legal Order', in L. Lipson and S. Wheeler, (eds.), *Law and Social Sciences* (New York: Russell Sage Foundation, 1986), pp. 519-580; A. Marshall, 'Injustice Frames, Legality, and the Everyday Construction of Sexual Harassment', *Law and Social Inquiry*, vol. 28, no. 3 (2003), pp. 659-690; K. E. Hull, 'The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage', *Law and Social Inquiry*, vol. 28, no. 3 (2003), pp. 629-657.

[60] Ewick and Silbey used the term 'schemas' introduced by W.H. Sewell as informal, not always conscious, metaphors of communication, action, and representation. W. H. Sewell, 'A Theory of Structure: Duality, Agency, and Transformation', *American Journal of Sociology*, vol. 98 (1992), pp. 1-29.

iii. Collective approach to legal consciousness

In contrast to the cultural and ideological approaches to legal consciousness, a number of recent studies have looked at legal consciousness as a form of aggregated desires of different groups of society. This approach to legal consciousness stems from liberal ideology, which suggests that 'political society is … an association of self-determining individuals who concert their will and collect their power in the state for mutually self-interested ends.' [61] Using the collective approach to legal consciousness, some of the studies in organisational behaviour research looked at beliefs, attitudes, and actions among American citizens 'as a means of explaining the shape of American political and legal institutions'.[62] Lind and Tyler focused on the ideals of fairness and due process in people's evaluation of their legal experiences. They concluded that attitudes about law closely relate to people's evaluations of legal processes and forms of interaction rather than to the outcomes of those interactions. [63] In response to their findings, Ewick and Silbey argued that the attitudinal approach to legal consciousness investigates not individual ideas and perceptions but deeper, broad-based consensus among citizens, which makes the level of analysis more generalisable, yet less representative of the cultural approach to individual perceptions. Thus, people may generally believe that legal institutions can accomplish the ideals that they promise, while at the lowest level of analysis people may lack trust towards institutions. My discussion will expand on this observation by looking at how trust towards legal institutions is related the smallest units of analysis used in my study, people's perceptions of their experiences in the English and Russian lower courts.

[61] R. P. Wolff, 'Beyond Tolerance', in R. P. Wolff, B. Moore Jr. and H. Marcuse, *A Critique of Pure Tolerance*, (Boston: Beacon Press, 1969), p. 5.
[62] See supra note 45, p. 36.
[63] E. A. Lind and T. R. Tyler, *The Social Psychology of Procedural Justice* (Springer, 1988); T. R. Tyler, *Why People Obey the Law* (New Haven: Yale University Press, 1990); T. R. Tyler, 'Justice and Power in Civil Dispute Processing', in A. Sarat and B. Garth, (eds.), *Sociolegal Studies* (Evanston, Illinois: Northwestern University Press, 1997), pp. 309-346.

My analysis of pertinent literature brings me to the conclusion that both the cultural and the collective approach to legal consciousness examine largely the same socio-legal phenomena with different sets of tools. Their findings often identify similar factors that comprise people's legal consciousness. Both approaches point out the significance of existing knowledge about institutions of justice and how they function (what I will treat as preconceptions about legal institutions existing in societies at large). They also tend to agree that clarity of information and availability of legal assistance are important for overall evaluations of legal institutions. They recognize that people's ability to participate in legal procedure and have a degree of control over the outcomes of their cases are vital elements that shape people's perceptions of legal institutions. The dignity and respect that people receive in the interaction with institutions of justice are also recognized in both approaches.

As my research aims to develop a better understanding of the relationship between individual perceptions of experiences in courts and more general attitudes towards legal institutions, I will draw from existing socio-legal research where this connection has been made. In her recent work Marina Kurkchiyan investigated collective legal consciousness on a comparative level.[64] She questioned whether law and legal institutions convey different messages to people in different societies: 'Would not each set of people, as users of legal institutions, define and redefine the substance of those institutions through their distinctive beliefs, experiences, and practices?'[65] Kurkchiyan contrasted the interpretations of law and different meanings attributed to law in different societies in order to distinguish the similarities from the contrasts. [66] Using Kurkchiyan's comparative approach to legal consciousness, my research will focus on people's perceptions of legal institutions, rather

[64] M. Kurkchiyan, 'Comparing Legal Cultures: Three Models of Court for Small Civil Cases', *Journal of Comparative Law,* vol. 5 (2010), p. 169.
[65] *Ibid.,* p. 170.
[66] M. Kurkchiyan, et al., 'Legal Cultures in Transition – The Impact of European Integration', (Research Council of Norway, 2007-2012). Data were collected in the form of focus groups and representative surveys in England, Poland, Bulgaria, and Norway.

than law as a general concept. I will attempt to identify differences between perceptions of justice and attitudes towards legal institutions in a country with non-transition environment and a 'transition to democracy' environment, while using some of the factors identified by Kurkchiyan in her comparative study, one of which is the role of trust in political systems in shaping people's perceptions of justice and their everyday interaction with courts.[67]

To summarize, my dissertation will build upon the existing socio-legal research which provided me with the conceptual framework and guidance in the organisation of my comparative discussion of factors that shape people's perceptions of their individual experiences in courts and their more stable attitudes to legal institutions in general. Having discussed the theoretical background and the analytical tools which will help me in the analysis of people's perceptions, I will now discuss legal consciousness research aimed at analysing how people construct their perceptions of law and legal institutions in particular.

C. Seeking justice in courts

Images of and attitudes towards institutions of justice cannot be analysed without paying specific attention to what people seek in courts, namely to how they perceive justice. People's perceptions of justice in courts have featured in a variety of conceptual frameworks aimed at understanding individual behaviour, organisational behaviour, and development of democratic societies. While previous research has distinguished fairness and justice in the discussion of social norms and ideas guiding the process of justice, for the purposes of my discussion, justice and fairness will be used interchangeably.[68]

[67] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.

[68] Denis Galligan suggested that while there is no conceptual ground for distinguishing 'justice' and 'fairness', there is a conventional distinction in the use of these terms: fairness is used in the context of formal law, such as evaluations of legislature or contracts, while justice is used in all other cases to describe treatments that are more fundamental in nature. See D.J. Galligan, *Due Process and Fair Procedures: A Study of Administrative Procedures* (Oxford University Press, 1997).

Justice has been the subject of discussion in all social science disciplines, yet in this study I will focus on justice as an integral element of social interaction with and organisation of legal institutions.[69] I will question whether the concept of justice is perceived only as the ultimate goal of people's interaction with courts or an integral part of the legal process. Below is a brief introduction to the concept of justice as it has been approached in multiple disciplines and in a way that it helps me answer my research question. Throughout this introduction, I will focus on the factors that have been suggested to constitute people perceptions of justice, because people's perceptions of justice are essential to a better understanding of their perceptions of the institutional mechanisms that deliver it.

i. Expectations of justice

The concept of justice has long been the subject of a philosophical discussion. Aristotle considered justice to be a virtue practice towards other people, and *fairness* to be the basis of justice. Hume suggested that justice was an artificial virtue, which arose from artificial conditions created by our legal constructs which called for *equality*, *fairness* and *humanity*. [70] John Rawls in *A Theory of Justice* stressed the idea that *fair procedures* should guarantee that like cases are treated alike, therefore, that procedures must be applied *regularly*, *impartially*, and *consistently*.[71] These procedural requirements were deemed necessary to make sure that the basic structure of society is regulated in a fair, efficient, and productive way. Therefore, early philosophical discussion suggests a number of broad factors that constitute justice and could be used as guiding principles in its empirical study: equality of treatment, consistency of decisions, fairness, impartiality, and humanity of treatment.

[69] M. A. Konovsky, 'Understanding Procedural Justice and Its Impact on Business Organizations', *Journal of Management*, vol. 26, no. 3 (2000), p. 489.
[70] D. Hume, D. Norton, and M. J. Norton, *A Treatise of Human Nature* (Oxford: Oxford University Press, 2000).
[71] J. Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971).

Philosophical literature also suggests the importance of personal participation in the process of justice and availability of professional legal assistance. Habermas suggested that procedures were fair not only when they were *impartial*, but also when the persons possibly affected by a procedure could *participate* in it as equal partners in a discourse.[72] In addition to *impartiality* and *participation*, fairness was said to depend on the degree of *accessibility* of procedures, which can take shape of access to a competent legal professional, or ability to influence decision makers through the election process or lobbying.[73]

Combining existing observations on the nature of justice, Denis Galligan identified four elements of justice: first, justice deals with *relationships* between persons; second, it consists of giving a person its due or *entitlement*; third, it restores a sense of balance, *proportionality*, or equilibrium between the parties; and fourth, any just course of action must comply with fundamental standards of *right treatment*, or what can be considered *fair procedures*.[74] Therefore, relationships based on respect, as well as recognition of a personal entitlement to justice emerge as factors of equal importance alongside fairness in procedure and balanced allocation of outcomes.

The philosophical background of the concept of justice allows us to identify the main groups of conceptual elements that constitute perceptions of justice in legal institutions, and which will later guide me in the analysis of my findings. It also helps me appreciate that the nature of justice lies in the relationships between people, and therefore stresses the need to approach perceptions of justice by examining those relationships in equal proportion to the procedural and substantive fairness.

[72] J. Habermas, *Between Facts and Norms*, (Cambridge: MIT Press 1998).
[73] L. B. Solum, 'Procedural Justice,' Research Paper No. 04-02, *Public Law and Legal Theory Research Paper Series* (University of San Diego School of Law, San Diego, 2004).
[74] D.J. Galligan, *Due Process and Fair Procedures: A Study of Administrative Procedures* (Oxford University Press, 1997), pp. 57-58.

ii. Construction of institutional images in individual experiences

How can individual perceptions of legal institutions be empirically linked to the images of courts and collective attitudes towards them? Organisational behaviour research has been trying to identify and categorise factors responsible for creation of stable attitudes towards legal institutions. Research conducted by Thibaut and Walker directly relates to my research question, as they investigated how differences in experiences between different legal traditions and procedural models affect perceptions of justice in court settings. In their book, *Procedural Justice*, they compared the effects of adversarial versus inquisitorial procedure on judgments of fairness in legal disputes and came to the conclusion that procedural fairness can be evaluated with two main criteria: *decision control* and *process control*.[75] In this framework, *decision control* refers to litigants' control over case outcomes, and *process control* refers to the extent to which litigants have an opportunity to present evidence and arguments in legal proceedings.

Research in *process control*, or '*voice'*, suggested that even in the absence of *decision control*, the presence of *process control* mitigates the effects of adverse outcomes. Thibaut and Walker were particularly interested in comparing highly autocratic procedures, or inquisitorial procedural models, in which litigants had limited control over collection and presentation of evidence, with legal procedures of adversarial procedural models, in which litigants had a high degree of input into the process. Their research suggested that decisions reached in procedural models offering disputants higher process control were consistently considered fairer and better accepted.[76] These findings are particularly relevant to my comparative analysis of perceptions of legal institution in countries with different procedural models. My comparative study in Russia and England will contribute to our understanding

[75] J. Thibaut and L. Walker, *Procedural Justice: Psychological Analysis* (Hillsdale, N.J.: Erlbaum, 1975).
[76] L. Walker, E. A. Lind, and J. Thibaut, 'The Relationship between Procedural and Distributive Justice', *Virginia Law Review*, vol. 68, no. 8 (1979), pp. 1401-1420.

of how Russian and English procedural models, and their administrative and legal requirements, shape people's experiences in courts and their overall attitudes towards legal institutions in their countries. Moreover, my research will challenge our boundaries of understanding of the concept of procedural fairness by tracing people's ability to participate in case resolution in different procedural models.

While Thibaut and Walker focused on the importance of *process control* in their examination of fairness perceptions in court settings, Leventhal suggested a more detailed model of procedural elements aimed at evaluating fairness in courts. [77] The Leventhal factors have been widely used in empirical studies of justice perceptions in courts; they can be briefly described as: (a) *consistency*, (b) *bias suppression*, (c) *accuracy of information*, (d) *correctability*, (e) *representativeness*, and (f) *ethicality*.[78] Leventhal, Karuza, and Fry bring together procedural- and outcome- related factors and offer a rough guide for the analysis of people's perceptions of justice in courts, yet their focus is mostly on the evaluation of court activity, rather than of a detailed understating of people's individual interpretations of their experiences in courts.

Some of the elements of justice perceptions suggested by Leventhal have independently featured in further research: *consistency* has been evaluated in having effect on the overall perceptions of justice, as well as using *accurate information* (which generally refers to helpful, supportive information) has generated independent attention. Greenberg

[77] G. S. Leventhal, 'What Should Be Done with Equity Theory? New Approaches to the Study of Fairness in Social Relationships', in K. J. Gergen, M. S. Greenberg, and R. H. Willis, (eds.), *Social Exchange: Advances in Theory and Research* (New York: Plenum, 1980), pp. 27-55.

[78] G. S. Leventhal, J. Karuza, and W. R. Fry, 'Beyond Fairness: A theory of Allocation Preferences,' in G. Mikula, (ed.), *Justice and Social Interaction* (New York: Springer, 1980), pp. 167-218. It is suggested that people tend to prioritize three of these criteria – consistency, accuracy, and ethicality – in determining whether procedural justice requirements have been satisfied. See also S. T. Friske, Daniel T. Gilbert, Gardner Lindzey, *Handbook on Social Psychology*, (Vol. 2, 5th ed., John Wiley & Sons, Hoboken: New Jersey, 2010), p. 1141.

found that using accurate information as the basis of performance evaluation enhanced perceptions of fairness.[79]

Therefore, among the multi-factor approaches to justice perceptions in legal settings one can see a number of prominent factors: treatment and respect of the human right to justice, control and procedural participation, reliability of the process, and outcome-related fairness. These groups of factors will guide my discussion of my findings and will serve to highlight similarities and differences between perceptions of legal institutions in Russian and English lower courts.

iii. Interaction with legal institutions

More recent studies have stressed the need for a multi-dimensional and dynamic approach to the study of people's perceptions of justice in courts, which needs to account for the multiple nuances of treatment, interaction, and finally relationships that constitute the process of justice as it unfolds in legal institutions. These studies focused on the nature of the human relationship that is an inevitable and essential part of court experiences. The introduction of the concept of *interactional justice* brought attention to people's *relationship with court administration*.[80]

People's attitudes towards authorities based in the interaction with members of the institutions emerged as an important factor that can determine an individual's assessment of the system or the institution.[81] Interpersonal justice factors, including such feelings as *dignity* and *respect* in relation to court proceedings and *interaction with court*

[79] J. Greenberg, 'Using Diaries to Promote Procedural Justice in Performance Appraisals', S*ocial Justice Research*, vol. 1, no. 2 (1987), pp. 219-234.
[80] R. J. Bies and J. S. Moag, 'Interactional Justice: Communication Criteria for Fairness', in R. J. Lewicki, B. H. Sheppard, and M. H. Bazerman, (eds.), *Research on Negotiations in Organizations*, Vol. 1, (Greenwich CT: JAI Press), pp. 43-55.
[81] M. L. Ambrose and M. Schminke, 'Organization Structure as a Moderator of the Relationship between Procedural Justice, Interactional Justice, POS, and Supervisory Trust', *Journal of Applied Psychology*, vol. 88 (2003), pp. 295-305.

administration, can offer an interesting insight into how people in different legal environments evaluate their respective systems of justice. The importance of interpersonal factors in justice perceptions makes it necessary for me to investigate how different models of court administration contribute to creating different relationships between the court users and the courts, which in their turn can affect the overall attitudes towards legal institutions in different legal cultures.

The element of *bureaucratic justice* adds an interesting dimension to the investigation of people's perceptions of legal institutions. It suggests that different levels of courts may call for different types of procedural models. In his theory of *bureaucratic justice* Mashaw distinguished between three models of justice: Bureaucratic Rationality, Professional Treatment, and Moral Judgment.[82] *Bureaucratic Rationality* refers to implementation of decisions in a factual and technocratic way, such as payment of disability benefits to eligible persons. This type of justice is not focused on giving a person voice, but rather on neutral and impartial application of bureaucratic rules. *Professional Treatment* refers to providing appropriate professional judgment to clients in a service relationship. This method of decision making gives considerable voice to an individual, but less impartiality to the process, since clients will be distinguished in order to provide appropriate professional help.[83] The *Moral Judgment* model is particularly appropriate in the context of adjudication: justice needs to be seen as delivered neutrally and impartially on the basis of deservedness.

The importance of Mashaw's model for my research lies in the fact that it illustrates that factors identified in organisational behaviour models can be reconfigured according to the forum in which a particular legal problem is resolved.[84] 'Perceptions of procedural justice within settings where adjudicatory and bureaucratic forums are appropriate will be

[82] J.L. Mashaw, *Bureaucratic Justice* (New Haven, CT: Yale University Press, 1983).
[83] *Ibid.,* pp. 27-29.
[84] E.S. Cohn, S.O. White, and J. Sanders, 'Distributive and Procedural Justice in Seven Nations', *Law and Human Behavior*, vol. 24, no. 5 (2000), p. 558.

particularly sensitive to deviations from neutrality and impartiality. The presence of voice will be particularly important to procedural justice judgments, when people believe that a "serving a client" orientation is in order.'[85] This observation has particular resonance in the analysis of my findings, as it shows that in addition to classically described factors of perceived procedural justice, the type of dispute and its venue may impact the way people experience courts.

Therefore, my study will contribute to a better understanding of how different elements of interaction with courts participate in the formation of people's perceptions of institutions of justice. My research will focus on the constitutive elements of these perceptions and their relationship to the larger and more generalisable attitudes towards legal institutions in different socio-legal environments.

iv. Legal professionals and people's experiences in courts

The role of legal professionals in shaping people's perceptions of their experiences in courts deserves particular attention. Using the term 'legal professionals', I refer to people who work in courts in professional capacity: attorneys, solicitors and barristers, judges, other court officers with specialised training, such as court clerks in England, and judicial assistants in Russia.

As it has been suggested in existing scholarship, courts are often seen distant and isolated from the lives of ordinary people due to the exclusivity and elitism of legal profession, and largely due to the complexity of the legal language.[86] The importance of legal professionals in creating perceptions of courts lies is their ability to transform the exclusively legal context of what happens in court into the narrative that ordinary court users

[85] *Ibid*., p. 559.
[86] S. Beier, et al., 'Influence of Judges' Behaviour on Perceived Procedural Justice', *Journal of Applied Social Psychology*, vol. 44 (2014), pp 46-59.

can understand, and vice versa. As a result, perceptions of competent legal assistance have been recognized as one of the main factors shaping people's overall perceptions of justice.[87]

The analysis of the interaction between court users and legal professionals in the Russian and English lower courts will help me evaluate the extent to which legal professionals can influence people's perceptions of their experiences in courts. I will investigate whether professional legal assistance has a different presence and role in English and Russian lower courts. Therefore, my investigation will make a valuable contribution to the study of the role of legal assistance in shaping people's experiences in and perceptions of courts from a comparative perspective.

The roles of the judges in particular are of great interest in the analysis of people's perceptions of their experiences in legal institutions. Research has shown that in addition to encouraging voluntary compliance with legal directives, judicial conduct perceived to be procedurally just enhances the stature and overall legitimacy of courts in the eyes of the public.[88] My discussion of the roles that judges, their judging and managing styles, and their interaction with people play in shaping people's perceptions of courts will attempt to identify differences between Russian and English courts, and to what extent these differences impact people's attitudes to local courts and their attitudes to legal institutions in general. [89]

Therefore, drawing from existing literature allowed me to recognize the importance of legal professionals, their accessibility, and impact on people's experience in courts, which will help me answer my research question using the bottom-up comparative perspective.

[87] T. R. Tyler, 'Procedural Justice and the Courts', *Court Review*, vol. 26 (2007), p. 44.
[88] B. A. Myrstol, and Cory R. Lepage, 'Public Perceptions of Judicial Fairness', *Alaska Justice Forum*, vol. 29, no. 2 (1992), pp. 9-11.
[89] M. S. Frazer, 'The Impact of the Community Court Model in Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Centre', Centre for Court Innovation, (2006), accessed 25 November 2016, at http://www.courtinnovation.org/sites/default/files/Procedural_Fairness.pdf.

v. Expectations and final outcomes

Having looked at the factors that stem from people's interaction with courts and their participation in the legal process, I shall now turn to the role that people's evaluations of their outcomes play in their perceptions of legal institutions. Existing research into perceptions of justice in the context of legal institutions has developed in two main directions: initially it focused on the question of case outcome satisfaction, including the role of equity in judgments about outcome fairness; more recently, it turned its attention to the perceived fairness of procedural rules.[90] While previous research has closely linked outcome satisfaction with procedural justice perceptions, my research engages with this discussion, yet challenges the assumption that this relationship is identifiable in different legal cultures. To avoid imposing existing analytical frameworks in different cultural settings, I shall treat people's perceived satisfaction with outcomes independently from the other factors mentioned above, which will allow me to see how it interacts with other factors in the process of shaping people's perceptions. Identifying how evaluations of individual court outcomes relate to people's overall perceptions of courts will contribute to my discussion of mechanisms that create more stable attitudes of trust towards legal institutions in different legal environments.

This brief introduction to the selected multiple-factor theories that attempt to understand and categorise various elements that constitute people's perceptions of justice in court settings is by no means exhaustive. Since my research was largely driven by my findings, I will rely on my findings to show me which factors identified in existing literature have prominent roles in shaping people's perceptions of courts and how they relate to more generalisable attitudes of trust in courts in different legal environments. Therefore, I will approach the attitudes of trust not as a statistical value, but as an element of legal

[90] See supra note 87.

consciousness and a product of interplay of multiple factors that constitute people's perceptions of legal institutions.

D. Trust in Courts

Through my empirical research into people's personal experiences in courts, I will argue that they can be analytically extended into the examination of how they contribute to shaping people's overall perceptions of legal institutions in their countries. This discussion will form the concluding part of my thesis, where I will elaborate on the link between individual perceptions of justice and larger attitudes of trust towards legal institutions in different countries.

i. Perceptions of legal institutions and attitudes of trust

Trust is rightly considered the foundation of all organised activities conducted by people. Trust is connected with such concepts as reliability, predictability, expectation, collaboration, goodwill, accountability, and also distrust, wrongdoing, and insincerity.[91] Trust reflects the perceived features of an individual, group, organisation, or institutions and political regimes.[92] The significance of trust lies in its connection with the human condition, as people are social creatures, and trust is a prerequisite for human relationships. According to the theory of social capital outlined by Robert D. Putnam in *Making Democracy Work,* trust is a foundation of social cohesion in the framework of civic society.[93] Putnam defined social capital as 'features of social organisation, such as trust, norms, and networks that can

[91] B. Kozuch and Z. Dobrowolski, *Creating Public Trust: An Organization Perspective* PL Academic Research (Frankfurt am Main: Internationaler Verlag der Wissenschaften, 2014), p. 13. Citing K. Hawley *Trust: A Very Short Introduction* (Oxford: Oxford University Press, 2012).
[92] S. Llewellyn, S. Brooks, A. Mahon, *Trust and Confidence in Government and Public Services* (New York: Routledge, 2013), p. 19.
[93] R. D. Putnam, *Making Democracy Work: Civic traditions in Northern Italy* (Princeton, NJ: Princeton University Press, 1993); ---, *Democracies in Flux: The Evolution of Social Capital in Society* (Oxford: Oxford University Press, 2002).

improve the efficiency of society by facilitating coordinated actions.'[94] And according to Francis Fukuyama, trust is a prerequisite of economic development.[95] Early theories on trust upheld it as a path to a better society in which people 'tolerate those who are different form themselves, feel good about themselves, and take an active role in their communities.'[96] However, more recent research revealed that trust has been on the decline in developed democracies.[97] Hence, building social capital based on trust has been accepted as one of main goals of research in political science and policy development that aims towards promotion of democratic values in transitional regimes.

Trust is deeply embedded in our social relationships. Its main function is to allow people to act in situations of uncertainty regarding the motives, intentions, and future actions of other people; it allows people to form expectations that others will behave in predictable ways.[98] Within the extensive literature on trust the definition and typology of this concept depend largely on the context within which it is discussed: psychology defines trust as a relationship between individuals and groups of people, while sociologists focus on institutional relationships.[99] One of the classic definitions of trust equates it with a generalised expectancy held by an individual that the word, intentions, promise, action or statement of another individual or group can be relied upon, and with a belief that the other party will cooperate in the future.[100]

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[94] *Ibid*, at 167.
[95] F. F. Fukuyama, *Trust: Human Nature and the Reconstitution of Social Order* (New York: Free Press, 1996);---, *Trust: Social Virtues and the Creation of Prosperity* (New York: Free Press, 1995).
[96] E. M. Uslaner, *The Moral Foundations of Trust* (Cambridge: Cambridge University Press, 2002), p. 10.
[97] B. Rothstein, *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005); S. Van de Walle, 'Trust in the Justice System: A Comparative View across Europe', *Prison Service Journal*, vol. 183 (2008), pp. 22-26; ---, S. Van Roosbroek, and G. Bouckaert, 'Trust in the Public Sector: Is There Any Evidence for a Long-Term Decline?' *International Review of Administrative Sciences*, vol. 74 (2008), pp. 45-62; P. Sztompka, *Trust: A Sociological Theory* (Cambridge: Cambridge University Press, 1999).
[98] B. Barber, *The Logic and Limits of Trust* (New Brunswick: Rutgers University Press, 1983).
[99] For a detailed discussion of the concept of 'trust' see: A. M. Hoffman, 'A Conceptualization of Trust in International Relations', *European Journal of International Relations*, vol. 8, no. 3 (2002), pp. 375-401.
[100] J. B. Rotter, 'Interpersonal Trust, Trustworthiness, and Gullibility', *American Psychologist*, vol. 35, no. 1 (1980), pp. 1-7.

ii. Innate and rational trust

Among the numerous theories and typologies of trust there is a clear distinction between trust as an inborn or inherited trait deriving from particular types of upbringing and trust as a rational response that is learned with a set of normative rules.[101] According to the first approach, trust is seen as an inevitable and natural feature of all humans; it derives from emotions, self-perceptions, perceptions of others, and interaction and interdependence of people in social groups.[102] This approach sees trust as an inborn trait of personality, as an inclination towards general trust in people, regardless of the risk it may involve.[103] According to Eric Uslaner, 'trust in other people is based upon a fundamental ethical assumption that other people share your fundamental values.'[104]

The alternative approach suggests that trust is a rational choice that is motivated by the rationality of maximizing utility.[105] Defining trust as rational choice in conditions of uncertainty links it to the concept of risk. According to Piotr Sztompka, trust is an expectation that 'other people, or groups, or institutions, with whom we come into contact – interact, cooperate – will act in ways conducive to our well-being. Because in most cases we cannot be sure of that, as others are free agents, trust is a sort of gamble involving some risk. It is a bet on the future, contingent actions of others.'[106] The rational concept of trust is seen as a cognitive response to a situation in which an individual assesses the dangers and accepts

[101] T. Gaidyté, 'Trust in Mature and Post-Communist Democracies', *Sociopedia.isa, ISA*, (2013), p. 2, accessed 25 November 2016, at http://www.sagepub.net/isa/resources/pdf/Trust.pdf.
[102] K. Wolff, *The Sociology of Georg Simmel* (New York: Free Press, 1950); R.N. Wolfe, 'Trust, Anomie, and the Locus of Control: Alienation of US College Students in 1964, 1969, 1974', *Journal of Social Psychology*, vol. 110 (1976), pp. 151-172; N. Luhmann, *Trust and Power* (New York: Wiley, 1979); G. Möllering, 'The Nature of Trust: From Georg Simmel to a Theory of Expectation, Interpretation, and Suspension', *Sociology*, vol. 35, no. 2 (2001), pp. 403-20.
[103] R. Hardin, *Trust*, (Cambridge: Polity Press, 2006).
[104] See supra note 96, p. 33.
[105] B. Barber, *The Logic and Limits of Trust*, (New Brunswick: Rutgers University Press, 1993); J.S. Coleman, *Foundations of Social Theory* (Cambridge, MA: Harvard University Press, 1990); B. Misztal, *Trust in Modern Societies: The Search for the Bases of Social Order* (Cambridge: Polity Press. 1996).
[106] P. Sztompka, *Trust: A Sociological Theory* (Cambridge: Cambridge University Press, 1999), pp. 25-26.

the risk.[107] According to this theory, people are inclined to bet and place trust only the other person or organisation is perceived as trustworthy.[108] The utility aspect of the rational theory of trust means that by trusting somebody we place a bet based on the anticipation of mutual utility. Russell Hardin defined trust as the outcome of rational utility-based expectations; people trust other people because they believe that it is in their interest to be trustworthy.[109] Therefore, rational trust is a mechanism that enables confidence in mutual utility, when mutual utility cannot be immediately or simultaneously realised, what Putnam referred to as a 'short-term altruism' based on a 'long-term interest'.[110] Hardin referred to this as *encapsulated* trust, which means that the decision to trust another person is 'encapsulated' in the incentive structure in which it is in his or her interest to behave in a trustworthy way.[111]

Within the rational-choice model of trust, Robert Putnam deserves particular attention, as in his study of the civil society in Northern Italy Putnam investigated historical differences in the development of political culture that were responsible for creating certain path-dependent characteristics of civil society.[112] This approach offers an interesting perspective to the cultural analysis of trust formation, which is directly relevant to my research of differences between perceptions of legal institutions in Russia and England.

While it is impossible to draw a clear line between these two approaches to trust, for the purpose of my research, I adopt the concept of motive-based trust, introduced by Tom R. Tyler, which is based on the perception that people act in the best interest of each other, rather than guided by rational choice.[113] I will use the broad definition of trust as a

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[107] H.W. Kee and R.E. Knox, 'Conceptual and Methodological Considerations in the Study of Trust and Suspicion', *Journal of Conflict Resolution*, vol. 14 (1970), pp. 357-66.
[108] P. Kollock, 'The Emergence of Exchange Structures: An Experimental Study of Uncertainty, Commitment, and Trust', *The American Journal of Sociology*, vol. 100, no. 2 (1994), pp. 313-45.
[109] R. Hardin, T*rust and Trustworthiness* (New York: Russell Sage Foundation, 2002), p. 13.
[110] See supra note 87. (Putnam)
[111] *Ibid*.
[112] *Ibid*.
[113] T. R. Tyler, 'Why Do People Rely on Others? Social Identity and the Social Aspects of Trust', in K. S. Cook, (ed.), *Trust in Society* (New York: Russell Sage, 2001), pp. 285-306.

relationship based on the feelings of confidence and reliability. Trust in my inquiry plays an important role in shaping people's individual experiences in courts as well as defines more stable relationships between the general public and state institutions. Confidence that courts are able to deliver just outcomes in ways that are seen procedurally fair is the core concept of the relationship of trust between people and legal institutions. Trust in the justice system is particularly important as it provides a system of checks against possible misbehaviour by other institutions.[114]

iii. Typologies of trust

Among a variety of typologies of trust suggested in different disciplines, I shall stress following main forms or types of trust that are directly applicable to my research: social / political, generalized / particularized, formal / substantial, trust / absence of trust (displacement of trust with fear and dependence).[115]

An extensive body of literature in sociology and political science approaches trust by juxtaposing *social* and *political* trust.[116] Political trust refers to citizens' evaluation of the government, its institutions, policy-making in general as well as political leaders as promise-keeping, efficient, fair, and honest. Political trust can be subdivided into target-based trust, which refers to people's evaluations of the political system as a whole, and motivation-based

[114] T. R. Tyler and Y.J. Huo*, Trust in the Law: Encouraging Public Cooperation with the Police and the Courts* (New York: Russell Sage Foundation, 2002).

[115] R.C. Solomon and F. Flores, *Building Trust in Business, Politics, Relationships, and Life* (Oxford: Oxford University Press, 2001). The authors distinguish between *basic trust* (the ability and readiness to meet people without excessive suspicion, the capability of talking to and dealing with strangers), *simple trust* (the ability to trust somebody without suspicion, but without reflection, conscious choice or analysis, i.e. naïve trust), *blind trust* (the ability to trust despite violation or previous trust due to the belief that nothing can shake or betray the trust), and *authentic trust* (the ability to trust with full awareness of the risks and consequences and willingness to overcome them). For a more detailed discussion see: B.J. Starnes, S.A. Truhon, V. McCarthy, *Organizational Trust: Employee-Employer Relationships*, The Human Development and Leadership Division, accessed 25 November 2016, at http://asqhdandl.org/uploads/3/4/6/3/34636479/trust.pdf

[116] P. K. Blind, 'Building Trust in Government in the Twenty-first Century: Review of Literature and Emerging Issues', paper presented at the 7th Global Forum on Reinventing Government, 26-29 June, Vienna, Austria, accessed 25 November 2016, at http://unpan1.un.org/intradoc/groups/public/documents/un/unpan025062.pdf

trust, directed to individual political leaders.[117] Rational political trust refers to trust to political parties or political leaders based on maximization of self-interest, whereas psychological political trust refers to an assessment of the moral values and attributes associated with the government, political institutions, and political leaders.[118] Social trust, on the other hand, refers to citizens' confidence and in each other as members of a social group. It is essential for functioning democratic societies as it enhances civic engagement and the development of social capital. According to Putnam, social trust in a society is a product of interpersonal trust and civic engagement in a community.[119]

Another useful distinction that should be made in relation to the foundations of trust is between *social trust*, or trust between individual members of the community, a.k.a. interpersonal trust, and *institutional trust*, or trust in particular state institutions.[120] Within the social trust literature there is a widely accepted distinction between *generalized trust* and *particularised trust*. Generalised trust was first used as a measurable value in the study of post-war Germany in 1948.[121]

Examining the process of formation of trust from the lowest level of institutions use in different societies, I find that the distinction between *particularized* and *generalized trust* made by Eric Uslaner is particularly useful in my discussion. Uslaner approached trust as a stable, enduring set of core moral values shared by people over time. Uslaner stressed that

[117] *Ibid*., 3-8.
[118] *Ibid*., 3-4; see also K. Newton, 'Trust, Social Capital, Civil Society, and Democracy', *International Political Science Review*, vol. 22, no. 2 (2001), pp. 201-214.
[119] R. Putnam, *Bowling Alone: The Collapse and Revival of American Community*, (New York: Simon and Schuster, 2000); ---, et al., *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, NJ: Princeton University Press, 1993).
[120] M.P. Heywood and C. Wood, 'Culture versus Institutions: Social Capital, Trust, and Corruption', in E. Jones, et. al., (eds.), *Developments in European Politics*, (Basingstoke: Palgrave Macmillan, 2011), pp. 138-54.
[121] J. Delhey and K. Newton, 'Predicting Cross-National Levels of Social Trust. Global Pattern in Nordic Exceptionalism?' *European Sociological Review*, vol. 21, no. 4 (2005), pp. 311-27.

people think about trust in general, moral terms, rather than in terms of their individual experiences.[122]

For the purposes of my research project I will use Eric Uslaner's conceptualisation of social trust as a set of core values generated in childhood through the socialization process that takes place within a family. *Particularized trust* is a feeling of reliance and faith in a very small circle of individuals, such as family, close friends, ethnic minority or peer group; whereas *generalized trust* is based on the beliefs that trusting other people is not risky and that one should treat strangers as people from whom they can learn something, or with whom they can cooperate.[123]

Using the cultural approach to trust described above, I will attempt to identify and characterise the ideas and preconceptions that participate in creating stable attitudes of trust towards legal institutions in England and Russia. My empirical discussion will address the question whether low levels of trust in legal institutions in Russia can be explained by dominance of particularized trust in Russian society and, therefore, can explain the persistence of this problem on a deeper cultural level. As Russians tend to trust only a narrow circle of people, and more importantly base trust on informal exchange of favours, I can argue that trust in Russian society is more particularized, which stands in the way of developing attitudes of trust towards the institutions of justice. Broadly speaking, the distinction made by Uslaner supports my proposition that trust is formed differently in different cultures; the dominance of different types of trust has particular historical roots and as a result has different social consequences on relationships between people and their social behaviour.

[122] *Ibid*., p. 74. 'People think about trust, helpfulness, and fairness in distinct ways. They also think about trust largely in general, or moral terms – and not primarily based upon their personal experiences. And this pattern is ubiquitous. Mistrusters are only very slightly more likely to rely upon personal experiences…'.
[123] See supra note 96.

There are a variety of studies that show that trust cannot be limited to the strictly rational or purely moral definitions. A number of researchers argue in favour of expanding our conceptualisation of trust as asocial relationship to include reciprocity and rule-acceptance for mutual benefit.[124] Bo Rothstein suggested that the theory of 'collective memory' offers a new explanatory tool to the analysis of trust formation in modern democracies.[125] Ronald Inglehart analysed World Value Surveys 43 societies over nearly three decades and came to the conclusion that changes in cultural values reflect changes in the economic and political environment.[126] The experimental studies of Toshio Yamagishi pointed at a link between social trust and social intelligence, or the ability to detect and interpret signals from other people that tell us whether they can be trusted.[127]

I will examine how the core values and elements of trust mentioned in existing literature shape people's perceptions of their experiences in courts, and their interplay with the more general attitudes of trust towards the institutions of justice. I approach these stable attitudes of trust as a prism through which people interpret their experiences. Therefore, the examination of people's individual perceptions will help me identify the content of the larger and more stable attitudes of trust in different legal cultures.

iv. Evaluating trust on national level

Research in societies undergoing post-Soviet transitions relied heavily on the theories of trust development and promotion of social capital. It has largely shown a trend towards particularised trust and consistently low levels of public and institutional trust. Different

[124] E. Ostrom, 'A Behavioural Approach to the Rational Choice theory of Collective Action: Presidential Address, American Political Science Association', *The American Political Science Review*, vol. 92, no. 1 (1998), pp. 1-22.
[125] B. Rothstein, 'Trust, Social Dilemmas and Collective Memories', *Journal of Theoretical Politics*, vol. 12 (2000), pp. 477-503.
[126] R. Inglehart, 'Trust, Well-Being and Democracy', in M. E. Warren, (ed.), *Democracy and Trust* (New York: Cambridge University Press, 1999).
[127] T. Yamagishi, 'Trust as a Form of Social Intelligence', in K. S. Cook, (ed.), *Trust in Society* (New York: Russell Sage Foundation, 2001), pp. 121-147.

historical paths and lack of democratic experiences in post-Soviet countries is said to have created a unique set of conditions for endemically low levels of institutional trust and public trust in general.[128]

The large group of studies of trust in the context of legal institutions have focused on the criminal justice system. Some studies aimed to measure specific attitudes towards the administration of justice.[129] In the Netherlands, Belgium, and France comprehensive studies of people's confidence in the delivery of justice and trust in the justice system have been conducted.[130] The United States, France, Spain, and Switzerland have adopted court satisfaction surveys as a means of regular assessment of the system of justice.[131] The comparative analysis of national debates points at different criticisms coming from the public opinion: in the United Kingdom judges are criticised for being out of touch with the values of ordinary people[132], in the United States areas of concern are related to political interference in the judicial system[133], while in countries such as Belgium, France, and Spain, the most widely criticised areas are inefficiency and slowness of justice.[134] Research in the United Kingdom has consistently evaluated trust in the criminal justice system with the British Crime Survey with the following results: 'Previous research has found that ethnic groups evaluate the justice system in different ways, and that factors such as education also have an impact… While the institutional findings are mixed, confidence in the criminal

[128] See supra note 96.
[129] S. Parmentier, et al., *Public Opinion and the Administration of Justice: Popular Perceptions and Their Implications for Policy-Making in Western Countries* (Brussels: Politeia, 2005).
[130] *Ibid*.
[131] J. V. Roberts and M.J. Hough, 'Confidence in Justice: An International Review', *Research, Development and Statistics Directorate*, Findings 243 (2004), accessed 25 November 2016, at http://webarchive.nationalarchives.gov.uk/20110218135832/http:/rds.homeoffice.gov.uk/rds/pdfs04/r243.pdf. See also J. V. Roberts and M.J. Hough, *Understanding Public Attitudes to Criminal Justice* (Buckingham: Open University Press, 2005).
[132] B. Chapman, C. Mirrlees-Black, C. Brawn, 'Improving Public Attitudes in the Criminal Justice System: The Impact of Information', Home Office Research Study 245, (2002), accessed 25 November 2016, at https://www.prisonlegalnews.org/news/publications/home-office-research-study-245-improving-public-attitudes-on-the-criminal-justice-system-2002/.
[133] See supra note 134.
[134] S. Van de Walle, 'Trust in Justice System: A Comparative View across Europe', *Prison Service Journal*, vol. 183 (2008), p. 22.

justice system in the UK is lower among those who have had direct contact with it (victims, jurors, witnesses, suspects).'[135]

While trust or distrust in the justice system may be caused by different socio-historical conditions, statistical research shows a stable decline in the confidence in the justice system in a variety of developed democracies, which usually refers to public opinion to the criminal justice system. The World Value Survey indicates a consistent decline in confidence it the justice system in a large number of European countries, which is largely explained by the declining performance of the justice system.[136] Approaching this tendency from a sociological perspective, some researchers attributed it to the general decline in confidence and trust in authority.[137] 'Another observation is that levels of confidence in different institutions tend to be relatively similar within a given country. Low confidence in the parliament of a certain country, for example, often coincides with low confidence it the justice system. Likewise, high confidence in a number of core institutions often means there will be high confidence in most institutions. All this suggests that explanations for levels of confidence in the justice system do not only have to be looked for within the justice system, but also in the wider society within which it operates.'[138] Steven Van de Walle and John W. Raine conducted a detailed cross-national study of drivers behind trust in the justice system in 20 European countries, including the UK. One of their main findings suggests that citizens' satisfaction with their own lives and trust in other people is related to levels of

[135] *Ibid*, at 22-23, citing D. Brown, 'How does England Incorporate the Results of Public Opinion Surveys on the Administration of Justice?' in S. Parmentier, et al., *Public Opinion and the Administration of Justice: Popular Perceptions and Their Implications for Policy-Making in Western Countries*, (Brussels: Politeia, 2005); B. Reza and C. Magill, 'Race and the Criminal Justice System: An Overview of the Complete Statistics 2004-2005', London: Criminal Justice Unit (2006), accessed 15 November 2016, at http://webarchive.nationalarchives.gov.uk/20110218135832/http:/rds.homeoffice.gov.uk/rds/pdfs06/s95overview0405.pdf; C. Mirrlees-Black, 'Confidence in the Criminal Justice System: Findings from the 2000 British Crime Survey', Home Office Research, Development and Statistics Directorate: Research Findings no. 137, accessed 15 November 2016, at http://webarchive.nationalarchives.gov.uk/20110220105210/rds.homeoffice.gov.uk/rds/pdfs/r137.pdf.

[136] See supra note 134, p. 23.

[137] R. Inglehart, *Modernization and Postmodernization: Cultural, Economic and Political Change in 43 Societies* (Princeton: Princeton University Press, 1997).

[138] See supra note 134, at 24.

expressed trust in the justice system.[139] Therefore, the intention of my research is to look at the constitutive elements of the general attitudes of trust towards legal institutions that come from the wider socio-cultural contexts and from people's individual experiences in courts.

While mainstream studies suggest direct correlation between individual satisfaction and overall attitudes of trust in institutions, closer examination of individual experiences produced a number of studies that revealed the complex and contradictory nature of this relationship. A broad connection between attitudes towards justice systems and personal experiences of court users was made by Steven Van de Walle, who suggested that citizens' attitudes stemming from personal experiences can be entirely different from their attitudes towards the system of justice overall.[140] An important implication of this observation is that citizens can at the same time be quite satisfied about their own experience, yet have little confidence in the justice system more broadly.

In conclusion to my discussion on the usefulness of the concept of trust in my research, I would like to stress that the decline of public trust in state institutions has shifted academic focus into the area of underlying historical and cultural narratives that reinforce distrust, perceived corruption, and favouritism. Looking at how trust is expressed in everyday interactions between the public and courts offers a unique perspective into the very nature of trust relationship, or how and whom people in Russia and England actually trust. The conceptual content of trust itself may be different in the English and Russian societies. Institutional trust in one country may be connected to institutional independence and procedural standards that minimize bias and corruption, while in the other country attitudes towards institutions may be linked to the image of the state. Trust in legal institutions and

[139] S. Van de Walle and J. W. Raine, 'Explaining Attitudes towards the Justice System in the UK and Europe', *Ministry of Justice Research Series 9/08*, (London: Ministry of Justice), accessed 25 November 2016, at http://worlddatabaseofhappiness.eur.nl/hap_bib/freetexts/vandewalle_s_2008.pdf
[140] Supra see note 134.

their ability to deliver justice may also be more personalized and informal due to unique procedural and administrative models adopted by the different systems of justice.

E. Summary of Theoretical Approach

As I illustrated above, my research builds upon a mixed theoretical framework that gives me the conceptual clarity and analytical framework for answering my research question: better understanding of the process of formation of perceptions of legal institutions in people's experiences in lower courts in different legal environments. My conceptual foundation in legal consciousness offers me the necessary depth of analysis of people's experiences in local legal institutions. The constructive nature of law in society is vital in my application of the legal consciousness analysis to my research question: I am looking at how people construct their perceptions of legal institutions in their experiences in courts and the link between these perceptions and more stable attitudes of trust in legal institutions. It is the complexity of this link approached from a cultural and historical perspective which I aim to bring under scrutiny in my research.

Organisational behaviour research, with its focus on attitudes towards legal institutions has been looking for ways to improve these attitudes through the analysis of factors responsible for shaping them, such as evaluations of outcomes in legal cases, evaluation of procedural fairness, communication with courts, feelings of respect and dignity, and satisfaction with outcomes. Drawing from the factors suggested in existing literature, I will show that strictly theoretical analysis of legal consciousness and attitudes towards legal phenomena has to be contextualized in different legal environments.

My discussion will show that aggregate perceptions and images of legal institutions need to be analysed in light of traditional images and ideas attached to courts in different legal cultures. This process of unwinding individual perceptions and looking at the core

elements of stable attitudes that people have towards legal institutions is the final goal of my discussion. It will allow me to identify which components in the totality of perceptions are more likely to lead to creation of attitudes of trust and confidence in legal institutions and how they differ between Russian and English legal environments.

Chapter II

Method and Setting

A. Introduction

Due to the open-ended and exploratory nature of my research, it is primarily inductive or discovery-based. As a result, my research question and theoretical approach have undergone considerable transformation in light of my findings and took their final shape after the analysis of my data in consideration of existing approaches to this subject.[141] Starting with the big question of why people think about courts differently in different legal cultures, I narrowed it down to a very specific area of enquiry: how people perceive their experiences in courts, and how they form their perceptions of legal institutions and attitudes towards them. During my fieldwork and theoretical background research, it became clear that my discussion revolves around a multitude of factors that come together into images of legal institutions.

My research project can be described as open-ended and exploratory, but it follows in the footsteps of ethnographic studies in comparative legal cultures. It has been argued that ethnographic research is primarily inductive or discovery-based in its conceptual nature. Ethnographic approach does not approach cultural phenomena with a set assumptions and hypotheses that could taint the view of the researcher. It starts with a general interest in some type of social phenomena or theoretical problem and narrows down, or changes significantly, as it progresses. Alongside the deepening of the focus of research, theoretical ideas that shape descriptions and explanations emerge out of the research process.[142] Therefore, my investigation of local legal cultures in Russia and England started with a

[141] M. Genzuk, 'A Synthesis of Ethnographic Research', *Occasional Paper Series, Centre for Multilingual, Multicultural Research* (Rossier School of Education, University of Southern California, Los Angeles, 2003) accessed 25 November 2016, at http://www.bcf.usc.edu/~genzuk/Ethographic_Research.html.
[142] *Ibid*.

general interest in the problematic nature of contemporary Russian legal culture in light of the growing number of cases heard in local courts and a particular interest in comparing patterns of Russian court use with use of legal institutions in relatively stable and traditional legal environment of a developed democracy. This comparison could provide a unique perspective on the problems of everyday legality that are considered particularly Russian.

My research combined observations of everyday court activity with interviews, focus groups, large scale surveys, and analysis of numerous secondary sources. In accordance with the ethnographic element of my method - my initial goal was to listen, observe, and be non-obtrusive in the courtroom in order to capture the essence of people's experiences. However, as my research project developed, the need to speak to people and capture their understandings of what was happening to them and their emotional response became apparent. I approached people waiting in the courtroom, I followed people into hearings, I talked to people after their experiences, I listened to them over a coffee or during a quick break outside of the courtroom. It is safe to say that my fieldwork and the unique stories of my respondents shaped the trajectory of my investigation.

To investigate the link between individual experiences in courts and people's attitudes towards institutions of justice overall, I chose to focus on the most accessible courts that deal with the most common everyday legal disputes.[143] These courts deal with the majority of claims brought to courts in England and Russia respectively and, as such, are fitting settings for capturing perceptions of majority of ordinary citizens.

[143] S. S. Silbey, 'Making Sense of the Lower Courts', *Justice System Journal*, vol. 6, no. 1 (1981), pp. 13-27. Research in the United States suggests that the stereotype of local courts incorporates both positive and negative images. Negative images focus on perceived inaccessibility due to cost and complexity, delays, unfairness in the treatment of ordinary people. Judges were thought to share leniency towards criminals, and a lack of concern about the problems of ordinary people. Other concerns included perceived leniency in sentencing and favoritism towards the corporate sector and the wealthy in the civil justice system. Positive images of courts are strongly connected to the perceptions of judges as honest, fair, and well trained; belief that the jury system works and the judges and court personnel treat members of the public with courtesy and respect.

In order to address the problem of particularly negative perceptions of courts in Russia, I decided to juxtapose Russian experiences in courts with experiences of ordinary people in a more traditional and stable legal system. England and Russia were chosen as two countries with different legal systems at different stages of development, yet it is necessary to stress that my goal is to use my data in England as a background for my analysis of the Russian case. Having said that, I believe that my research produces insights into the inner workings of legal cultures in both countries.

I chose to contrast the relatively young institution of Russian courts of Justices of the Peace with their more established English counterparts, county courts and magistrates' courts. Using the institutions that perform similar functions but have different paths of development, I was also able to investigate the effect of socio-cultural environments and traditional images of courts in England and Russia on people's perceptions of their experiences in courts.

As my study aims to have an in-depth rather than broadly representative focus, I decided to select two locations in Russia and England that would be similar in geographic and demographic respects, and would be manageable for me as a single investigator. I focused on the capital cities and small cities in the periphery. The final data are comprised of observations of 62 cases in Russia: cases in two Courts of Justices of the Peace in Moscow, and two similar courts in a regional city in Moscow region. My research in English courts consists of 68 case observations conducted in a large court centre in London, and a Combined Court Centre in Oxfordshire.

Access to courts was secured with the help of judicial secretaries in Russia and court administration officers in England. English court administration was generally quite open to the idea of a small-scale academic research project with direct access to all participants of the legal process. Russian court administration on the other hand was more sceptical, which

led to a considerably higher rate of refusals to grant me access to courts, even though all hearings in lower courts are theoretically open to the public.

In reaching their decisions as to my access to courtrooms, English court officials seemed to be concerned about my intrusiveness in the proceedings and the comfort of the parties involved. Russian court administration and the judges were more focused on whether my research project had official approval and questioned my interest in Russian courts for the purposes of research conducted outside Russia. Russian authorities often required a written description of my research and a proof of its authorization from my academic institution, as well as from the Russian Ministry of Justice. In response to their requests I was able to provide an official letter from the University of Oxford, but the lack of approval by the Russian authorities resulted in frequent rejections of my request to conduct research in their courts. The purpose of this disclaimer on ease of access to lower courts is not to say that Russian court administration was more suspicious. This, however, could be an indicator of an atmosphere based on vertical authority and on the quasi-public nature of hearings in Russian courts. Public access to court hearings was in most cases restricted by court authorities or by the parties themselves. Having said that, I should point out that those districts that granted me access to their courtrooms and allowed me to interview the litigants and the judges were very helpful and open to participation in academic research.

B. Methods

1. Observations

Having obtained access to selected courts, I started my fieldwork with everyday observations of court activity. As the main interest of my research revolves around people's 54behaviour in courts, as well as explanations and descriptions of their experiences, I chose

observations in the local courtrooms in Russia and England as my starting point and the main setting for conducting my field work.

Observations were a valuable source of data that allowed me to answer my research question of how images of legal institutions are formed in different legal systems. I was able to see how the process of reaching decisions unfolded during the hearings, to observe relationships between litigants, judges, and court administration, and to capture people's emotions and evaluations of their experiences. This allowed me to understand the interplay of ideas and narratives that people attach to legal institutions in and out of the courtroom, and led me to more precise and targeted questions in my interviews. Courtroom observations also allowed me to get a sense of the division of space in the courtrooms, the main narratives and symbolic messages involved in the legal process, and patterns of interaction between the participants of the legal process.

I started my days in courts at the opening hour and was usually able to assess the general atmosphere by waiting and talking to the people in the common area. Due to a different allocation of space inside the buildings of the lower courts in Russia and England, my observations took place in different environments. Chapter IV will present a comparative description of space allocation and court symbolism in the Russian and English lower courts. In some cases I was able to conduct interviews with the judges before observing them in the courtroom. This allowed me to clarify the purpose of my presence and to make sure that the hearings would unfold in a normal way. In most English courts I was required to obtain the judicial approval of my presence in the courtrooms by communicating with the judges through the court clerks, as the judges themselves are not directly accessible. Therefore, in most observations in the English lower courts I had no previous knowledge of who the judge would be.

My participation in most hearings was usually limited to a short introduction by the judge in the beginning of the hearing. I tried to assume the role of a non-participating observer in order not to disturb the normal procedure of the hearing. This purely observational role was possible in the large public courtrooms with special areas allocated to the general public. It was more difficult to achieve in the small offices of the judges in English county courts and in the private offices of the Russian Justices of the Peace.

In most hearings in the English lower courts the litigants did not question my presence; this could be explained by the fact that I was initially perceived as a member of the court administration or a legal professional. In most hearings in the Russian lower courts one or both of the litigants insisted on knowing my role in the courtroom, which usually resulted in the judge's clarification of my purpose being academic. After the introduction, my noticeable presence in the courtroom usually diminished as the parties became involved in the process.

During my observations I aimed to get a better understanding of the powers at play inside the courtrooms: people's behaviour and interaction with the judges and legal professionals, their arguments and/or complaints during the hearing, their ability to speak and express themselves clearly, the impact of the judges' behaviour on the conduct of the parties, and people's reactions to court procedure and to the outcomes of their cases. I also tried to understand the underlying symbolic exchange of meanings within the legal space and people's reactions to non-verbal communication and court rituals. The resulting elements of people's experiences in courts would become the building blocks in my discussion of the process of formation of people's perceptions of legal institutions in different legal cultures. The main themes emerging out these observations will be brought into a comparative discussion of how people's perceptions of their experiences in legal institutions relate to their overall attitudes towards legal institutions in Russia and England.

2. Interviews

The interviews I conducted in the English and Russian lower courts are largely open-ended conversations aimed at eliciting people's perceptions and evaluations of their experiences in courts. Existing socio-legal research has benefited from the use of open-ended interviews which focused on factual and attitudinal issues.[144] As a general rule respondents in ethnographic studies are asked to reconstruct events in which they participated and explain specific reasoning for their actions.[145] It has been suggested that interviews are most useful as a technique that follows observations and checks on the presence of themes and ideas that were identified during the observations. While observations are capable of yielding very detailed data-sets, interviews can tap much deeper than observations in the areas of self-expression and motivation.[146] The benefit of using both methods in data collection derives from their complimenting nature: observations offer guidance for designing interview questions, and interview questions are not based on preconceptions coming from academic literature, but on the first-hand observations. A research project starting with an observation and moving into deeper interviews precludes the researcher from soliciting preconceived information and allows investigating the areas that could not be 'seen' in the observations but played important roles in the situation.

The interviews with litigants, judges, legal counsel, and court administration generated the largest part of my findings. They were invaluable sources of information about people's perceptions of legal problems and methods of dealing with them. I phrased questions in order to elicit answers related to people's expectations of courts, their understanding of their

[144] H. M. Kritzer, 'Stories From the Field: Collecting Data Outside Over There', in J. Starr and M. Goodale, *Practicing Ethnography in Law: New Dialogues, Enduring Methods* (Pelgrave, MacMillan, 2002), p. 143.
[145] *Ibid*.
[146] *Ibid*., p. 152.

cases, their interaction with the courts, their perceptions of procedural requirements and steps in case resolution, and finally their evaluations of case outcomes.

I conducted 38 interviews in Russia and 41 interviews in England in and out of courtrooms.[147] A large number of shorter informal exchanges were also recorded and used in my research. Some of the interviews were conducted before the hearings while the parties were waiting in the public area. Even though most people I approached before their hearings we focused on their upcoming appearance in courts, I was able to capture their expectations and existing ideas and images of courts. The largest group of my interviews took place immediately after the observed hearings and allowed me to discuss the events that had just unfolded in the courtroom. These interviews allowed me to capture people's feelings and impressions as they were taking shape, without being analysed and retold in a retrospective.

Most litigants I approached were quite open and eager to talk about their experiences, but there were also people who did not want to discuss their cases. A considerably larger number of requests for an interview were rejected in the Russian lower courts where people seemed relatively more protective and defensive about the nature of their claims. My respondents in the English lower courts were considerably more open to sharing their experiences and impressions of court proceedings; they wanted to vent their frustration and seemed to lack the suspicion and introversion of their Russian counterparts. The length of the interviews varied within one-hour; in some cases the interviews were initiated in the courthouse and finished on the phone at a later time. Some litigants expressed discomfort of being in the legal atmosphere of the courthouse and preferred to leave immediately after the hearings; their interviews took place outside the courthouse.

[147] The complete list of interviews with litigants and legal professionals consists of 51 interviews in Russia, and 53 interviews in England. Shorter interviews and passing conversations were not included in the number of full interviews mentioned in this introduction. The detailed list of interviews and the transcripts are available from the author.

I opened each interview with a brief description of my research project. I then moved to questions about the respondent, his or her life, occupation, previous experience with courts, their current case, and finally in which way their experience differed from their pre-existing ideas. The answers were written down in the form of field notes during the interviews, and were completed in a full-sentence form immediately after the interviews. They were later analysed in order to tease out the themes that pointed towards the factors that shape people's perceptions of institutions of justice and to put them into a comparative perspective.

Another set of interviews was conducted with legal professionals working in court. I conducted interviews with court administration officials, secretaries, clerks, judges and other legal professionals with the goal of collecting additional perspectives on people's pre-existing perceptions of courts, their attitudes towards the legal process, and their general ideas about legal institutions and their place in society. These interviews were aimed at capturing their evaluations of how people use their courts: what expectations people bring with them to courts, any persistent misconceptions, as well as how they saw the main goals and objectives of their profession in relation to court users. These interviews were later used to confirm and contrast the themes that emerge from my observations and interviews with court users.

Interviews with the judges were particularly useful in allowing me to draw a complete picture of the hearings following the observations. The judges' explanations of their reasoning in the cases which I had observed helped me to assign appropriate meaning to the interaction in the courtroom. The judges also provided me with the insight into the common ideas and preconceptions that people bring to courts. It is important to note that I had more opportunities to observe Russian Justices of the Peace at work, as I was granted access to a number of pre-trial sessions, which play an important role in the overall process of justice in

the Russian lower courts. The English judges, however, were more open to group discussions. I was able to conduct one focus group with five judges in the regional English Combined Court Centre. It was a guided discussion with the principal aim of eliciting the judge's views on their profession, on the everyday operation of their courts, and their first-hand experience with people's expectations of lower courts and strategies of dealing with them.

The next element of my fieldwork was conducting interviews with other court officials, members of court administration, and legal professionals operating in the selected lower courts. It was my last chance to make sure that the main themes that had emerged from the first two stages of interviews were corroborated by the people who were very familiar with the everyday operation of lower courts. Court officials and administration also offered me a unique insight into the preparation stage of the legal process and the most common problems and issues that usually arise during this stage.

In addition to the data described above, I was able to rely on the focus group research conducted as a part of the research project 'Legal Cultures in Transition – the Impact of EU Integration,' conducted by the centre for Socio-Legal Studies in cooperation with the Research Council of Norway from 2007-2011.[148]

This combination allowed me to obtain a very detailed picture of every-day life of the lower courts. The themes emerging out of my primacy sources will be brought together into a detailed comparative discussion in later chapters.

[148] I took part in the coding and analysis of the final research data from Bulgaria and Poland. For a full description of this research project see: Åse Berit Grødeland (project leader), Kristian Andenæs (Institute of Criminology and Legal Sociology, University of Oslo), Marina Kurkchiyan (Centre for Socio-Legal Studies, University of Oxford) and William L. Miller (Department of Politics, University of Glasgow), 'Legal Cultures in Transition – The Impact of EU Integration', Research Council of Norway, 2007-2011, accessed 25 November 2016, at http://www.cmi.no/projects/1118-legal-cultures-in-transition-the-impact-of-eu.

3. Secondary Sources

In order to assess how my findings resonate with the existing research in the area of formation of perceptions of legal institutions and more stable attitudes toward them in the English and Russian legal cultures, I used a large number of secondary sources: official statistics of court-use in Russia and England, available survey data related to court-use in Russia and England, data related to corruption levels and perceptions of corruption, existing reports based on qualitative and quantitative studies of court use and perceptions of justice in Russia and England, as well as other countries, and relevant legislature. In addition to statistical data, analytical reports, and policy documents, I investigated images of courts in the larger social discourse.

As it was mentioned in my theoretical discussion, existing research in Russia has identified persistent problems of legal nihilism and lack of trust towards Russian law, courts, and the system of justice overall. The secondary research in relation to people's perceptions of and attitudes towards English courts was more readily available, and was usually accompanied by analytical discussion relevant to my area of research. I will pay specific attention to research conducted by Marina Kurkchiyan and Kathryn Hendley, who investigated perceptions of law and legal institutions in a number of courts in Russia. Their research was based on the findings of focus-groups with general population, as well as surveys investigating the people's perceptions of law and legal institutions.

C. Sample Courts

i. Court settings in Russia

This section of my methodological introduction presents the locations in which my research was conducted. I will briefly introduce the Courts of Justices of the Peace in two

locations in Russia: the city of Moscow and a regional city. Four Courts of Justices of Peace within Moscow were randomly selected from a list of judicial districts in residential areas. Due to a large number of judicial districts in Moscow it is unlikely that the names of the justices, their assistants, or ordinary citizens who participated in my research could be identified.[149] However, I will refer to the courts in Moscow as 'Court of Justices of the Peace in Moscow', or 'the Moscow courts'. Respondents' names will be kept anonymous, they will be referred to as Respondent, Attorney, Assistant, etc., #, MC. I conducted interviews with five judges in Moscow, who will be referred to as Judge #, MC.

The peripheral city in Russia was randomly selected among a large number of Moscow satellite cities with the population ranging from 20,000 to 40,000 people. The name of the regional city will remain anonymous in order to protect the identity of judges and litigants. I conducted interviews with two judges in the regional city. This city will be referred to throughout this work as 'the regional city', or 'the city in the Moscow region'. Respondents will be numbered as Respondent #, RC. The regional city chosen for this research was a small city reachable from Moscow by public transport within 40 minutes. It had a growing population of 40,000 people with various occupational backgrounds. The city was surrounded by agricultural and food-processing plants, fields, and forest. According to the geographical division of the city into an administrative and an industrial area, the judicial area of the city was also divided into two districts. The seat of the district court for this area of the Moscow region, the court to which people may appeal cases from the courts of Justices of the Peace, was located in the closest large city in the Moscow region, located within 100 kilometres.

[149] There are 438 judicial districts in Moscow. For relevant legislation see 'Zakon g. Mosckvi ot 31 Maya 2000 g. N. 15: O Mirovih Sudyah v Gorode Moskve', *Fond Sistemnogo Analiza i Sotsialno-Ekonomicheskogo Proektirovaniya*, accessed 16 November 2016, 12 at http://www.SytemFond.ru/law.phtml?p=96. For the map of Moscow judicial districts and detailed information on the number of justices of the peace, relevant legislation, and statistics see the official web-site of *Moskovskiy Gorodskoy Sud*, accessed 16 November 2016, at http://www.mos-gorsud.ru/mirsud/.

ii. Court Settings in England

My research in England was conducted in two locations chosen according to the same principle as the locations for my research in Russia. In London I approached three Combined Court Centres and settled on one major Combined Court Centre, where I was able to access over ten public courtrooms with cases assigned to different judges of county courts, to observe small claims hearings in the private offices of the judges, and to conduct interviews with six judges, a number of law clerks, and members of court administration.

The regional city was selected due to its proximity to London and a relatively small size. It is accessible from London by train or by bus within an hour. In the regional city I conducted my research in one Combined Court Centre, where I had access to multi track and fast track hearings in public courtrooms, and to Small Claims hearings in the private offices of the judges. Most judges and members of court administration in county Courts expressed willingness to participate in my research and were very helpful. For the reasons of anonymity all my respondents in London courts will be referred to as Respondent, Judge, or Clerk, etc. #, LE.; respondents in the regional city will be referred to as Respondent, Judge, Clerk, etc. #, RE.

Due to the split jurisdiction over civil and criminal cases in England, I had to conduct my research in two separate English courts in each location, county courts and magistrates' Courts. In London I was able to conduct research in a large magistrates' court centre, where I interviewed a number of District Judges, law clerks, and some members of administrative staff. In the regional city I conducted research in one magistrates' court centre where I was able to secure the participation of one Deputy District Judge, two District Judges, and a number of law clerks. Most of the county and magistrates' courts judges approached during

my research were willing to participate and offered helpful insights into the daily operation of their courts.

D. Comments

As it can be seen from my methodological introduction, the resulting method used in my investigation of people's perception so legal institutions was specifically designed and adjusted to answer my research question. In addition to producing rich descriptive data which allowed me to gain a sense of the process of formation of perceptions of justice, this methodological approach offers a number of other advantages. Among the strengths of this research method is the fact that I am a bilingual speaker of Russian and English and have similar cultural background to people in Russia, as well as a long experience of integrating into Anglo-American society. This allows me to consider myself an insider in both societies and permits me to analyse my findings more efficiently by identifying important themes and narratives capturing the essence of the Russian and English perceptions of institutions of justice and people's attitudes towards them. Furthermore, in the final stages of my analysis I will able to assess the applicability of my methodological approach to my research question.

My discussion will contribute to the overall research on the function that perceptions of legal institutions play in legal cultures by placing people's everyday experiences in courts into larger socio-cultural contexts. Placing people's perceptions into the wider cultural context will prove useful in the study of formal and informal standards of interaction between citizens and state institutions, perceived corruption, and finally the process of formation of stable attitudes of confidence and trust towards institutions of justice. The tangential and in many cases direct links between these areas of research and my analysis of people's perceptions of legal institutions illustrates the complexity of empirical investigation of legal culture as the ideas that comprise people's understanding of the function of law and

legal institutions are multi-faceted and involve a variety of identities and relationships that people came to take for granted in their everyday lives.

My examination of how people experience courts in their everyday lives cannot offer complete pictures of the Russian and English legal cultures. However, it can be considered a valuable addition to our understanding of how perceptions of individual experiences in courts participate in the formation of generalisable attitudes towards the institutions of justice in different legal cultures.[150] By looking at how attitudes of trust are formed in different legal environments I am not working under the assumption that they are categorically different and, as a result, produce different perceptions of legal institutions. While in theory Russian and English legal systems operate according to different principles, my discussion will show that everyday problems as well as their solutions at the lowest and most accessible level of justice in England and Russia are not dissimilar. Large numbers of small claims flooding lower courts are dispensed with in a fast and streamlined manner. Court users in both countries experience similar levels of discomfort and alienation from the legal system due to the complex and confusing nature of their claims and procedural requirements. Having said that, my goal is to identify themes emerging from my observations and interviews that could explain differences in the preconceptions, images, and finally the long-lasting attitudes that have the power to shape people's perceptions of legal institutions and try to understand the causes of those differences.

To conclude, I would like to make it clear that due to the in-depth and exploratory nature of my research the respondents in my study are not representative of all litigants in the lower courts is Russia and England. Even though I attempted to conduct research in courts with similar jurisdictions, the groups of litigants participating in my research cannot

[150] M. Kurkchiyan, 'Russian Legal Culture: An Analysis of Adaptive Response to an Institutional Transplant', *Law and Social Inquiry*, vol. 34, no. 2 (2009), p. 344.

be considered identical due to different jurisdictions of the lower courts in Russia and England, which is nevertheless sufficient for the purposes of my research. I believe that this research design does not threaten the aim of my study, as I am interested in perceptions of legal institutions as they are formed in the everyday life of lower courts in both countries as it unfolds in its natural way, and my research design allowed me to capture them with the degree of detail necessary for answering my research question.

Chapter III

Institutional Introduction to Russian and English Lower Courts

A. Introduction

This chapter is dedicated to drawing a more detailed introduction to the institutions chosen as settings for the in-depth analysis of perceptions of institutions of justice. In this chapter I draw a picture of lower courts in Russia and England within their legal traditions and systems of justice in order to show how socio-legal environments can shape individual experiences. I will subdivide this chapter into the English and Russian legal settings. Each section will discuss respective legal traditions, jurisdictions, institutional organisation, procedural models, administrative support, and finish with a brief analysis of statistical data showing trends in the use selected courts.

As it has been mentioned above, use of small claims courts has been addressed in previous research projects in legal culture and legal consciousness in the United Kingdom, Russia, as well as a variety of other countries. However, they have not featured in a comparative discussion of perceptions of institutions of justice. Courts at the lowest and most accessible level offer a unique opportunity for investigating of people's ideas and expectations of courts at the point of their mobilization.

The selected legal institutions are Russian courts of Justices of the Peace and English county and magistrates courts. Comparison between these institutions is appropriate for two main reasons: both courts serve similar functions within their respective legal systems - they deal with the majority of small civil and criminal matters, and they are also analogous in their historical roots - Russian courts of Justices of the Peace originate from English courts of Justices of the Peace (currently county and magistrates' courts), on which they

were originally modelled as a part of judicial reforms of Alexander II in 1864. While this historical origin has to be recognised, these two courts have developed along different trajectories and currently have different scopes of jurisdiction, procedural standards, and supporting institutions of court administration. It is necessary to point out that the jurisdiction of Russian courts of Justices of the Peace covers both civil and criminal matters, while the English system of justice assigns civil cases to county courts and small criminal cases to magistrates' courts.[151] While minor administrative cases also fall within the jurisdiction of the Russian courts of Justices of the Peace, they are usually decided according to a special summary procedure without the presence of the parties, which makes them largely irrelevant for my study. Small administrative cases in England are heard in specialized tribunals and fall under the separate jurisdiction of the Administrative Court, part of the Queen's Bench Division.[152]

My study will be able to reflect on the complexity of institutional images of courts in people's perceptions, as they incorporate the immediate interaction between people and court officials, as well as more dispersed and general ideas about courts and justice that exist in larger society. People coming in contact with legal institutions rely on their previously collected knowledge and understanding of courts, which allow people to choose methods of dealing with their legal issues that they see as most successful. It may be said that this creates a circular relationship, in which larger images of courts and perceptions of what they deliver guide people in their individual experiences, which later add to people's overall attitudes to courts and their role in society.

[151] 'O Mirovikh Sudah v Rossiyskoy Federatsii', Sobraniye Zakonodatelstva RF (17.12.1998), No. 188-FZ. Full text with latest amendments was accessed 10 November 2016, at http://pravo.gov.ru/proxy/ips/?docbody=&nd=102057094. For a detailed discussion see K. Hendley, 'The Role of the Justice-of-the-Peace Courts in the Russian Judicial System', *Review of Central and East European Law,* vol. 37 (2012), pp. 382-383.

[152] 'Administrative Court', Her Majesty Courts and Tribunals Judiciary, accessed 10 November 2016, at https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/high-court/queens-bench-division/courts-of-the-queens-bench-division/administrative-court/.

B. Institutions and Living Traditions: England

1. Jurisdictional boundaries

a. County courts

The vast majority of small criminal and civil cases in England and Wales are dealt with at magistrates' and county courts.[153] Most civil cases in England, which do not involve family matters or failure to pay council tax or child maintenance, are handled in the county courts. County courts were founded in 1846 with original jurisdiction extending to modest consumer complaints. Today all civil actions can be started in the county court, except a small number of cases which require proceedings to be started in the High Court by statutory rules. County courts deal with all contract, tort, and debt repayment clams, including enforcing court orders and return of goods bought on credit, personal injury, breach of contract concerning goods or property, housing disputes, including mortgage and council rent arrears, and re-possession. Most county court cases are between people or companies who believe that someone owes them money. They deal with certain equity and contested probate actions where the value of the trust fund or the estate does not exceed £30,000, as well as all cases which the parties agree can be heard in the county court.[154]

Currently there are 217 county courts in England and Wales. All county courts are assigned to at least one District Judge and at least one Circuit Judge. From April 2009, Circuit Judges only hear cases with the total amount over £25,000 or involving greater importance or complexity. District Judges generally hear cases with the amount over £5,000 but not exceeding £25,000. In addition to hearing cases, District Judges deal with case

[153] 'Court Statistics (quarterly)', Ministry of Justice, accessed 10 November 2016, at https://www.gov.uk/government/collections/court-statistics-quarterly.
[154] M. Partington, *Introduction to the English Legal System*, 2nd Ed. (Oxford University Press: Oxford, 2003).

management proceedings, repossession matters, and make contested and uncontested assessments of damages.[155]

Claims for small amounts are generally considered simple straightforward, and there is no requirement for those involved to use solicitors. Once a claim has been served, the usual options for the defendant are to do nothing, to pay up, to admit the claim and ask for more time to pay up, or to dispute the claim. Most claims are either not defended, are settled, or are withdrawn before a hearing or trial. If a litigant is unrepresented, the district judge may assist him or her by putting questions to witnessed or to the other party, and by explaining any legal terms or expressions.

b. Small Claims Movement

The Small Claims movement in England is considered rather young, originating from the 1970 report, '*Justice Out of Reach'*, by the British Consumer Council.[156] The Council argued that the county courts were virtually irrelevant as far as small claims of consumers were concerned. To encourage individuals to pursue such actions the Council recommended the introduction of special small claims courts – a solution that had already been adopted in several other countries, such as Australia, the United States, and Canada.

The Woolf reforms of 1995 marked a considerable change in the culture by which civil litigation in England was conducted.[157] One of the key features of the new rules of

[155] 'County Court', Courts and Tribunals Judiciary, accessed 25 November 2016, at http://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/county-court/county-court.
[156] 'Justice Out of Reach: a case for small claims courts: a Consumer Council study', *Consumer Council*, London, HMSO, (1970).
[157] Lord Woolf was appointed to review the rules and procedures of the civil courts in England and Wales in 1994. The goals of the inquiry were: to improve access to justice and reduce the cost of litigation, to reduce the complexity of the rules and modernise technology; and to remove unnecessary distinctions of practice and procedure. The first stage of the inquiry produced an Interim Report in June 1995, with the final report published in July 1996. 'Access to Justice', the Final Report is available at the National Archives, accessed 26 November 2016, at http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/civil/final/intro.htm; see also P. Fenn,

Civil Procedure was that the defended case would be allocated to one of three tracks: small claims track, fast track, or multi-track. Small claims track was originally for personal injury cases for up to £1,000 and all other cases up to £3,000. Due to policy changes the maximum claim value was allocated to small claims track was increased to £10,000 in 2013.[158] It is argued that the main advantage to litigants using the small claims process is the fact that, if sued, they can defend without fear of incurring huge legal costs, since the costs that the winning party can claim are strictly limited. The underlying idea is that the costs involved in civil litigation are reduced if legal proceedings are made simpler and less legalistic so that people can participate in them more actively.

Despite the lack of requirement to appear in civil hearings with a legal representative in civil cases, there are a variety of sources where unemployed or disadvantaged people in England can find free or reduced-cost legal aid.[159] At the time this research was conducted people who could not afford legal advice in a large group of civil cases, such as possession and eviction cases, could obtain last-minute in-court legal help under the Housing Possession Court Duty scheme, run by Her Majesty's Legal Aid Agency.[160] Litigants in criminal cases are assigned a solicitor by police officers or can contact local legal advisers through courts or through an online service.[161]

N. Rickman, and D. Vencappa, 'The Impact of Woolf Reforms on Costs and Delay,' Centre for Risk and Insurance Studies, Discussion Paper Series, 2009.1, accessed 26 November 2016, at https://www.nottingham.ac.uk/business/businesscentres/crbfs/documents/cris-reports/cris-paper-2009-1.pdf.

[158] 'Ministry of Justice Statistics Bulletin, Civil Justice Statistics Quarterly: January to March 2015', accessed on 10 October 2016, at https://www.gov.uk/government/statistics/civil-justice-statistics-quarterly-january-to-march-2015/.

[159] For more information about eligibility and application process see 'Legal Aid', accessed 15 November 2016, at https://www.gov.uk/legal-aid.

[160] For more information see: 'Her Majesty's Legal Aid Agency,' accessed 14 November 2016, at http://www.justice.gov.uk/legal-aid/newslatest-updates/civil-news/housing-possession-court-duty-schemes.

[161] For a searchable engine for locating a legal aid adviser see: 'Find a legal aid adviser of family mediator', accessed 15 November 2016, at http://find-legal-advice.justice.gov.uk/.

c. Magistrates' courts

About 97 per cent of criminal cases in England and Wales are heard in magistrates' courts. Less serious offences are handled exclusively in magistrates' courts, while more serious offenses are sent to the Crown Court, either for sentencing after the defendant was found guilty, or for a full trial with a judge and jury. Magistrates' courts usually hear cases referred to as 'summary offenses': motoring offenses, minor criminal damage, being drunk and disorderly. Such cases as burglary and drug offenses can be heard either in magistrates' or in Crown Courts. Appeals against decisions of magistrates' courts are also heard in the Crown Court. Cases in magistrates' courts are heard by either two or three lay magistrates, local people who volunteer their services and undergo a training programme to develop the necessary skills, or by one District Judge.[162]

District Judges in magistrates' courts hear criminal cases, youth cases and also some civil proceedings. They usually hear cases alone. By virtue of their office, they are considered Justices of the Peace. District judges are appointed by the Queen, on the recommendation of the Lord Chancellor, following a fair and open competition administered by the Judicial Appointment Commission. The statutory qualification is a seven-year right of audience, or the right of a lawyer to appear and speak as an advocate for a party in a case in the Crown Court, in relation to all proceedings in any part of the Supreme Court, or all proceedings in county courts or magistrates' courts. Additionally, they will have usually served as Deputy District Judges for a minimum of two years.

The institution of Justices of the Peace in England went through many changes. English Justices of the Peace can be traced to 1195, when Richard I commissioned certain

[162] 'Becoming a Magistrate,' Courts and Tribunals Judiciary, accessed 24 November 2016, at http://www.judiciary.gov.uk/about-the-judiciary/judges-magistrates-and-tribunal-judges/judges-career-paths/becoming-a-magistrate

knights to preserve the peace in unruly areas. They preserved the 'King's Peace', and were known as Keepers of the Peace. The title Justice of the Peace officially first appeared in 1361, in the reign of Edward III. By this time, Justices of the Peace had been given the power to arrest offenders and suspects. They could investigate crime and were finally given the power to punish in 1382. For centuries, English Justices of the Peace had local government responsibilities. From 1439 onwards a Justice of the Peace had to have a certain amount of property in the county. This ensured that the judges could support themselves as the office was unpaid, and that they came from the higher social classes.[163]

In modern magistrates' courts, lay judges come from a broad cross section of society. Local advisory committees select magistrates in response to the numbers required by local courts with the aim of maintaining a balance of gender, ethnic origin, geographical spread, occupation, age and social background. Currently lay magistrates are appointed on the basis of good character, understanding and communication, social awareness, maturity and sound temperament, sound judgment, commitment, and reliability.[164] They commit up to 26 half-days to sitting in court a year on a voluntary basis.[165] Lay magistrates are assisted in the courtroom by a legal adviser or a clerk of court and are provided with detailed guidelines for delivering fair decisions.[166] There are approximately 23,000 lay magistrates, or Justice of the Peace, as they are traditionally known, in England and Wales.[167]

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[163] 'History of the Judiciary', Courts and tribunals Judiciary, accessed 24 November 2016, at https://www.judiciary.gov.uk/about-the-judiciary/history-of-the-judiciary/

164 For more information see: 'Magistrates Association', accessed 25 November 2016, at http://www.magistrates-association.org.uk/

165 'Judiciary of England and Wales', accessed 25 November 2016, at http://www.judiciary.gov.uk/about-the-judiciary/introduction-to-justice-system/history-of-the-judiciary#headingAnchor8; see also G. Rivlin, *Understanding the Law* (Oxford, 2004); T. F. T. Plucknett, *A Concise History of the Common Law* (Butterworth & Co, 1956).

[166] The Sentencing Council created an online sentencing tool for Magistrates. It includes a searchable database of offenses, explanatory materials, a fine calculator, and printable sentence cards. Accessed 25 November 2016, at https://www.sentencingcouncil.org.uk/the-magistrates-court-sentencing-guidelines/.

[167] 'Magistrates' Court', Her Majesty Courts and Tribunals Judiciary, accessed 16 November 2016, at https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/magistrates-court/

In my discussion of judges in the English lower courts I shall focus on professional judges with extensive prior experience as legal counsel, as there is no equivalent of lay magistrates in the Russian courts. While lay magistrates participate in creation of the people's experiences in the lower criminal courts, most people I interviewed in courts did not notice or refer to the lay nature of the judges.

2. Steps in Case Resolution

The traditionally accepted method of taking someone to court regarding a civil matter starts by the claimant completing a claim form and taking it to the county court. Procedure for starting and managing claims in county Courts is outlined in the Rules and General Directions for Civil Courts.[168] The claim form asks for details of the claimant and the defendant, how much is being claimed, and the particulars of the claim which should set out the details of the claim. This procedure has been developing in the direction of maximized efficiency of case resolution and use of public resources: electronic services have simplified procedure for claims involving a specified amount, as well as repossession or property claims, which can now be completed and submitted online. The court fee can be paid online as well, which eliminates the necessity to come to court in person before the hearing. A claimant with low income can apply for a reduction or a waiver of court fees. Claimants who issue a large number of claims for a specified amount of money each year, such as banks, credit card and store card issuers, utilities, and solicitors specializing in debt recovery, can do so by filing them in a computer readable form to the Claim Production Centre, created in 1990.[169]

[168] 'Civil Procedure Rules', Justice, accessed 25 November 2016, at https://www.justice.gov.uk/courts/procedure-rules/civil.
[169] 'Money Claim Online', HM Courts and tribunals Service, accessed 25 November 2016, at www.moneyclaim.gov.uk; 'Possession Claim Online', HM Courts and Tribunals Service, accessed 25 November 2016, at www.possessionclaim.gov.uk.

The usual procedure is for a copy of the claim form and a response pack to be sent to (served on) the defendant who has 14 days to respond to the claim. The defendant can do nothing, pay either the full amount of the claim or a part, admit the claim and ask for more time to pay up, and/or dispute, i.e. defend the claim in full or in part. If the claim is defended, the usual procedure is for further information to be provided by the parties, following which the case is allocated by a judge to one of the three case management tracks.[170] When the court has decided to allocate the case to the small claims track, the parties are sent a notice of allocation. This form outlines the instructions of how to prepare for the final hearing; these instructions are called 'directions' and have to be followed to avoid postponement of the hearing and extra costs. Most of the steps described above are overseen by court administration. Claims have to be carefully prepared before the hearings, as it is the responsibility of claimants to collect all necessary evidence and documentation.

Fees for filing claims depend on the amount of claim and number of procedural steps involved in the life of the claim. Initial claim fee can be from £25 to £410. Allocation fee is £40. Hearing fee can be from £25 to £325. If the claimant wins his case, he receives all the fees that he paid back, whereas the losing party has to pay all the fees.[171]

Small claims hearings take place in private offices of the judges, rather than in public courtrooms. These hearings are open to the public, but the only parties usually present are the judge, litigants, legal representatives, and more seldom friends of the litigants. The hearings can also be held in private if the parties agree, or if the court believes it is necessary in the interests of justice. Hearings in the small claims track are informal and strict rules of evidence do not apply. The judge can adopt any method of dealing with the hearing that they

[170] The procedure for bringing a new claim can be found on a specialized website for County Courts, 'Beginning a New Claim', accessed 25 November 2016, at http://county-courts.co.uk/county-court-procedure/.
[171] 'Court and Tribunal Fees', accessed 24 November 2016, at https://www.gov.uk/court-fees-what-they-are.

consider to be fair, and they may ask questions of the witnesses before allowing anyone else to do so. The judge may limit the time that parties or witnesses have to give evidence.[172] At the end of the hearing, the judge delivers the judgment with the reasoning behind it. The reasons must be given as simply and briefly as possible, and usually are given orally to the parties present at the hearing. However, the judge may give them later either in writing or at a later hearing. Appeals are possible in case of a mistake in the law or a serious irregularity in the proceedings and have to be requested within 21 days.

Judges in small claims hearings are not robed, but the normal rules of addressing the judges 'Sir' or 'Madam' apply. Fast track and multi-track hearings usually take place in public courtrooms and it is up to the discretion of the judge to wear a gown. These hearings are open to the public. All hearings are recorded in an audio format; recordings are started and ended by the judges. All county and magistrates' court records are converted into text format and are available for publication; they are maintained by The National Archives.[173]

Cases heard in magistrates' courts follow the rules of procedure outlined in the relevant Acts of the Parliament; however, being the lowest criminal courts they usually operate within these guidelines, but as the judges and magistrates see fit.[174] Most criminal cases start with a request by a public prosecutor to issue a summons or a warrant for arrest in relation to an alleged offense. The summons has to be served on the defendant, who has to enter a plea (guilty, not guilty, or no plea), after which a trial date is set. While the rules of Criminal Procedure are quite formal as they are intended to protect the rights of the accused and provide them with a fair trial, rules of the hearings themselves are more relaxed. The

[172] Detailed guidelines for suing small claims courts are provided by the Citizens Advice Bureau, 'Small Claims', accessed 24 November 2016, at http://www.adviceguide.org.uk/wales/law_w/law_legal_system_e/law_taking_legal_action_e/small_claims.htm

[173] 'The National Archives', accessed 24 November 2016, at http://www.nationalarchives.gov.uk/records/research-guides/crime-and-law.htm

[174] For general overview of rules of criminal procedure and relevant legislature, see 'Procedure Rules', Ministry of Justice, accessed 25 November 2016, http://www.justice.gov.uk/courts/procedure-rules.

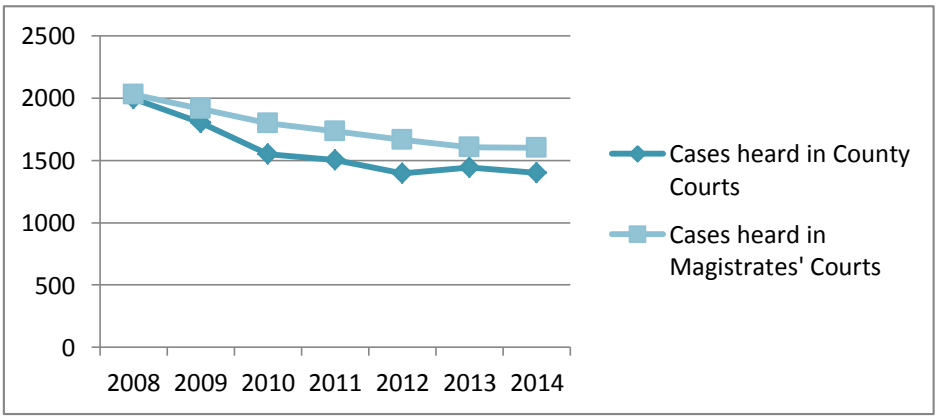
usher announces the cases, sometimes in the order of the list of hearings prepared by court administration, or more likely, in the order of readiness of the parties involved – for example, a solicitor may have several cases on that day, and once he or she is before the court all those cases may be heard in one block of time. The clerk identifies each defendant by name and usually reads out the relevant charges or other reason why the court is sitting. The clerk also tells the magistrates what applications, if any, are to be made and invites the advocates to address the court. If there are no applications, for example bail, legal aid, adjournments, the clerk will move on to the next stage – venue, plea, the sentencing hearing. In all matters the prosecution and defence have a chance to speak, giving their submissions for instance on bail or venue, or giving an outline of the facts and a plea in mitigation. According to a well-established procedure, the prosecution brings their evidence first, followed by cross examination by the defence. The process is repeated for the defence, with the prosecution cross examining. Both sides may make closing statements, where the prosecution is normally restricted to the points of law raised by the defence.[175]

The magistrates are addressed through the chair of the panel, and he or she is referred to as 'Sir' or 'Madam'. The magistrates are collectively called 'Your Worships' (not 'My Lord' or 'Your Honour' – those terms are reserved for the judges).[176] The clerk is by convention called 'Learned Clerk'. So far as dress and appearances are concerned, the professional rules for barristers and solicitors call for modest attire and dark clothing. Suits are normally worn. There are no wigs and gowns in the magistrates' court, with the exception of the usher, who may wear a black robe.

[175] See http://www.ukcle.ac.uk/students/resources-for-students/procedure/.
[176] 'What Do I Call a Judge?' Her Majesty Courts and Tribunals Judiciary, available at https://www.judiciary.gov.uk/you-and-the-judiciary/what-do-i-call-judge/.

3. Trends and Statistics

This section of my institutional introduction contains discussion of findings of quantitative studies that show how much activity is handled by selected lower English courts in relation to total court use. The purpose is to show how actively lower courts are used on a larger scale. The following diagram shows the total number of claims heard in county and magistrates' Courts from 2008 to 2014. It is important to observe a consistent reduction in the total number of cases heard: almost 30 per cent reduction in activity of county courts, and 18% reduction in activity of magistrates' courts.



Graph 1. Cases heard in county and magistrates' courts 2008-2014.[177]

This suggests that English lower courts are experiencing a slow but consistent reduction in claims, which could be explained by developments of alternative methods of dispute resolution.

4. English Courts in Academic Discussion

As I stated in my theoretical introduction, research into court activity and perceptions of courts in the United Kingdom has largely focused on criminal courts and their efficiency.

[177] Statistical information about quarterly and yearly use of county and magistrate's courts is available at the official Court Statistics web-site, at https://www.gov.uk/government/collections/court-statistics-quarterly, accessed 29 November 2016.

Large and mostly governmentally funded studies have been conducted with the aim of improving court efficiency as well as the image of legal institutions with the view that it will lead to improved attitudes towards the justice system overall.

A growing number of recent studies have looked at how ordinary people experience both civil and criminal courts. They focused on the use of courts in an attempt to understand perceptions and attitudes towards law and courts through large surveys of court users.[178] One of the best examples of these studies was conducted in England, Wales, and Scotland by Hazel Genn.[179] She traced the evolution of legal problems and people's approaches to solving them in and out of official institutions. One of Genn's conclusions moves to focus directly onto the court user; she suggested that the type of person as well as the type of problem is an important factor that determines what approach to take in resolving a legal problem. Her study followed a well-established tradition of measuring what have been defined as *legal needs* of the public in the use of legal services.[180] The concept of *legal need* includes the preconceptions of justice existing in larger society and activated when people bring their disputes to court.

John Baldwin conducted a study of small claims courts in England and Wales with the main goal of evaluating the effectiveness of the expansion of the small claims track. He noted a couple of drawbacks of the small claims process: making courts usable for litigants

[178] D. B. Rottman, 'Public Perceptions of the State Courts: A Primer', National Center for State Courts, (2003); E. A. Lind, et al., 'In the Eye of the Beholder: Tort Litigants' Evaluations of Their Experiences in the Civil Justice System*', Law and Society Review,* vol. 24, no. 4 (1990), p. 953; M. Gramatikov and M. Laxminarayan, 'Weighing Justice: Constructing an Index of Access to Justice', TISCO Working Paper Series on Civil Law and Conflict Resolution Systems No. 10/2008, accessed 26 November 2016, at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1344418; H. Genn, *Paths to Justice: What People Think and Do About Going to Law,* (Oxford and Portland, OR: Hart Publishing, 1999); 'Perceptions of the US Justice System,', American Bar Association Division for Media Relations and Public Affairs, 1999, accessed 25 November 2016, at http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/perceptions_of_justice_system_1999_1st_half.authcheckdam.pdf.

[179] H. Genn, *Paths to Justice: What People Do and Think About Going to Law*, (Oxford and Portland, OR: Hart Publishing, 1999).

[180] *Ibid.,* p. 5.

without legal representation does not eliminate the need for adequate preparation and understanding of substantive and procedural elements of the case. Cases in lower courts require substantial involvement of the part of the judge and court administration in order to either clarify or dismiss legal claims without legal merit; the need for legal representation or legal education is not eliminated by the simplified legal procedure. An important observation in relation to the images of courts in England stated that courts were still perceived by people as institutions of last resort where people are 'taken' to rather than go voluntarily and making them more accessible does not necessarily change the feelings of fear, intimidation and inadequacy associated with them.[181]

In her study of sentencing in the English lower courts Doreen McBarnet offered an insightful analysis of the dual image of criminal justice in England. McBarnet argued that the higher courts in England construct the image of traditional ideology of justice based on due process and respect for the rights of the citizen. This ideology is portrayed to the public as 'the image of what the law does and how it operates', despite the fact that the higher courts deal with only two per cent of all criminal cases in England.[182] McBarnet suggested that the lower courts intentionally trivialise the ideology of justice, which justifies the application of relaxed standards of due process in the majority of criminal cases processed in England. Therefore, the official ideology that creates the public image of courts is in direct contrast with the operation of the system of criminal justice on the daily basis.

The emerging image of English lower courts is contradictory. While they are veiled in ritual and tradition, they are not seen as perfect institutions. Dealing with the majority of civil and criminal cases in England, they are increasingly focused on efficient case resolution, which is promoted as the expense of people's ability to use courts with dignity

[181] J. Baldwin, *Small Claims in the County Courts in England and Wales: The Bargain Basement of Civil Justice?* (Clarendon Press: Oxford, 1997).
[182] D. McBarnet, *Conviction: The Law, the State, and the Construction of Justice* (Pelgrave Macmillan, 1981).

and respect to their due process rights. In my later discussion I will focus on how English court users see their lower institutions of justice through the mix of these messages, and how that helps them interpret their experiences in lower courts.

C. Institutions and Living Traditions: Russia

1. Institutions and Jurisdictions

The original Russian institution of Justices of the Peace, established as part of the Judicial Reform of 1864, was a court for minor civil and criminal cases and was meant to apply both customary and statutory law, to use mediation where possible, and to instruct the public in the formal law. Justices of the Peace replaced local Volost' Courts and were modelled on the identical institution in England. The justices were employed directly by the federal state, did not have formal legal education, and their decisions could not be brought for appeal to the higher courts.[183] The institution of Justices of the Peace was abolished by the Bolsheviks in 1917. Courts of Justices of the Peace in their current form were reintroduced in Russia 1991 part of the project of democratization of the Russian system of justice.[184]

At the initial stages of the judicial reform of the 1990s the legislators hoped to reintroduce the idea of justices who would be close to the people, elected in competitive elections, yet without formal legal training.[185] The administration and financing of the new courts of Justices of the Peace were assigned to the subjects of the federation, while the justices themselves remained part of the federal juridical system. With the growth of regional independence and increasing importance of accessibility of justice on everyday

[183] P. H. Solomon, Jr., 'The New Justices of the Peace in the Russian Federation: A Cornerstone of Judicial Reform?' *Demokratizatsiya*, July 22, 2003, p. 2.
[184] P. H. Solomon, Jr., 'Putin's Judicial Reform', *East European Constitutional Review,* vol. 11, (Winter/Spring 2002), pp. 117-24; see also P. H. Solomon, Jr., *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limits of Legal Order* (Armonk and London: M.E. Sharpe, 1997), pp. 374-96.
[185] *Ibid*.

level, the emphasis of reforms related to Justices of the Peace shifted from establishing a less-professional, simpler form of local justice to creating a new self-sufficient branch of the state legal system. With the expansion of the jurisdiction of Justices of the Peace over criminal cases punishable by incarceration, the legislators introduced a requirement of formal legal education and five years of professional experience for judicial candidates.[186]

Jurisdiction of current Russian courts of the Justices of the Peace includes three types of cases: (1) civil cases, the amount in dispute not exceeding 50,000 rubles, including most family matters, divorces, where there is no conflict over children or division of property; property disputes for values not exceeding five hundred days' minimum wage; labour disputes (recently limited), and disputes on the use of land; (2) criminal cases where the maximum punishment did not exceed three years of imprisonment; and (3) administrative cases, i.e. violations of federal administrative law entrusted to courts, taxation violations (recently limited), petty hooliganism, public drunkenness, and serious noncriminal traffic violations.[187]

Justices are professional judges with the same status and responsibilities as federal judges, with minor differences in salaries and court administration. Districts of justices of the peace are created according to the proportion of one judge per 15,000 to 23,000

[186] E. Bogdanova, L. Ezhova, I. Olympyeva, *Chto Nuzhno Znat o Mirovih Sudyah*. (St. Petersburg: Aleteiia, 2008); Chechina, N.A., 'Miroviye Sudy v Rossiyskoy Federatsii (Sudebnaya reforma i novoye zamonodatelstvo)', *Pravovedeniye*, vol. 4 (1999), pp.229-237.

[187] Federal'niy Zakon RF, 'O Mirovykh Sud'iakh v Rossiiskoi Federatsii', 17 Dekabria 1998, *Rossiiskaya Gazeta*, 22 December 1998; see also 'Kompetentsiya (jurisdiktsiya) mirovih sudey', *Department of The Courts of Justices of the Peace of the city of Moscow*, accessed 25 November 2016, at http://mos-sud.ru/courtsrf/competention/.

people.[188] Currently there are around 7,500 Justices of the Peace in the Russian Federation.[189]

Commentators suggested that current Russian institution of justices of the peace combined the idea of English magistrates' courts with the historically Russian tradition of '*miroviye sud'yi*', whose main goals were to educate the population and to increase its use of and reliance on the formal venues of dispute resolution, with the main emphasis on peaceful settlement.[190] In addition to the traditional 'peace-making' nature of Justices of the Peace, the reintroduced institution was charged with a number of new objectives, the first of which is most relevant to my research: the new institution aimed to bring courts within '*shagovaya dostupnost'*, or immediate reach of the Russian population. The second goal stressed by the legislators was to reduce the caseload of district judges and thus to improve the efficiency of adjudication of small civil, criminal, and administrative claims.[191]

2. Steps in Case Resolution

Most civil cases start with a petition from a plaintiff submitted in a required format and accompanied by relevant supporting materials. The format of the petition is usually on display at the courthouse for consultation. Recent changes in the operation of courts mandate that all courts of Justices of the Peace maintain a website with general information about court jurisdiction, location, opening and reception hours, list of hearings and

[188] Federalniy Zakon Rossiyskoy Federatsii ot 1 December 2007 'O Vnesenii Izmeneniy v Statyu 4 Federalnogo Zakona "O Mirovih Sud'iah v Rossiyskoy Federatsii",' accessed 25 November 2016, at http://usd.krs.sudrf.ru/modules.php?name=stat&id=3.
[189] S. Popov, '*Mirovoy Sudya: Zachem on Nuzhen*?', Interview with *Radio Mayak,* 23 June 2004; accessed 25 November 2016, at http://www.yabloko.ru/Publ/2004/2004_07/040706_maik_popov.html.
[190] S. Potapenko, 'Osnovniye Napravleniya Deyatelnosti Mirovih Sudey', Interview with *RIA Novosti*, 14/03/2007, accessed 25 November 2016, at http://www.rian.ru/online/20070314/62012671.html.
[191] V. Shaposhnikov, "Miroviye Sudy Rabotayut v 'Shagovoy' Dostupnosti ot Moskvichey", interview to *Moskovskiy Komsomolets*, 04.08.2006, accessed 26 November 2016, at http://ums.mos.ru/presscenter/mass-media/.

decisions, and downloadable and printable forms of required petitions.[192] This reform was aimed at making the operation of lower courts in Russia transparent and accessible, while improving the overall image of courts and judges. However, while most of the lower courts have created official web-sites, their maintenance is lagging behind due to lack of trained court staff and heavy work-loads of the judges and existing administrative personnel.[193]

At the next stage, the petition and thus initiate a case, deny the petition for lack of substance, return for failure to meet the formal or substantive requirements, or stay without action until the petition is corrected. Justices of the Peace are required to take an active role in case management: they have to assist the parties with formal discovery and subpoenas, which usually leads to a number of pre-trial hearings and discussions regarding the merits of the case. If parties can show sufficient grounds for the claim, the judge sets a date for a hearing. In case parties reach a peaceful settlement, the judge can order the case to be dismissed. However, a large number of disputes initially brought to the courts are abandoned due to legal or procedural complexity, settlement of the parties, or change in the intent of the parties to go through with the formal hearing.

As in the small claims courts in England, parties in the Russian courts of Justices of the Peace do not have to be represented or assisted by professional attorneys. Parties can obtain legal help trough individual research and consultation. Free legal aid is available to certain groups of disadvantaged citizens, who have to request it from the court.[194] If free legal aid is requested and all qualifying conditions are met, the judge has to request an attorney from the list of approved legal professionals in the area. Independent free legal aid

[192] 'Ob obespechenii dostupa k informatsii o deyatelnosti sudov v Rossiyskoy Federatsii', *Verhovniy Sud Rossiyskoy Federatsii*, accessed 25 November 2016, at http://www.supcourt.ru/print_page.php?id=6351.
[193] Radio 'Echo Moskvi', interview with Aleksey Dmitriev, deputy head of MosGorSud, and Pavel Odintsov, head of press service of Supreme Court of the Russian Federation, 19.07.2010, accessed 26 November 2016, at http://www.supcourt.ru/print_page.php?id=6623.
[194] 'Ob obespechenii dostupa k informatsii o deyatelnosti sudov v Rossiyskoy Federatsii,' Verhovniy Sud Rossiyskoy Federatsii, accessed 14 November 2016, at http://www.supcourt.ru/print_page.php?id=6351.

networks are available in large districts, while in rural areas free legal aid is difficult to obtain due to lack of awareness among the public and difficulty of procedure.[195]

The established tradition in Russian Courts of Justices of the Peace allows for an additional informal step in the procedure of case resolution: litigants have unlimited meetings with the judge before the dispute takes the shape of a formal claim and is adjudicated. Pre-trial hearings have the nature of personal consultations with the judges and offer people a number of opportunities to receive personal advice from the judge, as well as to form a personal relationship, which is a strong distinguishing feature of this uniquely post-Soviet legal procedure. The judges are easily accessible on a 'first come, first served' basis during daily reception hours. Such consultations and meetings with the judge have very informal nature, allowing the parties to ask the judge for advice on procedural and legal aspects of their claims, and on the particular information they need to provide to the court. Procedurally the hearings in Russian courts are similar to their English counterparts; however, all hearings in Courts of Justices of the Peace take place in official public courtrooms, with the exception of pre-trial sessions.

Cases going the full length of judicial process are decided unilaterally by the judge. The judgment can be carried out voluntarily or through court enforcement officers, '*sudebniye pristavi-ispolniteli*'. The judgment, or any order of a Justice of the Peace in relation to a proceeding, can be appealed to the district court within ten days after the

[195] Federal Law of the Russian Federation, N. 324-FZ, November 21, 2011. The American Bar Association reports on initiatives aimed at making free legal aid available to Russian citizens. 'Two Legal Aid Networks Launched in Russia', American Bar Association, accessed 25 November 2016, at http://www.americanbar.org/advocacy/rule_of_law/where_we_work/europe_eurasia/russia/news/news_russia_legal_aid_networks_launched_in_russia_0411.html. Importance of free legal aid in protection of human rights has been the subject of local initiatives: Human Rights House Foundation encourages policy debate in the CIS countries. For more information see: 'Free Legal Aid: An Issue Relevant to All Countries', Human Rights House, accessed 26 November 2016, at http://humanrightshouse.org/Articles/20002.html.

hearing.[196] It has been suggested that one of the indicators of the quality and reliability of performance of Justices of the Peace is a low rate of reversal, which is 3% in criminal cases, and 0.8% in civil cases. State funded research agencies link high levels of activity and effectiveness of courts of Justices of the Peace with their increased appeal among the population.

Regarding official procedure in the courtroom, Justices of the Peace are required to wear black robes in public courtrooms; the robes are used during the formal stages of case resolution. Legal counsel does not have to adhere to a particular dress code. Courtrooms are decorated with state insignia: the Russian flag, and quite often portraits of the Russian President. There is no particular form of addressing the judges: the most common form of address is 'Respectful Judge'.

The administration of Russian lower courts usually consists of two people: a court secretary and a court assistant or archivist; they keep track of scheduled hearings and invite litigants into courtrooms. Once the proceeding has started, the judge is free to move in and out of the courtroom. Judges usually leave in order to reach a decision; in reality, however, most decisions in lower courts are prepared before the hearings and usually need to be finalised by the judge in his private office before they are announced. All hearings are held formally, with the parties standing during the entry and exit of the judge, and most importantly during the reading of the decision. There is no requirement of hearings to be recorded in an audio or stenographic format. The records of public proceedings are kept by the secretary in a typed form, usually dictated by the judge during the proceeding. Two narratives usually develop in a normal proceeding: the actual narrative between the judge

[196] See supra note 191; for procedural discussion see *The Code of the Russian Federation for Civil Procedure*, 14 Nov. 2002, N. 138-F3; *The Code of the Russian Federation for Administrative Violations*, 30 Dec. 2001, N. 195-F3; *The Code of the Russian Federation for Criminal Procedure*, 18 Dec. 2001, N. 174-F3; see also I. A. Pikalov, *Criminal Procedure of the Russian Federation (Short Course): Study Guide* (Moscow: 2005).

and the parties, and the official narrative dictated by the judge to the secretary. All case records are kept in the archives of each court of Justices of the Peace and can be released if one of the parties files an appeal.

As my institutional introduction suggests, even though Russian courts of Justices of the Peace have historical roots in their English lower courts, the contemporary organisation of this institution is significantly different. Main differences between these institutions are: Russian courts have very small administrative support, Russian judges undergo special training, but as a rule do not have experience in legal representation, and Russian courts operate on the principle of direct accessibility of judges for consultation.

3. Trends and Statistics

The caseload of Justices of the Peace depends on the specifics of their districts: in large cities legal disputes tend to be more significant in monetary value and thus tend to fall within the jurisdiction of district courts more often, while Justices of the Peace deal mostly with small administrative disputes and civil claims. In residential areas majority of the cases tend to be family disputes, divorces, and property claims; whereas in commercial areas most cases are related to debt collection, and business disputes. The workload of Justices of the Peace in busy districts can reach 700 cases per month, whereas some judges can hear as few as 54 cases per month.[197] Overall, Justices of the Peace hear about 3,800,000 cases a year, up to 98% of which are resolved within the time allocated by the law.[198]

The following diagram presents a graphic view of cases brought to the Courts of Justices of the Peace by the type of law involved.

[197] K. Hendley, 'Assessing the Role of the Justice-of-the-Peace Courts in the Russian Judicial System', Review of Central and East European Law, vol. 37 (2012), pp. 377-393.
[198] See supra note 190.

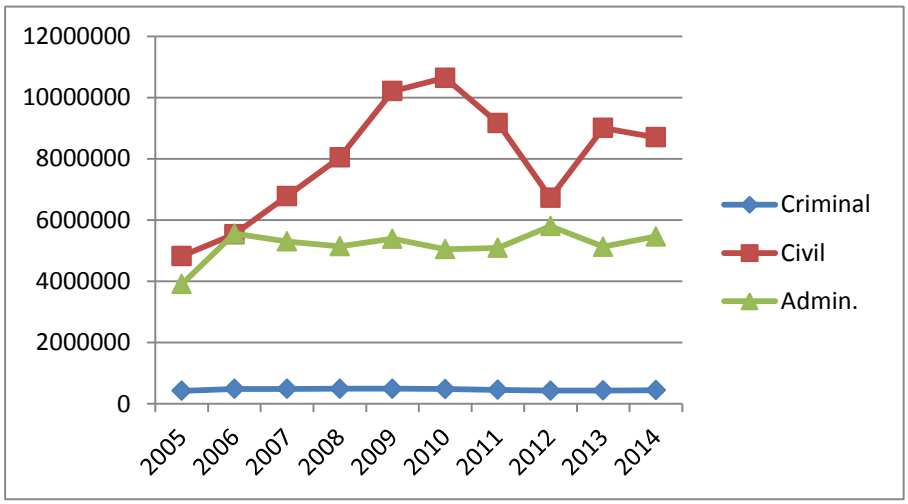


Diagram 2. Comparison of Civil, Criminal, and Administrative cases heard Courts of Justices of the Peace from 2005 to 2014. [199]

Comparison of volume of cases brought to the Courts of Justices of the Peace from 2005 to 2014 according the area of law shows a consistent increase in the number of civil cases. Most notable changes within this category are consistent increase in claims by tax authorities against private citizens, recovery of past-due rent and utility payments, private claims related to pension payments, and claims related to payments for labour. All cases that reached the stage of official decision can be classified according to the parties involved: physical persons, legal entities, and the state.

[199] 'Sudebnaya Statistika', Upravleniye Sudebnogo Departamenta v g. Moskve, accessed 26 November 2016, at http://usd.msk.sudrf.ru/modules.php?name=stat&rid=2. Statistics describing yearly activity of Courts of Justices of the Peace was available per district, as well as nationwide until early 2014. Reports published since 2014 offer statistical breakdown according to judicial districts, without providing overall numbers nationwide.

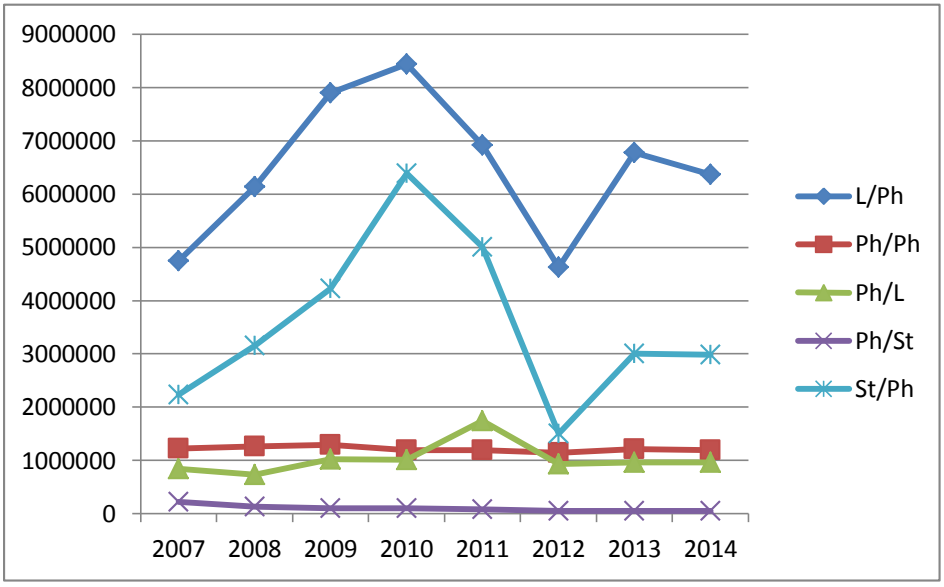


Diagram 3. Categories of cases according to parties involved decided in Russian Courts of Justice of the Peace from 2007 to 2014.[200] (Legal Entities, Physical Persons, State, starting with the initiating party).

Although data reflecting categories of participants for 2005 and 2006 are not available, it is possible to see a general tendency of increase in cases of legal entities against private citizens (including cases of state agencies against private citizens, such as taxation and recovery of debts for use of utilities) from 2007 to 2010. As the diagram shows, cases involving two physical parties and physical parties against legal entities remained quite stable, with minor fluctuations. It is important to note a relative underrepresentation in the category of cases of private citizens against the state.[201] This shows a tendency in reluctance among Russian citizens to initiate claims against the state authorities. This also shows that cases initiated by the state undergo substantial fluctuations, which may be explained by

[200] *Ibid*.

[201] Court data show a decrease of 78 per cent in cases started by private citizens against the state and state institutions from 2007 to 2013 (from 223,800 to 48,100). This data can be explained by jurisdictional limitations of Justices of the Peace Courts.

political changes in the country. This could suggest that tendencies in Russian lower courts reflect general directions in the operation of the overall Russian state apparatus.

4. State of Research: legal nihilism and the problem of trust

Whereas considerable research in the area of legal consciousness analysis and images of law has been conducted in the Anglo-American scholarship, relatively few large projects have been conducted in post-communist countries.[202] Existing research has largely focused on general attitudes of the public towards legal institutions. Large surveys have been conducted by a number of sociological research organisations specializing in quantitative research. Their analysis is largely based on statistics, but occasional projects include focus groups and interviews with ordinary citizens, as well as legal professionals.[203] My research, on the other hand, approaches perceptions of justice at the individual level of Russian court users and, therefore, offers an insight into the very process of formation of people's attitudes towards courts, which cannot be accomplished with the use of quantitative methods.

The most widely-cited source of public surveys in Russia is Levada Centre.[204] A number of analytical studies have been published by the research team at the Institute for the Rule of Law at the European University at Saint-Petersburg.[205] Other research centres, such as *VTSIOM*, Russian National Public Opinion Centre, and *CESSI*, Institute for Comparative Sociological Research, Centre for Sociological Prognosis, and the Sociological Centre of Russian Academy of Sciences, have conducted special projects aimed at understanding public opinion about the Russian legal system, judicial system, system of governance, as well as Russian legal consciousness, or '*pravovoye soznaniye*.'

[202] D. B. Rottman, at al., *Perceptions of Courts in Your Community: The Influence of Experience, Race and Ethnicity, Final Report,* National Center for State Courts, National Institute of Justice, U.S. Department of Justice, 2003, available at http://www.ncrjs.gov/pdffiles1/nij/grants/2011302.pdf
[203] 'Fond Obshestvennoye Mneniye (FOM)', accessed 25 November 2016, at http://fom.ru/.
[204] 'Analiticheskiy Centr Yuriya Levadi', Levada Centr, accessed 25 November 2016, at http://www.levada.ru/.
[205] 'The Institute for the Rule of Law', the European University of Saint-Petersburg, accessed 25 November 2016, at http://enforce.spb.ru/en/.

The most common findings of both independent research organisations and centres working under the umbrella of the Russian government indicate that Russians generally agree with the importance of legal principles and norms in their society, however, they do not consider them as the guiding principles of their lives. The findings of more in-depth and interview-based studies suggest that individual attitudes towards law, courts, and judges are closely associated with the traditionally repressive role of Russian legal system.[206]

It is believed that traditional historical and political forces have created particularly strong Russian '*nedoveriye'*, or lack of trust towards the state and its institutions, and government in general. The persistence and prevalence of these attitudes towards the state and its institutions in Russian society have been suggested to pose considerable obstacles to changes towards more democratic forms of power legitimation, trust in the legal system, and development of rule of law.[207] Therefore, the emerging image of courts in Russia is closely linked to instrumentality, favouritism, and corruption.

While large-scale research in the area of public perceptions of law and legal institutions in Russia has been dominant, more recent projects have attempted to approach the area of particularly Russian low trust and legal consciousness from the bottom up. These projects feature interview-based findings, but tend to focus on the images of institutions in their complete form, rather than on the process of formation of these perceptions in legal consciousness of ordinary citizens. These studies come to similar conclusions, suggesting that Russian legal culture can be characterised by prevalence and persistence of *legal nihilism*, or widespread belief in lack of perceived legitimacy of law. Hendley defined *legal nihilism* as a belief that law is obeyed selectively only when it is convenient, in other cases

[206] V.L. Rimskiy, 'Obzor Sotciologicheskih Issledovaniy Sudebnoy Sistemi Rossii, Vipolnennyh v Period s Kontsa 1991 Goda po Nastoyashiy Moment,' *Fond INDEM*, (Moscow 2009, 16), accessed on 26 November 2016, at http://www.indem.ru/russian.asp.

[207] M. Arutiunian, at al., *Obraz i Opit Prava: Pravovaya Socialzatsiya v Izmenyayuscheysya Rossii*, (Moscow: Ves' Mir, 2008).

law is ignored or avoided.[208] The overwhelming strength of this claim comes from the realization of pervasiveness and historical entrenchment of these beliefs in Russian culture.

In addition to *legal nihilism*, it has also been argued that instrumentality of law is one of the main attributes that Russian people assign to legal institutions in Russia. Kurkchiyan suggested that 'the negative myth of the rule of law is dominant' and self-perpetuating in the Russian legal culture.[209] This argument has been consistently supported by results of opinion polls conducted by Russian, as well as foreign researchers, and by data collected in smaller scale qualitative studies aimed at deeper investigation of people's perceptions of, attitudes to, and opinions about Russian legal reality.

The gravity of this problem in Russia and post-Soviet space in general has been characterised as pathological. Denis Galligan suggested that '[p]athology of social norms in intertwined with law and is a feature of social life in post-communist societies'. [210] Legal failure in post-communist countries, he argued, is a product of a long-standing tradition 'in which law and state in Russia were not directed at gaining the willing acceptance of the people'.[211] Law in Russia has traditionally been used as an external force, whose main goal was to sustain either the absolutist regime of tsarist Russia or the party domination of communist Russia.

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[208] K. Hendley, *Trying to Make Law Matter: Legal Reform and Labour Law in the Soviet Union* (Ann Arbor: University of Michigan Press, 1996);---, 'Who Are the Legal Nihilists in Russia?', *Univ. of Wisconsin Legal Studies Research Paper No. 1187, Post-Soviet Affairs*, vol. 28, no. 2 (2012). The idea of 'legal nihilism' was used in Gibson's work to refer to the popular conception of the instrumentality, widespread ignorance, and manipulation of law by the Russian citizens. In discussion of Gibson's findings, Kurkchiyan described this apparent discrepancy in findings with a particular quality of post-communist societies, a direct contradiction between personal values and collective behaviour. See J. L. Gibson, 'Russian Attitudes towards the Rule of Law: An Analysis of Survey Data', in D. Galligan and M. Kurkchiyan, *Law and Informal Practices,* 77-91.

[209] M. Kurkchiyan, 'The Illegitimacy of Law in Post-Soviet Russia', in D. J. Dalligan and M. Kurkchiyan (eds.), *Law and Informal Practices: The Post-Communist Experience* (Oxford: Oxford University Press, 2003), pp. 25-47.

[210] D. J. Galligan, 'Legal Failure in Post-Communist Europe', in D. J. Galligan and M. Kurkchiyan, (Eds.), *Law and Informal Practices: The Post-Communist Experience*, Oxford: Oxford University Press, 2003, 1-46.

[211] *Ibid*.

Marina Kurkchiyan in her extensive studies of the meanings that Russian citizens attach to law concluded that 'negative myth of the rule of law is dominant' in Russia.[212] Katherine Hendley has pointed at the historical roots of this pervasive disrespect towards law and the tradition of sidestepping of legal norms and regulations in Russia.[213] Hendley argued that 'Soviet history provides ample grounds for ongoing societal scepticism, as does the uneven track record of Gorbachev and his post-Soviet successors in living up to the goal of a '*rule-of-law-based state*' (pravovoe gosudarstvo).[214] Hendley suggested that the 'duality' of Russian legal culture is one of the main explanations behind this contradicting coexistence of a traditionally negative attitude to Russian law and courts in general and a savvy and pragmatic approach to solving personal legal problems in local courts.[215] Hendley went further to suggest that the scepticism and distrust towards the law and legal institutions in Russia are caused by two types of dualism: the dualism of legal norms, which hinges upon historical instrumentality of law in its use against the people; and the dualism based on the proliferation of *blat*, or informal exchange of favours in the state system based on privileges.[216] Hendley's examination of different types of duality that 'permeate the Russian legal system' offers a unique insight into the underlying causes of the pathology of legal culture in Russia.[217]

Hendley's research points at the need for multiple levels of analysis of people's attitudes towards law and legal institutions in contemporary Russia. I will approach this long-standing dialectic in the analysis of the Russian legal culture, as well as more recent

[212] See supra note 209.
[213] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.
[214] *Ibid*., p. 236, citing Mikhail Gorbachev, *On Progress in Implementing the Decisions of the 27th CPSU Congress and the Tasks of Promoting Perestroika*, in 19th Conference of the CPSU: Documents and Materials 5, 65 (1988); and D. D. Barry, (ed.), *Toward the "Rule of Law" in Russia: Political and Legal Reform in the Transition Period* (Armonk, NY: M.E. Sharpe, 1992).
[215] K. Hendley, 'Who Are the Legal Nihilists in Russia?' *Post-Soviet Affairs*, vol. 28, no. 2 (2012), pp. 149-186.
[216] *Ibid*., pp. 238-39. For more details on the concept of *blat*, see A. Ledeneva, *Russia's Economy of Favours: Blat, Networking and Informal Exchange* (Cambridge: Cambridge University Press, 1998).
[217] Ibid., p. 234.

socio-political developments as shaping forces behind modern attitudes to law and courts and try to identify them in people's everyday experiences in courts.

Another group of researchers has pointed out that the negative image of legal institutions in Russia is contradicted by a consistently growing number of cases brought to Russian courts, especially courts of Justices of the Peace.[218] Growing case-loads of Justices of the Peace may indicate increased exposure of ordinary citizens to courts and growing willingness of individuals and firms to deal with their problems by bringing them to courts.

James Gibson attempted to bring systematic social science survey evidence in the investigation of the question of rule of law in Russia. He argued that the concept of rule of law has been largely applied on the state level: 'for rule of law to prevail there must the "subordination of all political authorities and state officials to the law, setting limitations to their power, guaranteeing civil rights and liberties, and principles of due process. The stress, next to the division of powers, [should be] on the independence of judiciary, on the non-political character of the courts, and on the judicial control of governmental decisions'.[219] Gibson added that rule of law has to be applied not only to the state but to individual citizens as well, as they must respect the rule of law in their individual actions. Therefore, it is possible to speak of a rule of law in terms of both formal institutions and a rule of law culture, which can be described through by attitudes of ordinary citizens to law in their lives. Drawing his conclusions from a three-wave panel survey of 2,000 Russians, Gibson came to the conclusion that Russians do in fact support the rule of law, as it is applied both to their own behaviour and the state. However, Gibson argued that what Russians support and expect from their government and society in theory is quite different from everyday

[218] J. L.,Gibson, 'Russian Attitudes towards the Rule of Law: An Analysis of Survey Data', in D. Galligan and Ma. Kurkchiyan, *Law and Informal Practices: The Post-Communist Experience*, (Oxford: Oxford University Press, 2003), pp. 77-91.
[219] *Ibid*., at 79; citing G. Skapska, 'The Rule of Law for the East Central European Perspective', *Law and Social Inquiry*, vol. 15 (1990), p. 700.

reality.[220] This indicates presence of a commonly understood duality of norms in the value system of Russian citizens; while they are aware of the ideals of justice and law, they understand that these concepts have different meanings and applications in reality. I will attempt to understand the nature of these expectations by going deeper into the narratives of people's experiences in courts and analysing emerging themes for more generalisable images of courts and people's attitudes towards them.

My investigation addresses the existing question of intrinsic problems of Russian legal consciousness from a unique perspective. Most of current research into people's perceptions of law and legal institutions has focused on the larger notions of failure of law, lack of trust in state power, and formation of a functioning rule of law state. These studies offer the breadth of analysis that is undeniably helpful in placing Russia on the scale of post-Soviet transitions in the areas of political science and sociology. In order to look deeper into the established ways of thinking about law and using legal institutions in everyday lives, I will take a closer look at how Russian court users construct their perceptions of legal institutions from the smallest units of analysis. My attention to this level of individual experiences and their comparative juxtaposition will add a new dimension to the existing discussion of people's perceptions of legal institutions, especially in post-Soviet space, and to the examination of factors that form more generalisable attitudes of trust in different legal environments.

It is also necessary to note that while empirical research in Russian perceptions of institutions of justice exists and consistently points at the problem of lack of trust in courts, it does not offer a conceptual framework for analysing this problem. My research takes on the task of approaching the endemic problem of trust in Russia with the tools suggested in existing scholarship in legal culture and organisational behaviour research. By doing so, I

[220] See supra note 219, p. 90.

will attempt not only to address the issue of attitude formation, but also to identify the limitations of applicability of approaches developed in the context of mature democracies to the countries that lack the history of democratic institutions and exhibit strong features of authoritarian regimes.

D. Conclusion

The purpose of this chapter was to create a general picture of the institutional organisation of the English and Russian lower courts. Differences in their historical background and procedural and administrative models set the context for exploring how ordinary people experience them on a daily basis, and how these experiences add to our understanding of Russian and English legal cultures. The unifying themes in the images of these institutions are that cases brought to them are considered simple enough not to require legal assistance, procedure of case resolution is more relaxed than in higher courts, and formalities are dispensed with in favour of efficiency. The main differences are seen in the procedural organisation of these institutions, namely the pre-trial sessions of the Russian courts of Justices of the Peace, which allow the general public direct access to the judges during the case preparation phase. The impact of this pre-trial procedure on the images of lower courts among Russian court users will be discussed in the later chapters.

This institutional introduction was intended to show how the lower institutions of justice in Russia and England operate and also how they have been approached in the academia. The Russian courts in general are said to suffer from a persistent lack of trust and associations with favouritism, blat, and corruption. While these courts are actively used, they are seen to reflect the legal principles that they should stand for. The muddled nature of statistical reporting makes the analysis of Russian court activity a difficult and inconclusive task. At the same time, while the operation of lower English courts is well reported and

consistently evaluated internally, the mode of operation of these institutions has come under scrutiny in the academic research. The organisation and procedural standards of the English lower courts are mainly focused on improving the efficiency of case load management, yet the people's ability to use lower courts efficiently and to see their rights protected by them are not considered institutional priorities.

In the following part of my dissertation I will investigate the ideas and images attached to these institutions of justice in the larger Russian and English public discourse. These larger narratives about legal institutions, their roles in respective societies, and their traditional modes of operation will help me draw a more precise picture of the expectations that people attach to these institutions and according to which they shape their patterns of use of the lower courts.

PART II

This part of my dissertation looks at the larger images of legal institutions that exist in English and Russian legal cultures. These images are aggregate ideas and attitudes that English and Russian general public attach to legal institutions, and in many cases they refer to all levels of institutions of justice. They reflect how English and Russian people perceive the function of courts in their societies and how they understand the nature of their relationship with courts.

In order to capture these perceptions, I will address how Russian and English societies conceptualise the process and the institutions of justice in a larger public discussion and related sociological research. These images will set the context for the investigation of people's personal experiences in courts. This part of my thesis consists of two chapters: the first chapter will address elements of the physical presence of courts in people's lives, which will refer to the appearance of the physical spaces of courts, and rituals associated with the legal process; the second chapter will address pertinent elements of the Russian and English legal traditions and the resulting images of courts among the general public.

Chapter IV

Materialities of the Justice Process

The unspoken yet undeniably powerful messages communicated by the physical buildings of courts and spaces allocated to public hearings, symbols of justice and power that permeate legal spaces, and the formality of court ritual are tell us about the normative place of law in a given society as well as the way people interact with public services.[221]

In this chapter I investigate what meanings and ideas are conveyed to court users by the physical realities of the legal process. There realities refer to the visual symbols of justice and law, to the meanings communicated by court space, and finally to the symbolism of court ritual in Russian and English courts. Analysis of this symbolic subtext of legal experiences adds a valuable dimension to our understanding of the overall images of legal institutions and people's attitudes towards them. 'If symbolism is defined in its broadest sense, as the process of using something to represent or stand in for something else, it readily becomes apparent that the process of creating symbols has been fundamental to the way in which we make sense of world which surrounds us from the moment when we first began to name its contents'.[222]

The symbols and images that people come to associate with the process of justice are powerful forces that shape people's preconceptions and expectations of courts: traditional architectural images, allocation of space in the courtroom, the tradition to rise when the judge enters or leaves the courtroom, dress code of legal professionals, and other elements traditionally associated with court appearances.[223]

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[221] D. A. Harris, 'The Appearance of Justice: Court TV, Conventional Television, and Public Understanding of the Criminal Justice System,*' Arizona Law Review*, vol. 35 (1993), p. 794.
[222] D. Curtis, and J. Resnik, 'Images of Justice', *The Yale Law Journal,* vol. 96, (1987), p. 1771.
[223] *Ibid*.

The first section of this chapter examines the core element of the image of courts, the image and symbolism of justice itself. The following section compares the physical images of courts and the specifics of space allocation inside the court buildings of the English and Russian lower courts. The final part of this discussion examines the rituals associated with the institutions of justice in Russia and England. My ultimate goal is to compare the combined effect of these elements on people's perceptions of courts in England and Russia.

A. The Imagery of Justice

The iconography of 'justice' as a blindfolded woman holding scales and a sword has been addressed in previous research on the symbolism in courts.[224] This familiar image of Justice does not exist only in the Western tradition, 'she is one of a series of images, most in the female form, associated with powerful concepts of virtues and vices.'[225] With the growth of the power of the church, Justice was accepted into Christian imagery as a personification of one of the cardinal virtues: Justice, Faith, Hope, and Charity. In its current form Justice is seen as a female figure holding or surrounded by a series of her attributes: the scale, which has been used as a symbol of a decision-making device since Egyptian times; and a sword, a symbol of power. Justice is blindfolded only in some depictions, in other cases the blindfold has openings through which her eyes can be seen.[226]

Having survived through medieval centuries and the Renaissance and having been embraced by the theory of democratic governance, justice is still a living and widely recognizable symbol standing on the top of the Old Bailey in London, and the City Hall in New York. 'Why can so many of us so easily recognize Justice? Because, over the centuries,

[224] J. Resnik, 'Courts: In and Out of Sight, Site, and Cite', The NormaN Shachoy Lecture, *Villanova Law Review,* vol. 53 (2008), p. 771.
[225] See supra note 223. Curtis and Resnik refer to the predecessors of the commonly known female image of justice, Ma'at in Egypt, Themis and Dike in ancient Greece, and finally Justitia under Roman rule.
[226] *Ibid*.

members of diverse societies have been taught repeatedly to recognize this image.'[227] It has been suggested the traditional image of justice has survived over centuries due to the conscious effort of governments seeking to legitimate their power by associating themselves with the concept of justice. The original use of justice imagery in early architecture can be considered didactic in its nature, as Cesare Ripa described it in the sixteenth century:

> The personification of Justice is a blindfolded woman robed in white and wearing a crown. … She supports a pair of scales in her lap with one hand. Her other hand hold a bared upright sword, and rests on a bundle of lictors' rods [fasces], from around which a serpent is unwinding. A dog lies at her feet. On the table are a sceptre, some books, and a skull.
>
> She is robed in white, for the judge must be without moral blemish which might impair his judgment or obstruct true justice. She is blindfolded, for nothing but pure reason, not the often misleading evidence of the senses, should be used in making judgments. She is regally dressed, for justice is the noblest and most splendid of concepts. The scale, used to measure quantities of material things, is a metaphor for justice, which sees that each man receives what is due to him, no more and no less. The sword represents the rigor of justice, which does not hesitate to punish. The same meaning is embodied in the lictors' rods, the Roman symbol of the judge's power to punish and even execute. The snake and the dog represent hatred and friendship, neither of which must be allowed to influence true justice. The sceptre is a symbol of authority; the books, of written law; and the skull, of human mortality, which justice does not suffer, for it is eternal….[228]

While the imagery of justice may be undergoing changes in the modern technological world, the idea of justice exists in people's perceptions, in their 'present day psyches'.[229] These traditional images and attributes of justice and justice-related myths impact how people see justice and the institutions of justice in the present-day society.

Going from the image of justice to the idea of the process of justice, one must address the nature of the public hearing within the symbolism of justice. Traditionally the public hearing reflects the need for justice to be open and transparent. It also came to reflect the

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[227] *Ibid*., p. 1734.
[228] C. Ripa, *Baroque and Rococo Pictorial Imagery: The 1758–1760 Hertel Edition of Ripa's Iconologia with 200 Engraved Illustrations* (E. Maser ed., 1971), p. 120.
[229] See supra note 223.

power that sanctions and guarantees the application of the law.[230] The image of a court trial traditionally holds in its core the public nature of dispute resolution. As we can see from the first images of hearings in the Western world, which depicted public hearings densely populated with spectators and legal professionals, and took place in the communal gathering spaces of local town halls, justice demanded public recognition.[231] According to Judith Resnik, evidence of public trials before the introduction of democratic values of transparency and accountability suggests that public trials were considered rituals used by rulers 'to show their power, insist on their capacity to command obedience, and give content to the practices with which they sought compliance'.[232] 'Sovereigns continue to need judges to authorize and to organize the imposition of violence, and judges, litigants, and spectators continue to need to imagine judgment free from bias and from political motivation.'[233] The source of this power is an interesting element of the overall image of courts in people's perceptions.

Therefore, it is important to recognise that the mythical connotations of the symbols of justice need to be approached in combination with the purpose and use of judicial institutions within the framework of the modern state. The purpose of this discussion is to draw a more comprehensive picture of the images, ideas, and messages that shape people's perceptions of legal institutions in the Russian and English legal cultures. From the symbol of justice itself, I shall now turn to the everyday material elements of people's interactions with courts, namely court architecture and allocation of legal space.

[230] See supra note 225.
[231] *Ibid*., at 776. The author is referring to images of court hearings found in seventeenth century Dutch law books. The feminine image of justice is presented in the background.
[232] *Ibid*., at 781. Judith Resnik is currently part of the interdisciplinary group of researchers investigating judicial images: 'Judicial Images: Production, Management, Consumption', accessed 26 November 2015, at http://judicialimages.org/website/renderPageFromId?page_id=485K9t3B447ewWTPu9fn2M6ZuLAC73aZ
[233] *Ibid*.

1. Images of English courts

In addition to the pure ideal of justice, there are a number of important tangible elements that create people's experiences in courts. These physical symbols of the process of justice as we see it now reflect the public nature of the trial, as well as the source the power that allows the state to enforce the law and the general public to use courts as means of restoring justice and fairness. These symbols lie behind people's more rational ideas about these institutions and their relationship with them. Firstly, I shall discuss messages created by the physical space of English courts. The iconography of court buildings involves their spacial relationships, as much as their symbolic ornamentation, as court users respond to the impressions made by the buildings on the whole.

I shall first address the effect of court architecture on the people's perceptions of courts in the English tradition. Previous research in the history of court architecture recognized that the style of court buildings traditionally 'intended to evoke the appropriate sternness and even sacred quality of the law. Historically, courts were located in the buildings of town halls, 'governance and justice were housed under the same roof'.[234] Courts in Western societies have traditionally been public spaces - spaces where community congregated in order to witness the making of justice. Independent court buildings were constructed in England since the early eighteenth century, 'such courts were indeed palaces of justice, temples of severity intended to evoke both fear and respect'.[235]

It must be noted that recent developments in court architecture have led to considerable transformations: courts have become highly specialized and segregated spaces for administration of justice. What once was an open public space has become a closed and labyrinth-like bureaucratic space that is difficult to navigate for ordinary people without

[234] *Ibid*.
[235] T. Blackshield, et al., 'The Oxford Companion to the High Court of Australia', (Oxford University Press, 1996), p. 29.

prior experience. My research suggests that modern English court buildings are a mix of old majesty and recent minimalist architecture, which was said to introduce the 'instinctive humanism of architectural values', a 'supportive' rather than 'negative' psychological context. Modern English court buildings are deliberately built as anonymous blocks, largely made up of offices and segregated spaces in order to reflect this humanistic idea. Therefore, the 'sternness' of justice associated with traditional English courts has been transforming into the image of justice as a service provided by the state in an increasingly bureaucratic manner.

The emerging image of English courts mixes elements of traditional intimidating institutions that instil the fear and respect of the law and modern bureaucratic institutions that are a necessary and sometimes unavoidable part of social life. While modern lower courts are more likely to be housed in contemporary buildings, which have little connection with traditional symbolism of English court houses, it is likely that the general public associates all courts with a more traditional and historical image. I will attempt to trace these perceptions in the next part of my thesis, dedicated to analysis of my findings.

2. Images of Russian Courts

Looking at the Russian courts as a part of the continental legal system, can one trace the symbolic meanings, imposing architecture, and the ritual of Western courts in the symbolism of Russian legal institutions? More importantly, to what extent do the symbols and tradition attached to the Russian system of justice help us understand ordinary people's perceptions of and attitudes towards individual courts?

As I have previously stated, architectural organisation of courts is different in different legal systems largely due to the nature of procedural models that emphasize different elements of the legal process, as well as formal ritual in the courtroom. Since most Russian

lower courts were traditionally held on a community basis, in manor houses of large land owners or in city halls, courts did not have independent architectural images. This tradition continued in Soviet Russia with the practice of Comrades' Courts, non-judicial tribunals held in city or village councils, and transitioned into official courts as state institutions.[236]

The image of justice itself in Russian courts is different from the traditional symbols visible in English courts.[237] While the lady Justice can also be seen on top of the building of the Supreme Court of the Russian Federation and can be found in some of the courtrooms or offices of the judges, it symbolizes more the outward formality of the Russian courts, rather than the main principles of their operation. The real symbolism of the Russian courts is a collective image of state symbols indicating the authority of the Russian state over these institutions. While English courts cannot be separated from the idea of state services, and therefore from the state authority as well, they have a clearly identifiable image linked to the virtues of justice. This image may be more mythical in nature, yet it is associated with legal institutions and, therefore, creates certain expectations.

It is important to close this discussion of symbols in Russian courts by stating that there is nothing inherently specific in Russian perception in images of courts that could have the historical strength and identifiable nature of the images of English courts. Russian courts do not seem to have with a specific physical image. The traditional role of courts in the Russian society is to show that they problem-solving and law-enforcing institutions, rather than institution changes with meaning and power of an independent agency. The symbolic image of the Russian courts seems to be lacking the symbolic power that is traditionally associated with courts in England.

[236] G. B. Smith, *Reforming the Russian Legal System* (New York: Cambridge University Press, 2006), p. 132.
[237] J. Resnik, and D. Curtis, 'Representing Justice: From Renaissance Iconography to Twenty-First Century Courthouses', *Faculty Scholarship Series*, Paper 693 (2007), p. 139.

To summarize, the symbolism of English courts creates an image of a formal, traditional court that maintains historical continuity and reliability by keeping the rules and images associated with the virtues of justice as well as its independence from the state. These traditional associations create intimidating but reliable images of English courts in general, even though they do not accurately represent the images of lower English courts. This is to say that the traditional image of courts is extended to the lower courts as well, even though they are more informal and relaxed in their application of traditional legal procedural and rituals.

The Russian courts, on the other hand, are seen as more closely associated with the power of the state, because state authority is the dominant image of these institutions. The following part of my thesis will discuss how these shared symbolic associations affect people's expectations and perceptions of legal institutions.

B. Legal Spaces

The iconography of a court building involves its spacial relationships as much as its symbolic ornamentation; people respond to the impressions made by the building on the whole. Therefore, I will review the symbols of justice that dominated English courtrooms, especially at the lowest level of everyday justice, and whether they take part in formation of images of courts.

The nature of the trial process in courts has inherent authoritarian qualities, as justice is imposed on society from above, as well as conservative features, as courts seek to harmonize their decisions with an existing moral and legal structure.[238] Courts perform a variety of functions besides offering a venue for dispute resolution. In her study of English law courts Clare Graham wrote: 'A law court is like a church, in that it is a setting for a

[238] See supra note 225.

solemn ritual, designed to reinforce our belief in the myths that uphold society; like a theatre, in that this ritual is performed as a public drama; like a school, in that this drama is intended to educate as well as entertain; like a town hall, in that the court advertises the authority of government; like a prison, since some of its visitors will end up there and must be kept in similar conditions meanwhile; like an office or factory, since it is a permanent or regular workplace for others.'[239]

The question that follows is how these associations are created with the use of physical elements identifiable in the design of court buildings. Previous research in the history of court architecture recognized that the style of court buildings traditionally 'intended to evoke the appropriate sternness and even sacred quality of the law. Historically, courts were located in the buildings of town halls, 'governance and justice were housed under the same roof.'[240] Courts in Western societies have traditionally been public spaces - spaces where community congregated in order to witness the making of justice. Therefore, the space of courts throughout history was directly connected with the symbolic importance of courts in people's life, which stemmed from the unyielding nature of the law and the publicity of the legal process.

Court buildings have undergone considerable transformation from public spaces to specialized and segregated spaces for administration of justice. In contrast to the image of traditional court buildings, majority of current English and Russian court centres that participated in may research were located in modern buildings, mostly tucked away in residential streets or behind other municipal buildings. There was a clear indication of their presence in the area accomplished by signs posted on the streets leading to them. In most cases the courts' locations were indicated on the traffic signs as well, which made it very easy to locate them, and placed them on the map of local community services.

[239] See supra note 225.
[240] *Ibid*.

1. English Courts: direction of space and procedure

What perceptions of legal institutions would a court user form through personal experience in lower English courts? The idea that courts are intimidating and powerful institutions that decide on the matters affecting people's lives could be seen in the architecture and space organisation of traditional English court buildings. It is important to mention that people's overall ideas of courts are usually based on the image of criminal courts and criminal trial, because this image tends to be more publicised. I conducted research in two criminal courts, one of which was a part of a combined court centre, and the other had an independent location. Previous ethnographic research in English courts identified two main ideas communicated by the architecture of court buildings: one image identifies with the idea of traditional criminal trial spectacle, and the other – with the efficiency of dealing a large volume of cases.[241]

I could trace a similar duality in the images of courts in my research. Only one of the court centres that I visited was situated in a historical building that could be identified with the traditional image of English courts: it was adorned with columns, wide marble staircases, and tall imposing windows. The interior of this traditional courthouse, on the other hand, contained very little of this traditional symbolism: court users were asked to wait for their cases in public areas lined with rows of minimalist plastic seating, coffee and snack machines lined the walls of the public waiting rooms. The central open-space public area offered multiple entrances into the courtrooms, as well as special rooms for private

[241] Thomas Scheffer, a German sociologist, described his experience in two courts: 'One originated form the 14th century and serves as criminal and civil court over centuries. Architecture and furniture survived centuries. Local historians told me how trials were conducted in Victorian times, how the gallery was filled with "plebs" and the benches next tot eh judge with prosperous ladies. The jury was chosen from the honourable, credible and male citizens. Outside court, the death penalty (mostly hanging) took place as public spectacle sometimes witnessed by several thousands of people. The other court looked utterly different. I is hosted in a functional building from the eighties. The entrance reminds of an airport. Bodies are checked by uniformed security staff. Trials are announced on screens like the arrivals/departures of flights. In the courts the atmosphere is business-like. White walls, light furniture, no decoration – the rooms evoke efficacy rather than greatness.' T. Scheffer, 'Materialities of Legal Proceedings', *International Journal for the Semiotics of Law*, vol. 17 (2004), pp. 370-71.

consultations with solicitors or settlement discussions. This organisation of the public space created an impression of a well-planned and usable public institution, where all functional areas were assigned their place and worked in close cooperation. The ushers and members of court administration were responsible for maintaining the circulation of parties and legal professionals between the waiting area and more restricted public spaces of the courtrooms. I agree with previous research that suggested that court 'appears as moral space governed by observable traffic rules'.[242] These pre-arrangements of space allocation within the courtrooms and of clearly assigned roles during the trial are essential for standardising the public trial itself. This standardisation through allocation and functional labelling of space creates the image of reliability and predictability of the justice process. This reliability and predictability in their turn increase the trustworthiness of courts.[243]

The most noticeable feature of open public spaces, as well as the courtrooms themselves, was the abundance of pin-coded entrance doors which led into the vast separate space of the court buildings allocated to the internal workings of the courts. This restricted area contained offices of the judges, offices of court administration, file rooms, and special areas allocated to solicitors and barristers preparing for their hearings. There was a general feeling that without special knowledge about the organisation of the court house or guidance by the court staff ordinary court users would not be able to find their way in this maze.

It can be said, therefore, that recent developments in court architecture have led to considerable transformations in the image of courts among the public: courts have become highly specialized and segregated spaces for administration of justice. What once was an open public space has become a closed and labyrinth-like bureaucratic space that is difficult to navigate for ordinary people without prior experience.

[242] J.M. Atkinson and P. Drew, *Order in Court: The Organisation of Verbal Interaction in Judicial Settings* (London: The Miacmillan Press, 1979).
[243] T. Scheffer, 'Materialities of Legal Proceedings', I*nternational Journal for the Semiotics of Law*, vol. 17 (2004), pp. 373-374.

My research in modern court buildings also largely echoed Scheffer's observations.[244] Modern English court buildings are deliberately built as anonymous blocks, largely consisting of offices and segregated spaces in order to reflect this humanistic idea. The 'sternness' of justice in its original incarnation of traditional English courts may be transforming into justice as a service provided by the state in an increasingly bureaucratic manner.

Just as traditional court buildings, modern English court buildings were separated into public and restricted areas. An ordinary court user would need to follow instructions on the information board in order to find the courtroom where his or her case was to be heard, and locate the appropriate floor and public waiting area. Modern courts created an image of public administrative agencies, similar to immigration offices, or even large hospitals: they had main reception areas, long corridors, public waiting areas, snack machines, and finally private cabinets. The numerous administrative officers directed people to appropriate locations within the maze of the buildings, greeted them at their final destinations and made sure that they are ready for their appointment with the right official. The resulting image of modern courts was of dealing with a complex problem-solving machine, which guided people through various stages of file processing and culminated in rather brief and fact-of-the-matter experiences in one of the courtrooms.

It has to be noted that not all interactions with courts ended in court appearances. Growth of the small claims movement, ADR, and mediation suggests that a large number of cases are not heard in public courtrooms. These categories of cases are heard in the private offices of the judges, rather than in the traditional public courtrooms. This can offer support to the findings of research in the United States which referred to this phenomenon as

[244] *Ibid*., p. 372.

'vanishing trial'.[245] Therefore, court users who have their cases heard in the judges' offices might have a very different impression of the process of justice than those who have their cases allocated to public courtrooms.

I observed a number of small track cases in the English Combined Court Centres which were heard in the offices of the judges.[246] The atmosphere could be described as private, informal, and administrative. Parties normally present in the rooms during these hearings were the litigants and the judge, facing each other across a business desk. The idea of a hearing that unfolds as an informal conversation with the judge in a small room in a quiet area at the back of the building is more likely to create a more informal and administrative idea of the process of justice itself.

While some cases seem to be disappearing from the public eye into the offices of the judges, civil cases allocated to the fast track and multi-track still take place in the public courtrooms. Heard with more relaxed standards of formality, these cases could potentially offer court users what they had been expecting, a full trial that they have seen portrayed by the media. However, even in these cases, an ordinary court user could come away with a general feeling that majority of cases were heard in an administrative and streamlined way. County court cases heard in public courtrooms were decided quickly and efficiently, with judges guiding cases towards most likely resolutions while being assisted by numerous administrative staff. Here my findings support the idea that courts are likely to apply the bureaucratic type of legal process in situations which call for it. According to my

[245] M. Galanter, 'The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts', *Journal of Empirical Legal Studies*, vol. 1, no. 3 (2004), pp. 459-570. Galanter suggests a number of explanations for the reduction of cases that go to trial: increase in settlements, ADR, diversion, and reallocation of incentives being some of them. Although, Lawrence Friedman argued that that full trials were never the goal nor the reality of the US legal system. L. M. Friedman, 'The Day Before Trials Vanished', *Journal of Empirical Legal Studies*, vol. 1, no. 3 (2004), pp. 689-703.

[246] All small claims heard in the Regional Combined Court Centre were heard in the offices of the judges. London Combined Court Centre did not distinguish between public and private offices of the judges, all cases were heard in public courtrooms, rather than back offices of the judges, yet small claims cases were allocated to the smallest courtrooms.

observations, simple cases that involve well-established and clear rules of civil procedure, such as possession claims and debt recovery, tend to be resolved in a streamlined way, similar to other state agencies, rather than using the traditional approach to adjudication.

Therefore, we can see that English court buildings communicate a mix of ideas: a visually identifiable interplay between the old majesty of the law and the efficiency of contemporary minimalist architecture. Within the building itself, the existence of predictable legal procedure and strict allocation of roles serve a number of functions: they create a sense of reliability and trustworthiness, as well as reinforce the traditional elements of the legal process in English courts.

2. Russian Courts: buildings and images

Looking at Russian courts as a part of the continental legal system, we can draw certain parallels between the symbolic messages communicated by the imposing court architecture of the English courts and the symbolism of Russian legal institutions. More importantly, to what extent do the symbolism and tradition attached to the images of Russian courts can help us understand the nature of the relationship between court users and lower courts?

As I mentioned previously, the architectural organisation of courts can be different in different legal systems due to the nature of procedural models that emphasize different elements of the legal process, as well as set the tone of the legal process. My analysis suggests that due to the different sources of law, symbols of courts in Russia are more likely to be orientated towards visual assertions of state power, rather than towards the wisdom and equality of 'justice' as an independent mythical virtue.

Having started this comparison of court images with the discussion of English courts, I must stress that the traditional image that to a degree was visible in the modern-day

buildings of English court is substantively different from the traditional image of Russian courts. Analysis of the image of Russian courts leading up to the twentieth century, from peasant Volost' courts and through the reforms of 1864, suggests that it was charged with negative connotations of a marginal institution that failed to protect people's interests. Close association of courts with injustice was a theme raised in common discourse, literature, and research related to Russian legal culture.[247]

As I stated above, the most significant visual observation that came from my research in Russian lower courts is that they do not have prominent independent architectural images associated with law. They blend into the general image of official state buildings, such as city councils, police stations, or utilities management offices. Court buildings that housed the courts of Justice of the Peace in my study had a utilitarian administrative purpose. A Russian court user came away with a feeling that local courts were similar to other state institutions in Russia, and therefore had to be dealt with according to the generally accepted norms of interaction with state institutions. As it will become clearer in the later part of this chapter, this particularly Russian interaction between citizens and state institutions is usually based on various methods of circumventing formal rules and establishing personal relationships. In response to these widely-accepted rules of interaction, it is in the interest of state officials to uphold formal rules, because that leads to more effort on the part of the citizens to find a way around them.

One of the regional courts of Justices of the Peace was located in a minimalist 1970s brick building shared with the local Police office, the Office of Passports and Registrations,

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[247] B. Conlon, 'Dostoyevsky V. the Judicial Reforms of 1864: How and Why One of Nineteenth-Century Russia's Greatest Writers Criticized the Nation's Most Successful Reform', *Russian Law Journal*, vol. 2, no. 4, (2014); C. A. Frierson, 'Rural Justice in Public Opinion: The Volost' Court Debate 1861-1912', *The Slavonic and East European Review*, vol. 64, no. 4 (1986), pp. 526-545; P. Czap, Jr., 'Peasant-Class Courts and Peasant Customary justice in Russia, 1861-1912', *Journal of Social History*, vol. 1, no.2 (1967), pp. 149-78; M. Confino, 'Russian Customary Law and the Study of Peasant Mentalities', *The Russian Review*, vol. 44, no.1 (1985), pp. 35-43.

and a small hair salon. In fact, most of the regional lower courts were located in buildings that had been repurposed after the fall of the Soviet Union in order to save money on the construction of new buildings. Another trend among buildings of Courts of Justices of the Peace was their positioning on the ground floor of ordinary residential blocks of flats. All court buildings that I visited in Moscow were located in residential buildings, which were often quite recent constructions. These locations gave courts of Justices of the Peace the looks of cramped, low-ceiling residential corridors without windows; they were in fact very common spaces planned as flats but used as legal offices. The larger rooms served as public courtrooms, and the smaller rooms - as offices of the judges and court staff. Then arrow and windowless corridors and a residential feel of these spaces communicated the mundane and ordinary nature of these courts.

As a result, Russian courts of Justices of the Peace resembled local bureaucratic agencies suffering from underfinancing rather than institutions of justice. They were very similar to the state offices of Passports and Registration, which deal with mandatory registrations at local addresses and issuances of internal and foreign passports; or to *ZHEK* (Local Housing Authority), which collect utility payments and provide local public services. Therefore, my observations in the Russian lower courts suggest that the physical spaces of lower courts create different images of the role that these institutions occupy in society. The trivial and largely marginalised locations of lower Russian courts point to the level of respect they draw from the state as well as from the public.

As it has been stated in my institutional introduction, both small civil and criminal matters fall within the jurisdiction of courts of Justice of the Peace. Procedural requirements for small civil and criminal cases are usually similar, with tighter security measures during criminal hearings. Criminal defendants in custody were usually escorted by the prosecution officer from the general public area, as opposed to the separate entrance specifically

designed for that purpose in English magistrates' courts. There was no special segregation or specific identification of the criminal nature of the hearing with the exception of accusation and sentencing. This suggests that criminal cases at this level of courts were treated more of less as all other trivial matters, yet resolved according to the law of the Criminal Code. Therefore, I observed both civil and criminal hearings as they were mixed in the judges' daily schedules.

The general atmosphere of the small claims courts in Russia was closely associated with the atmosphere in most other state institutions, which were seen as inefficient and confusing. As one of my respondents commented: 'You come here, and there are no instructions on who to go see first, what to do, it is like a labyrinth'.[248] From my perspective as an observer, Russian courts seemed more chaotic and unguided, rather than organised and user-oriented spaces. The security officers who checked identification documents upon entering the buildings did not provide any information or guidance. When I asked for directions to the judges' offices, I received vague answers: 'Which judge, don't you know what you are here about?' or 'Which judge do you need? Go and wait in the reception area.'[249] While all offices in the Russian lower courts had plaques identifying the officer and his or her position, they rarely gave his or her opening hours and even more rarely were open. In addition, most of the staff tended to congregate in the back offices coming out only when summoned by a judge or by a persistent visitor. This generally created an impression of a distanced institution that lacked customer orientation, but most importantly lacked any visible outward expression of its association with law and justice. I must note that both Russian and English lower courts had visible separation between the front and back of the court. The difference, however, is that the public area of the Russian courts usually had no members of court staff assisting court users. The judicial assistants and court secretaries

[248] Respondent 5, MC.
[249] Court officials, MC.

would briefly walk through the public area to the courtrooms for the scheduled hearings, but they would not normally interact with the public.

This allocation of space and main roles in the Russian lower courts will be helpful in our understanding of how Russians perceive justice in lower courts and how they deal with these institutions. It could be said that traditionally Russians interacted with state institutions as the sources of good and bad, from protection and punishment to distribution of goods, jobs, and opportunities.[250] As a regional judge commented: 'People still see courts as they were in Soviet time: they expect that the state will do everything for them. We do not work like this now, we can only help people help themselves.'[251] The Russian state has traditionally been seen as the source of power as well as services. This has created a complex and at times contradictory relationship between the state and its citizens: while the state used to impose ideological standards and limit certain rights and freedoms of its citizens, it also acted as a guarantor and provider of basic protections and services. As a result, Russian people became accustomed to using state services without the sense of trust towards their provider.[252] At the same time, the state provides these services out of obligation and necessity rather than because of the belief that it part of state responsibilities towards its citizens; this can explain poor customer service orientation in the Russian state institutions.

My research suggests that Russian court users have an expectation of local courts being 'one stop shops', where all their legal needs can be met. Relying on the comments of one of the Justices of the Peace, I agree with the suggestion that this traditional relationship with the Soviet state created a certain expectation that the state would not only control every aspect of people's lives, but that it would also take care of all problems. This relationship

[250] E. M. Uslaner, *The Moral Foundation of Trust* (New York: Cambridge University Press, 2002).
[251] Judge 2, RC.
[252] P. Sztompka, *Trust: A Sociological Theory* (Cambridge: Cambridge University Press, 1999).

did not encourage citizens to be proactive in protecting their legal interests. In the present-day Russia, however, there are many situations when people have to take initiative and turn to courts in order to reach a result they want. Russian people may take this initiative in a way that is familiar to them - a personalized way. As a result, they try to establish personal connections with officials in charge, so that the official would do something for them in return out of respect or obligation.

My findings also suggest that Russian judges have a dual image in peoples' perceptions. On the one hand, they are seen as human beings who can be influenced, and on the other hand, they are perceived as representatives of the judicial power the state. This duality is reminiscent of my earlier discussion of the multiple layers of duality of the Russian legal system.[253] This observation confirms my earlier argument that Russian institutions of justice have to be addressed in their cultural complexity in order to capture the internal logic that shapes people's attitudes towards them and patterns of their use.

C. The Ritual of Legal Procedure

1. England

The concept of ritual includes accepted standards of attire and behaviour during court hearings. It deserves examination because it participates in creating the image of court as a special legal entity charged with respect towards the law and the authority that enforces it. I approach ritual as one of the material aspects of the legal process that shapes the overall images of courts in people's perceptions.

Looking at the element of ritual in English courts from a historical perspective, one has to note that it has a long and colourful path of development. The , as well as the standard

[253] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.

of formal dress of the judges and legal professionals, as well as the pageantry of the courtroom ritual are some of the most recognizable features of the English process of justice. 'In a country with no written constitution, medieval procedural devices like trial by jury and the writ of habeas corpus have gradually acquired a semi-mystical significance in safeguarding the liberty of the subject. Many of the law's rituals provide visible evidence of the importance it attaches to tradition. Judges still conform to a dress code agreed in 1635; barristers still wear a black gown adopted as mourning for Charles II in 1685'.[254]

While the standards of court dress remain formal and traditional in English Crown Courts, county courts and magistrates' courts have adopted considerably more relaxed standards: judges hearing small claims cases do not have to wear the traditional wig and robe, judges and lay magistrates in magistrates' courts usually wear robes, but wigs are no longer required. Barristers, clerks, and ushers in these lower courts usually wear a robe, as they represent the symbolic link between the courtroom space and the outside public space.

Judge Jerome Frank referred to the authority that judicial robes award to the judges as 'the cult of the robe'.[255] Frank argued that keeping the courts shrouded in mystery and maintaining an illusion of infallibility of courts and judges creates unrealistic, erroneous perceptions of the courts and their role in democracy.[256] Further research stressed the importance of the appearance of 'justice,' as the 'symbols and rituals of courts may hide significant systematic injustices behind undeserved dignity and respect.'[257] This makes me question whether the tradition of court ritual in England, while being long-lived and linked to maintaining respect among court users, helps in creating realistic expectations of legal institutions among potential court users. Having strong roots in tradition and ritual, the official standards of court dress may not reflect the everyday reality of lower courts that deal

[254] See supra note 225.
[255] J. Frank, *Courts on Trial: Myth and Reality in American Justice* (Princeton University Press, 1973).
[256] *Ibid*, pp. 2-3.
[257] See supra note 225, p. 795.

with the majority of cases in England and, therefore, may contribute to creating unrealistic expectations of ritual from the general public.

The reality that faces court users in English lower court is that of courts being busy bureaucratic machines, run by a complex network of agencies staffed by well-trained professionals. The judges maintain their traditionally dominant position, yet in a growing number of smaller cases they dispense with the formalities of traditional legal procedure in favour of a more relaxed and informal court atmosphere. The administration of the English lower courts, consisting of ushers, clerks of court, and administrative officers, seems to have a more prominent and visible role in the courtroom, making the administration of justice seem smooth and orderly. It is the administration that is more visible to the general public and seems to be in control of the courts overall.

In comparison with the county courts, the traditional ritualism of the English system of justice could be more readily observed in the magistrates' courts, which maintain more traditional imagery and symbolism of justice due to stricter procedural requirements. The magistrates' courts are usually located in separate buildings, the planning and organisation of which reflect specific the needs of the criminal justice process. Each courtroom as a rule has a separate segregated space for the defendant. In the regional magistrates' court, the defendants' box was separated by a barrier and had a separate entrance. In more serious criminal cases involving defendants in custody, they would be escorted to these glass boxes through a separate entrance for security purposes. In the majority of trivial criminal hearings, however, the defendants entered the courtroom themselves and were seated outside the segregated area.[258]

[258] The 'traffic rules' in criminal courts are more rigid: 'witnesses e.g. do not talk to the jury directly. They answer the barristers' friendly or hostile questions by turning to the judge and jury. The defendant is not only places far away from his barrister but as well outside the turn-exchange. From the defendant's bench, one

My observations show that a large number of small criminal cases were decided quickly, which meant that the defendants, their supporters and legal counsel, when present, spent fifteen to twenty minutes in the courtroom on average. The ushers regulated this process by announcing the upcoming cases outside the courtroom, escorting the parties in and out, and telling them where to sit. The clerks of court made sure that the correct parties were present and that all legal requirements were satisfied.

My overall observation was that criminal cases seemed to be resolved in a more formal manner, as more procedural requirements had to be satisfied. However, this outward formality of procedure was mixed with the transience of the courtrooms themselves. With people constantly moving in and out of the courtroom, friendly conversation between solicitors, smooth guidance by the court administration, and quick transitions between cases by the clerks and ushers – the magistrates' courtrooms produced an image of a constant and transient administration of justice in a friendly, respectful, and efficient way.

This brings me to a concluding observation that in the everyday life of English courts the traditional imposing image of legal space has been transforming towards a new bureaucratic image of courts. This image of courts as administrative machines that maintain the outward standards of procedural formality is replacing the traditional image of courts as formal and imposing establishments. Modern lower courts both in civil and criminal jurisdiction create a feeling of disenchantment in comparison with their historical images. Contemporary English lower courts are seen as aiming primarily towards efficient allocation of resources and resolving large numbers of mundane legal matters. The majesty of the law seems to be reserved for more serious and complex matters allocated to higher courts.

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shall not address the court at all. The jury is supposed to receive the cases solely from inside the court: from witness examinations, the barristers' closing speeches and the judge's summary.' See supra note 250, p. 372.

Based upon my analysis of existing research in the symbolism of English courts and my own observations, I argue that that the symbolic traditionalism of higher criminal courts keeps shaping the expectations that people bring to lower courts; these expectations tend to be more formalistic in nature. This is supported by findings of previous studies, which suggested that courts users in England have a dominant image of courts associated with the criminal trial and associate traditional images of courts with strong judges and a more inquisitorial nature of an open trial.[259] Previous findings suggested that civil litigants did not fully comprehend the burden that the adversary procedural model imposes on them, which would seemingly contradict my findings stressing people's greater expectations of active participation in procedure. However, I agree that English court users have a mixed expectation of the formality of court appearance, which, nevertheless, includes their feeling of entitlement to voice and participation. These mixed expectations of courts and their bureaucratic approach to the adjudication of small claim links them to the images of other state services, which allows court users to perceive them and deal with them in a more assured and informal way.

2. Russia

The ritual of public trial in Russian courts, on the other hand, is generally focused on the formality of legal procedure and a direct association of courts with state power and authority. While it can be said that courts in all countries are associated with state authority, Russian courts exemplify a strict civilian approach. Article 11of the Constitution of the Russian Federation states that courts of the Russian Federation promulgate state power.[260]

[259] W. M. O'Barr, and J. M. Conley, 'Lay Expectations of the Civil Justice System', *Law and Society Review*, vol. 22, no. 1 (1988), p. 141.

[260] The exact wording in translation: 'State power in the Russian Federation shall be exercised by the President of the Russian Federation, the Federal Assembly (the Council of the Federation and the State Duma), the Government of the Russian Federation, and the courts of the Russian Federation'. The Constitution of the Russian Federation, with the Amendments and Additions of December 30, 2008, Art. 11.1., available in English, accessed 25 November 2016, at http://constitution.garant.ru/english/.

They are seen as carriers of the judicial power, which is one of the powers of the state. This categorical difference in the source of law and justice in my opinion plays an essential role in shaping the message that Russian courts communicate to their users and, therefore, the overall perceptions of courts among the general public.

The official symbols of power required by law to be present in all Russian courtrooms are the flag and the coat of arms of the Russian Federation. The judges are required to wear black robes as symbols of power and respect towards the court. Judicial robes in my experience were worn only during official public proceedings, not during pre-trial sessions. Most of the judges that participated in my research wore special black robes in the courtrooms, in some small courts in Moscow the judges avoided that requirement during very short hearings or during court sessions held in the absence of the parties. The state regalia were present in most courtrooms and offices of the judges and usually included Russian and local flags, coats of arms, and quite often portraits of the president.

This outward display of state symbols sent a strong message of the courts being part of the state and fully endorsing and carrying out the ideological and political directives of the state. In contrast with the English lower courts, the idea of justice and law in Russia is directly linked with the state, which is seen as the source and enforcer of law, rather than an entity subject to the law alongside ordinary citizens. This inseparability of institutions of justice from the state apparatus goes to the very core of the idea of law in Russia, as people traditionally believe in the irreconcilable nature of pure justice and official justice of the courts, which is conditioned upon the interests of the state from the highest to the lowest levels. As it will become clear later in my dissertation, this inseparability of the process of justice from the interests of the state emerges as one of the main reasons behind the persistent lack of trust in the Russian institutions of justice. This also indicates a very particular approach to institutional use in contemporary Russia: it builds upon existing

memory of institutional use of Soviet institutions, yet adapts these existing techniques to the modern-day reality of growing legal needs of private business and property owners.

D. Conclusion

My chapter has illustrated that in both England and Russia the expectations of courts are shaped by existing images and symbols projected by the traditional images of courts. These traditional images are historically different in England and Russia; in addition, they are undergoing a transition towards more bureaucratic and low-key images of courts and their functions in people's lives. While this move towards a bureaucratic image of courts is identifiable in both countries, I would argue that the underlying expectations and preconceptions of English and Russian courts are substantively different.

The perceptions of English courts tend to be shaped by the traditional symbols of justice which come from the long history of the English legal tradition and are closely linked to the formality and ritual of the legal process. Having acknowledged that, my research shows a trend towards an even more complex separation of space in modern court buildings and an increase in administrative measures aimed at improving the efficiency of case management. These trends seem to be transforming the traditional image of English courts into largely bureaucratic agencies, where justice is reached in a mechanical and impersonal way. It may be that the traditional imagery of public courtrooms is being trivialised, but the contents of the myth of 'justice' seem to persist: the judges are separated from the public, and the rituals of justice seem to reinforce the respect towards and the historical continuity of legal institutions in England.

Russian courts, on the other hand, are seen as more closely associated with the power of the state. Russian lower courts maintain their tradition of strong attachment to state power both in the symbolism of court space and in the expectations that people have of the rules of

interaction with courts. Russian court users anticipate to deal with courts of Justice of the Peace as one of the bureaucratic institutions of the state, which is typically done in a personalized way, with the main effort being on maintaining outward formality, while internally relying on establishing relationships of 'understanding' and favouritism. This would suggest that traditionally the image of justice and its attributes in Russian society may be substantively different due to their close alignment with the image of the state. This brings me to the conclusion that the symbolism and the main attributes of justice attributed to English courts may not be as deeply engrained and internalized in the Russian society, despite its outward acceptance of the internationally accepted symbols and rituals of justice.

In closing, I would like stress a particular characteristic of the image of Russian courts, which is the lack of specific, clearly identifiable images that would separate them from other state institutions. Russian court buildings do not have a special place in the perceptions of Russian citizens; they blend in with the other state institutions. The tradition of courts in the Russian society shows that they are first and foremost seen as bureaucratic institutions, rather than institutions charged with responsibilities and the power of an independent agency. The image of courts in Russia conveys a message that justice is one of the public services of the state, which people are used to dealing with on an informal basis. My discussion also suggested that law as such has a very trivial place in the Russian society; moreover, it is seen inseparable and in fact subjected to the state authority.

Chapter V

Images and Visions of Courts in Society

Having discussed the symbolic meaning of physical appearance of English and Russian lower courts, I shall now turn to the investigation of larger images and visions of these courts in the Russian and English societies. The analysis of shared ideas and images associated with courts is one of the principal steps in my analysis of the attitudes towards legal institutions in England and Russia, as the study of perceptions of lower courts has to go beyond the examination of people's personal experiences in courts. It requires a detailed examination of the larger images and ideas of legal institutions that characterise the English and Russian legal cultures. This chapter will form the contextual background for my analysis of people's experiences in the English and Russian lower courts by identifying and comparing the main characteristics of more stable and generalisable images of legal institutions.

The existing preconceptions about institutions of justice are shaped by a complex set of factors, varying from traditional modes of interaction between people and state institutions to people's core understanding of the nature of law and its place in their lives. I will focus on three factors that shape images of legal institutions in Russian and English societies: the impact of legal traditions, differences in the legal procedure, and institutional images in the larger social discourse. This chapter is divided into three sections accordingly. The first section addresses the role of different sources of law in shaping people's perceptions of legal institutions. The second section examines the effects of dominant procedural models on the way legal institutions are perceived. The third section discusses the role that mass media play in constructing images of legal institutions in public discourse. My discussion below will incorporate findings of existing socio-legal research in the area of

English and Russian legal culture in order to draw conclusions about the role of large societal images in shaping people's interpretations of their experiences in courts.

A. Perceptions of Courts through the Lens of Legal Tradition

In this section I will examine how different elements of legal traditions shape people's perceptions of legal institutions among Russian and English court users. As a detailed comparison of Russian and English legal traditions is beyond the scope of this discussion, for the purposes of my dissertation I will focus on those aspects of legal traditions that can be seen as most influential in creating images of courts: perceived sources of law and procedural models.

Examination of characteristic elements of legal traditions and different paths of development of legal institutions in England and Russia offers a unique insight into how people see the law and legal institutions within these legal traditions. There is no legal system that in practice operates according to the principles of ideal types of legal traditions, with English and Russian legal systems not being exceptions. Having said that, some fundamental differences between the Russian and English legal traditions have to be considered in drawing an accurate picture of how courts in both countries operate and what images they project onto the broader society.

1. Sources of Law and Images of Courts

This section examines to what extent the idea of law as judge-made or legislator-made affects general public's images of legal institutions. One of my main contentions is that people in different legal traditions see the sources of law differently, and the resulting perceptions of the sources of law affect how people see and interact with legal institutions. I start this comparative discussion with a clarification of what English and Russian legal traditions accept as the source of law. I will proceed to examine how these sources of law

may affect the role and place of the judge in the courtroom, as well as people's perceptions of the main principles guiding the process of justice in their countries.

The founding principle of the English legal tradition is the concept 'legal precedent' - referred to as *stare decisis*, meaning 'to stand by things decided'. In the English legal tradition, judges are bound in their decisions by the rules and other doctrines developed, and supplemented over time, by the judges of earlier English courts. These precedents are maintained and historically documented over time. In other words, the law in the English legal tradition is born out of individual cases and applied to similar cases, or developed in distinction from previous cases. Main principles of this law-making tradition are common sense and the reasoning ability of the judge, who has either to find the most appropriate solution by using logic and reasoning accepted in contemporary society, or to apply decisions of previous judges guided by the notions of fairness and equality.[261]

This reliance on existing decisions and judge-made law in the precedent-based English legal tradition suggests that people are more likely to see justice and law not as something abstract and existing a priori, but rather as something negotiable, something born and reborn in the courtroom. This may be the reason why English court users put greater focus on the standards of legal procedure. With the source of law being in the individual decisions of previous judges, it would be reasonable to expect that the way judges reach those decisions is of great importance in the English legal tradition. As my discussion will illustrate, the common law tradition puts emphasis both on procedural standards leading to decisions perceived as fair, and on judicial independence. These principles guide the everyday organisation and operation of courts and extend into the cumulative ideas of justice and law shared in society.

[261] M.A. Glendon, et al., *Comparative Legal Traditions: Test, Materials, and Cases on Western Law,* 3rd Ed., (West, American Casebook Series, 2008); H. P. Glenn, *Legal Traditions of the World: Sustainable Diversity in Law*, 4th Ed., (Oxford University Press, 2010).

Research into the everyday life of English courts and particular images and perceptions of courts among the general public supports my main arguments. In her empirical study of how ordinary people experience courts in a variety of countries Marina Kurkchiyan observed that people expected the main guiding principle of the English court system to be common sense rather than law.[262] This observation may be linked to the natural propensity of people in certain countries to perceive legal institutions as trustworthy. Kurkchiyan's research showed that English people in general had faith in their legal system. 'They believed that they genuinely possess a degree of control over the regulation of their lives, and that they will be able to exercise that control if and when it becomes necessary'.[263]

Kurkchiyan pointed out that despite criticising law for being too soft and failing to pre-empt and punish unlawful activities, English people seemed to agree that courts and law in general have become more accessible in recent years: 'I think either rightly or wrongly that the law is available to a lot more people nowadays because of this no fee business and the fact that solicitors are allowed to advertise, so I think that more people now will go to the law than they did 15 or 20 years ago'.[264] The same respondent commented that court may be used too much due to this accessibility, 'people do tend to go to the law now with spurious complaints as they can see compensation at the end of it'.[265]

Kurkchiyan's research suggests that respondents in England associated 'law' with 'courts': when they referred to going to 'law,' they described interaction with courts. This supports my earlier suggestion that people in the England see courts and judges as main sources of 'law.' It could, therefore, be said that in the English mind-set law is seen more as the justice-making process in court rather than a legislative process.

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[262] Marina Kurkchiyan, 'Perception of Law and Social Order: a Cross-National Comparison of Collective Legal Consciousness', *Wisconsin International Law Journal*, vol. 29 (2011), p. 374.
[263] *Ibid*., p. 386.
[264] Guy, Focus Group 5, Bristol. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).
[265] *Ibid*.

Many focus group participants mentioned that despite the fact that the English legal system was getting more and more complicated in order to reflect the complex reality of English society, it still serves its purpose. Respondents suggested that the English legal system could not be characterised as black and white: while some problems were being solved and laws were more politically correct and aware of cultural diversity, there were cases in which the social or financial status of litigants seem to be above the law. 'If you have enough money, you can avoid punishment in some ways'.[266] Another respondent in a focus group commented: 'I mean, nobody should be above the law but unfortunately money does talk sometimes'.[267] This suggests that the general English public recognises the complexity of contemporary multicultural environment in the UK and recognizes and the need for courts to respond to it.[268]

In contrast to the English legal tradition, the Russian approach to law-making has been through considerably more complex radical turns and changes. In order to give an appropriate introduction to the Russian legal tradition it is important to stress the unique and mixed trajectory of its development. It can be said that at its current stage it has more in common with the continental civil legal tradition. However, the Russian legal tradition developed through a series of reforms aimed at transforming Russia into a more European state, which, in effect, interrupted its natural path of development. With the original Russian legal tradition being based on a combination of customary law with codified legal texts, such as *Pravda* and *Sudebnik*, formal legal text had not been central to decision-making until the reforms of the seventeenth century.[269] In its current form the Russian legal tradition operates

[266] Jeff, Focus Group 5, Bristol. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).
[267] Rachel, Focus Group 5, Bristol. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).
[268] Respondents in focus groups commented that they feel that law is 'catching up', especially in the area of tribunal development, protection in the workplace, anti-discrimination, etc.
[269] V.O. Kluchevsky, C.J. Hogarth, *A History of Russia*, Vol. I. (London: J.M. Dent & Sons, 1911), pp. 142-143.

according to the principles of civil law, with certain vestiges of socialist law, and a strong attachment to the state.[270]

To give a brief introduction to the main organising principles of the contemporary Russian legal tradition, I shall discuss the principal characteristics of the civil legal tradition that may affect how people perceive legal institutions in Russia. The civil law tradition, having its origin in the Roman law,[271]sees the legislator as the source of law and the judge as s specialist in its application.[272] Most areas of the Russian law are codified and call for strict interpretation. In interpreting the law, Russian judges aim to discover the original intention of the legislator, the authority of the state, which stems from Rousseau's theory that the State is the source of all rights under the theory of social contract. On the other hand, as Guchet pointed out, judges in common law jurisdictions, such as England, are guided by Hobbes's theory stating that the individual agreed to forfeit to the State only certain rights.[273]

These differences in the sources of law determine the role and the status of judges and legal professionals within the English and Russian legal traditions. The English system of justice puts emphasis on the professional experience of the judge, whose reasoning skills and knowledge of legal procedure are intended to guide him or her in reaching fair and reasonable decisions. The Russian legal tradition, on the other hand, envisions judges as

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[270] H. J. Berman, *Justice in the U.S.S.R.: an Interpretation of Soviet Law*, (Harvard University Press, 1963).

[271] The Corpus Julius Civilis is a four-part compilation of Roman Law prepared between 528 and 534 AD by a commission appointed by Emperor Justinian and headed by the jurist Tribonian. The Corpus consists of four parts: the Code (compilation of Roman imperial decrees issued prior to Justinian and still in force), the Digest (classical tests of Roman law composed from 1st to 4th centuries AD, arranged in 50 books), the Institutes (an explanatory text serving as an introduction to the Digest), and the Novellae (a compilation of new imperial decrees issued by Justinian himself); see A.N. Yiannopoulos, *Louisiana Civil Law System Coursebook*, Part 1, (Claitor's Publishing Division, Baton Rouge, LA, 1977), pp. 9-10. Civil law developed into Codified Civil law (e.g. French Civil Code of 1804) and uncodified Roman Law (e.g. Scotland and South Africa).

[272] R. David and J.E.C. Brierley, *Major Legal Systems in the World Today*, 3rd Ed. (Stevens & Sons, London, 1985), p. 94. French Civil law adopted Montesquieu's theory of separation of powers, in which the function of a legislator is to create laws, and the function of the courts is to apply them. Civil law doctrine derives 'from the disorganized mass (cases, rules, and legal dictionaries) the rules and the principles which will clarify and purge the subject of impure elements, and thus provide both the practice and the courts with a guide for the solution particular cases in the future'.

[273] Y. Guchet, *Le Pensée Politique* (Paris: Armand Colin, 1992), pp. 56-60.

professionals trained in the application of the law, as their main goal is to identify and apply the intent of the legislator. Therefore, it would be reasonable to say that English judges are seen inseparable from the very nature of law, and as such, they are not directly approachable by the public in order to safeguard their independence and anonymity. The judges in Russia, on the other hand, are not central to the idea of law; as their role is the application of the laws passed down from the state. They are seen not as sources of the law but as instruments of the state in the application of the law. Their image becomes more informal and bureaucratic, and procedural standards of their offices – more relaxed.

As it has been argued elsewhere, legal traditions of post-Soviet countries developed differently from the civil law tradition. René David suggested that the socialist legal systems possessed such originality that they could no longer be considered connected to Roman law.[274] It is, however, important to consider the legacy that this hybrid Soviet legal tradition left on the post-Soviet legal tradition. In its transition from the Soviet order, Russia attempted to create a legal system that operates according to the democratic principles of equality, fairness, human rights, and transparency; yet the path of this transition is heavily influenced by the legacy of legal instrumentality and direct dependence of legal institutions on the authority of the state. These characteristics of a traditionally centralised and authoritarian political order seem to persist in people's minds. The idea of courts being extensions of state authority rather than independent institutions may be too engrained in people's consciousness to change in a span of a couple of decades. These traditional preconceptions are also reinforced by the outward use of courts for political reasons.[275]

[274] R. David, Traité élémentaire de droit civil comparé : introduction à l'étude des droits étrangers et à la méthode comparative (Paris : R. Pichon : R. Durand-Auzias, 1950), p. 319. David suggested the following features as distinguishing socialist law from civil law: (a) socialist law is aimed at disappearance of private property and social classes; (b) a single political party dominates in socialist countries; (c) law is subordinated to creation of a new economic order, a process in which private law is absorbed by public law; (d) law has a religious character; (e) law is prerogative instead of normative.

[275] For a contemporary discussion of instrumental use of law in Russia see 'In Putin's Russia, Law is Only a Tool', *Khodorkovsky Institute of Modern Russia*, accessed 25 November 2016, at http://imrussia.org/en/events/343-in-putins-russia-law-is-only-a-tool.

The existing research into the images of law and courts in Russia largely suggests that they combine the outward instrumentality and formalism with the underlying reality of favouritism and informality. One of the most telling findings characterising the Russian legal culture has been its pervasive reliance on personal contacts and informal relationships.[276] Scholars have stressed that the long history of corruption and clientelism in Russia has created a unique approach to legal problems that is largely based on bribery and short-cuts aimed as circumventing the outward formality and inaccessibility of state institutions.[277] Research conducted by the INDEM Foundation supports the argument that Russians tend to associate all levels of courts with state power. Russian courts are not seen independent from the executive power of the Russian state, even though they are considered less corrupt then the Russian government in general.[278]

This historical association of Russian courts with the power of the state, combined with the traditionally negative image of the Russian state, has produced a widespread lack of faith in the law and legal institutions. Therefore, it is generally accepted observation that the modern-day Russian legal system is suffering from endemic 'legal nihilism'.[279]

To draw a conclusion from the impact of sources of law on institutional images, I would like to stress that by recognizing that the source of law lies in the legal process the English legal tradition puts emphasis on safeguarding this process from the interests of the state. The English system of justice emphasises separation of powers, independence of legal institutions, common-sense approach to adjudication, and adherence to procedural norms assuring equality and transparency of justice. In comparison, the Russian legal tradition stresses the centrality of state in creation and implementation of law, while legal process is

[276] M. Kurkchiyan, 'The Impact of Transition on the Role of Law in Russia', in F. Bruinsma and D. Nelken, (eds.), 'Explorations in Legal Cultures', *Recht der Werkelijkheid,* Special Issue (2007), 75-93
[277] *Ibid*., p. 77.
[278] 'Analyz Ekspertniykh Otsenok Sudebnoy Vlasti v Rossii i Transitnih Stranakh', Fond INDEM, Analytical Report, accessed 15 November 2016, at http://www.indem.ru/Proj/SudRef/AnExpOcOsDokl.pdf
[279] K. Hendley, 'Who Are the Legal Nihilists in Russia?' *Post-Soviet Affairs*, vol. 28, no. 2 (2012), pp. 149-186.

seen as a means of strict application of existing laws and principles. These core differences in the roles of legal institutions and their internal organisation create different procedural standards, which I will address in the following section of this chapter.

B. Procedural Models

Different concepts of the source of law in the English and Russian legal traditions shaped the respective procedural models by assigning different roles to participants in the legal process. This section discusses differences between the English and Russian procedural models, and how they affect the overall images of legal institutions in people's perceptions. The differences between the procedural models can largely be found in the roles that judges and parties play in the legal process, and in the procedural steps of case resolution. Below I shall briefly discuss how these differences can affect people's perceptions of courts and their overall attitudes to the justice system.

Previous research into the consequences of using adversarial or inquisitorial procedural model investigated the effects of procedural models on disputants' perceptions of procedural fairness.[280] The majority of these studies concluded that procedures that afford the disputants control over the presentation of evidence and arguments are seen to create perceptions of procedural fairness and provide greater satisfaction with the verdict.[281] This research stressed the difference in the dynamics of the relationships between the main participants of the legal process in the adversarial and inquisitorial procedural models.[282]

[280] N. L. Kerr, and R. M. Bray, eds., *The Psychology of the Courtroom* (New York: Academic Press, 1982), pp.14-15; citing J. Thibaut and L. Walker*, Procedural Justice: A Psychological Analysis* (New York: Erlbaum, Halstead, 1975); E. A. Lind, B.E. Erickson, N. Friedland, and M. Dickenberger, 'Reaction to procedural Models for adjudicative conflict resolution', *Journal of Conflict Resolution*, vol. 22 (1978), pp. 318-341.
[281] *Ibid*., p. 19
[282] *Ibid*., at 21, citing J. Thibaut, L. Walker, and E.A. Lind, 'Adversary Presentation and Biases in Legal Decision-making', *Harvard Law Review*, vol. 86 (1972), pp. 386-401; E.A. Lind, J. Thibaut, and L. Walker, 'Discovery and Presentation of Evidence in Adversary and Non-adversary Proceedings', *Michigan Law Review*, vol. 71 (1973), pp. 1129-1144.

1. Russian Procedural Model

Most trial courts in the United Kingdom and other common law countries follow what is termed to be the 'adversarial' or 'adversary' model of procedure, which follows the idea of a contest between two opposing parties before a judge, whose role is to moderate the proceeding. This model calls for certain roles and relationships between the individuals who are involved in the trial. It specifies, for example, that the investigation and presentation of evidence is done by the parties and their attorneys, and it encourages argument between the parties or their representatives over the meaning and accuracy of evidence presented to the court. Therefore, people's perceptions of courts in countries with 'adversarial' models of procedure are based on the expectation of the active participation in the hearing, and on the satisfactory judgments being closely associated with the parties' ability to make strong arguments.

According to the common law tradition, a judge assumes a relatively passive role of listening to the parties or their attorneys. The judge's main role is that of an arbiter who allows the parties to present their arguments and then reaches what is assumed to be the most reasonable and sensible solution. While this traditionally passive role of the judge applies to a greater extent to more serious cases in the Crown Court, in practice English judges assume active roles in the legal procedure in order to improve the efficiency of case resolution. This supports the argument that the traditionally accepted rules of litigation in the Anglo-American legal system have been evolving in the direction of 'managerial judging,' which can affect the way judges are perceived in the courtroom. 'Today's judges preside over caseloads many times the size of those of their counterparts of a half-a century ago, and involving a vastly larger range of issues and often considerably more complicated factual inquiries'.[283]

[283] C. M. Oldfather, 'Judges as Humans', in Lawrence Baum, ed., *Judges and Their Audiences: A Perspective on Judicial Behaviour* (Princeton: Princeton University Press, 2006), p. 219.

As a result of these changes, the nature of judicial tasks has evolved: trial judges no longer preside over trials; they tend to perform a more managerial role, which centres on the power and responsibility of the judge to move the case along and to promote settlement whenever possible.[284] It has been suggested that these changes in the very nature of the traditional concept of judging in the Anglo-American legal system have affected how judges perceive and perform their duties. They have resulted in the image of 'bureaucratised justice', driven by the goal of efficient time- and resource-management in the courtroom, rather than by the requirements of the legal process.[285]

In addition to the more prominent role of judges in the legal process, existing research in English courts has shown that the institutional images of courts are closely linked with the images of the judges. Looking at how the judges were perceived by ordinary people, Kurkchiyan found that English judges were often associated with power, great age, wisdom, but at the same time with a level of detachment from the interests of the general public.[286] In many cases the judges were seen as specialists in charge of managing other legal professionals in courts. One of the focus group respondents described his perceptions of the judge: 'I think he's like the trainer of the barristers because he makes sure that they do what they are supposed to do and they don't step out of line and makes sure that they give the right sort of performance for the jury, or that it's what he should be doing'.[287] Some respondents commented that despite their extensive experiences on the bench, the judges were not aware of the current problems in society. In relation to the magistrate's courts,

[284] *Ibid*., at 223, citing J. Resnik, 'Managerial Judges', *Harvard Law Review*, vol. 96 (1982), p. 376.
[285] See supra note 289, p. 223, citing Owen M. Fizz, 'The Bureaucratization of the Judiciary', *Yale Law Journal*, vol. 92 (1983), p. 1442.
[286] See supra note 69.
[287] Duncan, Focus Group 1, Camberwell. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).

focus group participants commented that they would prefer magistrates to be professional judges, rather than part-time unpaid non-professionals.[288]

The general consensus of the focus-groups was that contemporary English judges 'have lost the plot', they did not live in the real world and tended to have the 'the old British, old boys' type of mentality'.[289] In the discussion of my findings I shall investigate whether this detached, antiquated image of traditional English judges affects people's perceptions of courts and to what extent it makes courts seem more or less trustworthy.

2. English Procedural Model

The distribution of roles in the legal process and the procedural standards of Russian courts follow an inquisitorial procedural model. This 'non-adversary' model of most civil law countries is based on the investigation of a legal dispute by an important representative of the court, usually the judge, which considerably lessens the parties' control over what evidence is presented in the courtroom and over the interpretation of its meaning.[290] Judges in the civil law systems are expected to conduct trials by interrogating disputing parties and witnesses and being in full control over the presentation of evidence and arguments. Civil law focuses on rights and obligations, while common law aims to grant appropriate remedies in courts of appropriate venue. Therefore, civil law does not have a clearly defined system of remedies, and has to rely on the courts to choose or create an appropriate remedy, which becomes a responsibility of the civilian judge.[291]

It is generally accepted that neither the judges nor the court personnel can give legal advice to the people; yet, it is a common practice for the court to assist people with

[288] Anne, Focus Group 8, Leeds. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).
[289] Focus Group 6, Sheffield. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).
[290] See supra note 284
[291] W.W. Buckland and A.D. McNair, *Roman Law and Common Law: A Comparison in Outline*, 2nd Ed. Revised, (Cambridge University Press, 1952), p. 399.

procedural matters, as well as with clarification of legal aspects involved in their disputes. In fact, as it has been mentioned by the judges, they see it as their responsibility to help people in order to make the court work more efficient, to avoid unnecessary claims, and to educate the public about the work of their courts. These features of Russian court operation may be traced back to the historical origin of courts of Justices of the Peace as local institutions aimed at not only making justice accessible locally but also at educating the general public about the law and helping people resolve their disputes without filing a formal claim.

The subject of judicial position within the Russian procedural model deserves special attention. Whereas in the English legal system judges are usually appointed to their positions from among experienced practicing lawyers, in the Russian legal tradition judges are appointed directly after graduation from specialized schools or have background in administrative or policing agencies. In the civil law system, the judge's role is to establish the facts of the case and to apply the laws passed down by the legislators. Though the judge often brings formal charges, investigates the matter, and decides on the case, he or she works within a framework established by a comprehensive, codified set of laws.[292] In this tradition, Russian judges are trained to uphold the letter of the law and to exercise limited personal discretion in reaching decisions. While judicial discretion is not expected to be used in the Russian courtroom, the freedom to shape the trajectory of the case is much broader during pre-trial hearings, which are a common feature of Russian lower courts. I stressed the importance of pre-trial hearings in my earlier chapters, mostly due to the fact that they offer potential or current litigants direct and undocumented access to the judge who in the charge of their cases. The nature of the pre-trial sessions is informal as they are intended to settle the claims or to expedite their resolution. However, they breach the

[292] 'The Common Law and Civil Law Traditions', *The Robbins Collection*, School of Law, Boalt Hall, University of California at Berkeley, accessed 15 November 2016, at http://www.law.berkeley.edu/library/robbins/CommonLawCivilLawTraditions.html.

traditional understanding of ab impartial and transparent process of adjudication, and shift the focus of the legal process away from the public hearing.

The availability of these informal pre-trial sessions and open reception hours of the Russian Justices of the Peace is one of the main procedural and administrative differences between Courts of Justices of the Peace and English county and magistrates' Courts. This difference in procedural steps suggests that alongside the strict and formalistic approach to law it is quite common to see Russian judges having a more personal and involved role in the legal procedure that leads to the public hearing. As a result, Russian judges are seen accessible to the general public, which creates a number of problems related to their perceived corruptibility.

As it can be seen from my discussion, the Russian procedural model allows more personal and informal interaction among the main actors in courts. The absence of barriers between courts users and decision makers and the availability of pre-trial sessions creates an image of a non-transparent, informal legal process, in which the ability to establish rapport with decision makers is of greater importance than the ability to follow the rules of legal procedure.

Therefore, the main features of legal procedure in the Russian lower courts, which are the outward formality of the hearings, combined with the direct access to the judge and the informality of pre-trial sessions, offers support to the traditional notion of dualism of the Russian legal reality.[293] As it has been mentioned in previous research, under the outward formality of court procedure and strict application of the codified law, there is a world of informal relations based on favours and mutual understandings that Russian people have developed in order to deal with the apparatus of the state. This informal operation of state offices behind closed doors can also be attributed to the limited agency of court

[293] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia', *Wisconsin International Law Journal*, vol. 29, no., 2 (2011), pp. 233-62.

administration, which acts a barrier between the general public and decision-makers in the English courts. As it will become clear later in my discussion, these organisational differences that allow people direct access to the Russian judges seem to reinforce the existing historical problem of untrustworthy images of legal institutions in Russia.

The ability to create a relationship with the judge is not unique to Russia: litigants and legal professionals in common law countries generally become aware of the reputations of certain judges and can tailor their behaviour accordingly, legal representatives often establish relationships of familiarity with the judges. However, in the Russian case there are much fewer checks on the impartiality of the judge guaranteed by the court procedure, which in its turn makes the very nature of legal process different from its English counterpart.

Despite the recent suggestions that as distant as the civil and the common legal traditions are in principle, the reality of everyday court operation in both legal systems seems to share more similarities than differences, I argue that certain elements of these legal traditions shape people's perceptions of legal institutions differently. My later discussion will question whether recent reforms in the Russian court system aimed at increasing the accessibility and transparency of lower courts has in fact produced the desired effect in people's perceptions of lower courts. At the same time, while the English legal system has been evolving in the direction of codification and more managerial roles of the judges, have these changes affected the images of legal institutions in people's perception?

Therefore, the three main differences in people's perceptions of legal institutions that emerge out of my comparative discussion of respective legal traditions due to the differences in legal sources and procedural models may be summarized as follows: emphasis on different stages of case resolution, role of the judge in the hearing, and accessibility of the judge. The English procedural model emphasises the impartial and equal treatment of people in courts, with the hearings being the central and decisive stages of the legal process. This

procedural model sends a message of impartiality and independence of legal institutions, and judges in particular, who perform the function of discovery of justice through the legal process. The Russian procedural model, on the other hand, stresses the correct application of the law, with the bulk of procedural steps centered at the pre-trial stages involving direct contact between the parties and the judges. The hearing itself is seen as a formality, while the pre-trial process gives people a chance to create personal relationships with the judges, which emphasizes the duality of the Russian legal culture at the lowest level of court use.

C. Images of Courts in Public Discourse

In the following section of this chapter I examine the messages and images relating to courts that exist in the larger public discourse in Russia and England and their effect on the images of legal institutions in people's perceptions. The media can be considered one of the main sources of the general knowledge about courts among the public. The media has become a powerful means through which the symbolic images of law and justice, as well as the images of everyday operation of courts are conveyed to the public. Producing more realistic images of legal institutions may lead to more realistic expectations regarding the purpose and activity of legal institutions. 'The appearance of justice will affect public perception of the system's legitimacy. A system consistently seen as unjust will eventually lose the allegiance of its citizens. If people perceive the courts as less than fair decision makers, the moral force courts depend on to ensure compliance with decisions they make diminishes'.[294]

The complex nature of the relationship between the media and people's perceptions of legal institutions has been acknowledged in previous research. Austin Sarat suggested that 'the proliferation of images of law and legal process on television and film is a phenomenon

[294] See supra note 225, p. 785.

of enormous significance… While we know relatively little about how images of law on television and film are consumed by their viewers or about the impact of viewing those images on popular expectations about, and attitudes toward, law, we do know that popular culture has "invaded" law and reshaped some of its most fundamental processes.'[295] Clifford Geertz suggested that in film 'our gaze focuses on the meaning, on the ways … (people) make sense of what they do – practically, morally, expressively, … juridically – by setting it within larger frames of signification, and how they keep those frames in place or try to , by organizing what they do in terms of them.'[296] Therefore, in this section I shall discuss the main themes and observations put forth by the media coverage of the English and Russian courts. These themes reflect upon more generalisable images of legal institutions and on the preconceptions that ordinary people bring with them to lower courts.

1. Institutional Images in English Media

Recent quantitative studies conducted in the United Kingdom have linked the media to the personal levels of evaluation of the justice system overall. Reports indicate that TV/radio news was the most commonly cited sources of information about criminal justice system, 'about half' of respondents stated that they obtained most of their information about courts from TV documentaries, local newspapers, and tabloid newspapers.[297] Another UK study found that jurors in England and Wales reported that TV news (55%), drama/soap (49%),

[295] A. Sarat, ed., *Imagining Legality: Where Law Meets Popular Culture* (Tuscaloosa, AL: The University of Alabama Press, 2011), p. 1. For a discussion of the significance of images of law, see A. Sarat, at al., eds., *Law on Screen* (Stanford University Press, 2005). Studies that tried to evaluate the effect of popular images on perceptions of law are: A. Young, *The Scene of Violence: Cinema, Crime, Affect* (London: Routledge, 2009); J, Silbey, 'Truth Tales and Trial Films', *Loyola of Los Angeles Law Review,* vol. 40 (2007), p. 551; M. Asimov, ed., *Lawyers in Your Living Room! Law on Television* (Chicago: American Bar Association, 2009); K. R. Sherwin, *When Law Goes Pop: The Vanishing Line between Law and Popular Culture* (Chicago: University of Chicago Press, 2000); T. R. Tyler, 'Viewing CSI and the Threshold of Guilt: Managing Truth and Justice in Reality and Fiction', *Yale Law Journal*, vol. 115 (2006), p. 1050.

[296] C. Geertz, *Local Knowledge: Further Essays in Interpretative Anthropology* (New York: Basic Books, 1983), p. 232.

[297] *BME Communities' Expectations of Fair Treatment by the Criminal Justice System – Victims and Witnesses of Crime*, Ipsos-MORI, Criminal Justice System, Audit Commission (2003), accessed 25 November 2016, at https://www.ipsos-mori.com/Assets/Docs/Archive/Polls/cjs-report.pdf.

and newspapers (49%) were most influential in shaping their views of the court system. The education system was cited by 9%. Other sources of information included family (12%), fiends (18%), own experience (16%), and films (14%).[298]

Respondents in the focus groups conducted in England suggested that media and TV programmes influenced their opinions: '…I recall seeing things like exposé's and things like that on TV which shows what really goes on behind the scenes and how things really work, and even if you don't really believe it, it still makes you think well actually, I bet, everything is not as black and white as you think it is'.[299] People generally commented that they shape their general vision of the state of law and courts by hearings stories from other people in society and from stories they read in the news. Studies conducted in the United States have also investigated how court users described the sources of information about courts. Rottman suggested that media are among the leading sources, such as personal experiences in court, court experience of a family member, their lawyer, and court experience of a friend.[300]

While investigating all themes and narratives relation to courts in the Russian and English media coverage is beyond the scope of my research project, I was able to gain a general understanding of the main themes related to courts in these societies. A large number of legal dramas, reality TV shows, and films in the UK and the Western popular culture in general focus on showing the life of solicitors and barristers and emphasize particular rules of membership, formality of the protocol, and uniqueness of daily operation of these professions. The syndication of legal, police, and forensic dramas world-wide allowed a general viewer to construct a colourful image of the operation of criminal and

[298] *Ibid*., p. 32.
[299] Gemma, Focus Group 5, Bristol. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).
[300] D. B. Rottman, et al., 'Perceptions of the Courts in Your Community: The Influence of Experience, Race and Ethnicity', *Final Report* (National Center for State Courts, 2003).

civil justice mechanisms, in and out of the courtroom. The emphasis in those dramas is usually made on the formality of legal proceeding, including the dress codes; judges' authoritativeness, judging style and command of the courtroom; and specific language of the legal profession. One of the consequences of this glamorisation of litigation is the perceived centrality of trials both in fictional dramas and in court television programmes, mostly due to the camera's focus being firmly aimed at the courtroom. It has been suggested that such portrayal of court activity alters the way people perceive legal professions as well as legal process: legal profession is seen as more glamorous than reality, and people tend to form an impression the the main responsibility of courts is trial work.[301] Focusing on the trial, television programmes do not show the bulk of court cases that are decided out of the courtroom or in the judges' chambers. The resulting image is of the drama of the trial, which usually reflects the most important issues of our time or features famous people or exceptionally noteworthy cases.[302]

While the image portrayed in the media focuses on the main characteristics of the adversarial legal tradition, it also highlights what could be seen as systemic problems in the images of courts. English courts are often portrayed as archaic agencies in need of reform; they are said to be relinquishing the traditional symbols of wig and robe and moving towards statutory, or what is seen as more bureaucratic adjudication. Criminal courts are seen too lenient with respect to sentencing, civil courts - too complicated, expensive, and time-consuming.[303] English newspapers tend to criticize the Ministry of Justice for reforms aimed at reduction of governmental funding by closing and selling actual court buildings in rural England. They suggest that the need for justice in the UK has to be met by efficient work of

[301] D. A., Harris, 'The Appearance of Justice: Court TV, Conventional Television, and Public Understanding of the Criminal Justice System,' *Arizona Law Review*, vol. 35 (1993), p. 794.
[302] *Ibid*.
[303] For examples of news coverage related to courts see: 'Wigs off as Britain Ends Courtroom Tradition,' Thompson Reuters, 2007, accessed 25 November 2016, at http://www.reuters.com/article/us-britain-wigs-idUSL1287872820070713.

the Ministry of Justice, the main emphasis being on improving access to justice and efficient allocation of public resources.[304]

It is not surprising to see these trends reflected in sociological research. The focus group respondents also suggested that courts seemed to value efficiency, financial interests, and pragmatic concerns more than human life in sentencing. A number of comments were related to the perceived increase in laws that lead to prison sentences, which in effect resulted in overpopulated prisons and high costs for society. 'That's one of the problems why our prison population is bursting at the seams, because there's more and more laws that people can fall foul of and have to go to prison. It is why there is this leniency effect with a lot of prisoners because they want to get them in, get them done, and get them out as quick as possible so somebody else can go in because we haven't got enough prisons'.[305] This indicates that justifiable allocation of public funds and transparent operation of the system of justice are considered importance by the general public.

In conclusion, while English courts are seen as isolated and slightly obsolete institutions that segregate themselves from society in order to maintain the purity of legal profession and the unbiased nature of the legal process, they are not seen as ideal institutions. The efficiency of case resolution through the small claims track and simplification of the filing procedure seems to coexist with peoples' images of courts as detached, overly complex and bureaucratic machines that require substantial public funding. As large bureaucratic machines courts are not seen in touch with the real problems of the people. English judges are seen as reasonable and fair, but representing the top of a highly specialized and elitist group of legal professionals. Despite these criticisms, courts are seen

[304] M. Leftly, 'Court closures spark fears of 'justice deserts' in rural areas', *The Independent*, 20 April 2014, accessed 26 November 2016, at http://www.independent.co.uk/news/uk/home-news/court-closures-spark-fears-of-justice-deserts-in-rural-areas-9271504.html?origin=internalSearch.
[305] Nick, Focus Group 4, Bristol. *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).

to perform an important function in society; the issue of trust in the ability of the English courts to deliver justice is discussed mostly in the criminal context and in relation to acceptance of criminal justice authority. Trust in and legitimation of courts overall do not seem to appear as a problem or a general criticism of the English system of justice. English courts appear unnecessarily glamourised, yet necessary and functional agencies that suffer from organisational problems.[306] Therefore, people come to the English courts expecting institutions to which they feel entitlement as citizens. While English courts are not seen as ideal institutions, their legitimacy is not questioned.

2. Institutional Images in Russian Media

The Russian media also serves as one of the main sources of information about the Russian system of justice. Previous studies in Russia suggested that the media and film are commonly relied-upon sources that shape people's understanding of how courts operate. A recent study of attitudes towards courts of Justice of the Peace in Russia conducted by USAID suggested that as much as 32.5 per cent of respondents refer to TV programs as their main source of information about courts.[307] This study concluded that such programs not only do not represent the legal process in its real-life complexity, but put too much emphasis on the dramatic elements of legal procedure during the hearings, rather than on the pre-trial preparation, which was actually identified as the most problematic stage for court users.[308]

[306] For the criticism on archaic traditions in the English rituals associated with legal profession see: G. Bindman, 'On Becoming a Silk: Ritual, Restriction, and Royal Allegiance', *Open Democracy*, 22 May 2011, accessed 15 November 2016, at https://www.opendemocracy.net/ourkingdom/geoffrey-bindman/on-becoming-silk-ritual-restriction-and-royal-allegiance.

[307] Reality court TV programmes in Russia: (1) *Federalniy Sud'ya* on 'Perviy Kanal', (2) *Sud Idet* on 'Rossiya', (3) *Chas Suda s Pavlom Astakhovim* on Ren-TV, (4) *Chas Suda. Dela Semeyniye* on 'Domashniy', (5) *Sudebniye Strasti* on 'DTV', (6) *Sud Prisyazhnih* on 'NTV'.

[308] S. A. Kryuchkov, and M. U. Shevyakov, 'Otnosheniye Grazhdan k Deyatelnosti Mirovih Sudov', *USAID, Rule of Law Initiative*, Moscow, (2010), pp. 80-81.

The discussion in the Russian media mentions a variety of problems with the Russian legal mentality, the lack of trust toward courts being one of main concerns.[309] There is a general understanding that in order to obtain reasonably just decisions, people's interest has to seem insignificant enough not to attract the attention from above and to activate some form of prejudice or conflict of interest. While the media painted a sceptical image of courts, some of my respondents in Russia referred to TV programmes as informative in their personal decisions of coming to court and in their evaluation of potential outcomes of their claims. A respondent in Moscow commented: 'I saw people sue for emotional damages on TV, then I came to the judge and he told me I will not win the case and those cases are very rare'.[310] 'I saw an insurance case on TV in a court programme, I thought my case was similar', said a claimant in the regional city.[311] A regional Justice of the Peace commented: 'People see somebody win a case on TV, for example somebody hit another person and that person received damages for emotional suffering and loss of income, and something else on top. Then people come here and say, "I have seen it on TV, I want that too," it leads to a lot a claims that go nowhere.'[312] As it can be observed from these statements, most of the resulting expectations of courts are unrealistic; yet it can also lead to the conclusions that Russian court programs have a direct effect on shaping people's expectations of the courts.

Some of my respondents in Russia mentioned that the general image they had from the media was of people being able to actively participate in court hearings. In a divorce case I heard a comment: 'But on television all people are allowed to speak in court, why couldn't I speak?'[313] Another litigant in Moscow commented: 'I was expecting something different,

[309] '*Doveriye k Sudam'*, ('*Trust toward Courts'*), Radio 'Echo Moskvi,' 15.02.2010. Similar discussions can be found on Radio Svoboda, RIA Novosti, and other publications. See: 'Fair Trial Not Likely for Average Person, Russian Say – Poll,'; 'Russia's Courts, Judges Struggle to Win Public Trust – Poll,' accessed 26 November 2016, at http://en.ria.ru/.
[310] Respondent 9, MC.
[311] Respondent 11, RC.
[312] Judge 1, RC.
[313] Respondent 3, MC.

something like in the court programmes, where the judge asks and you can explain'.[314] While specific TV programmes were not mentioned in many interviews, it could be argued that they have an overall aggregated impact on shaping people's expectations of courts.

While it is clear that the media shape people's images of legal institutions, the messages of the Russian media seem to be mixed. On the one hand, people see the dramatic image of courts with the emphasis on the centrality of the trial and a possibility of obtaining various remedies. These messages can be argued to lead Russian people to expect more active roles in their hearings; this also reflects on the global spread of Western court programmes and popular images of the Western style of adjudication. On the other hand, the Russian media send a strong negative message about high levels of corruption and lack of trust in the legal system in Russia. Sensationalising the instrumentality of courts in Russia has become a general thread in the media coverage of large trials. The resulting image of courts is complex: they are part of the everyday reality, yet they are seen as intrinsically flawed.

Therefore, the images of courts in the media and the general popular culture have a major role in shaping people's expectations of legal process in courts. The images and symbols of state power conveyed by the Russian media reinforce the already existing ideas of courts being a part of the state apparatus. Russian courts are seen as bureaucratic institutions ridden with the traditional problems of centralized state authority. English courts, on the other hand, are seen as elitist institutions distanced from the everyday concerns of ordinary people. The direct link with the power of the state is not a principal characteristic of people's expectations of English courts. Ordinary English citizens see them as traditional institutions upholding the principles of justice and common sense, but doing so in an archaic manner. English courts are portrayed as part of a bureaucratic machine of the

[314] Respondent 17, MC.

state overseen and operated by a highly specialized, privileged, and rather narrow group of legal professionals. While English courts are not seen as perfect, they are generally trusted by the public.

Concluding this discussion of the effect that the media have on the general public's attitude towards courts in England and Russia it is necessary to say that due to the globalization of mass media and the instant access to international news and entertainment, certain similarities in images of legal institutions are unavoidable. In both countries people see the glamorized version of courts with the focus being on the drama of the trial and personal stories of the parties. Russian courts seem to be acquiring a more Western image of centrality of trial though the work of the media. This image is rather new and may create expectations of active participation in the hearings as well as standards legal process that do not exist in the Russian courts.

D. Conclusion

As can be seen from my discussion, images of courts are connected to a variety of ideas and visions existing in larger societies. This chapter was focused on the three main shaping forces that affect what people know and think about institutions of justice. I have examined how different elements of legal traditions affect institutional images; how different procedural models affect people's perceptions of legal institutions; and how images created by the media in England and Russia shape people's expectations of and preconceptions about legal institutions. Understanding what people expect from legal institutions in England and Russia will help me in the evaluation of my findings in later chapters and will show to which extent people's experiences are different form their expectations.

Taken together, the differences in preconceptions and personal experiences in lower courts will help me paint a more complete picture of how images of institutions of justice are shaped, and to identify conceptual differences between the images of courts in England and Russia. Firstly, due to the different concepts of the source of law, people in England and Russia have different perceptions of the origin of law. As a result, they assign different roles to the main legal actors in their respective systems of justice. In England, judges have traditionally been seen as decision- and law-makers, which is supported by the procedural and administrative separation of the judge from the court-users, and his adjudicative, rather than inquisitorial role in the courtroom. The Russian concept of law, on the other hand, is seen as something formal, created by the state and passed down to courts in order to be enforced by the judges. As a result, it trivializes the image of the judge and the operation of courts in general.

The procedural models I described, despite certain similarities in the area of adjudication of small cases, are important elements of the legal traditions that shape the operation of courts and their perceptions among the general public. The direct access to Russian Justices of the Peace creates a unique stage of case resolution that allows Russian court users to shape the trajectories of their cases through direct interaction with the judges. This creates a different way that Russian court users see the process of justice unfold. The focus is not on the hearing and procedural accuracy, but on the pre-trial sessions and people's ability to establish certain understanding with the judges.

My final observation is that despite the fact that the majority of cases both in England and Russia are heard in the lower courts, people's images of courts in general are dominated by the images of higher and more formal courts. Therefore, people come to lower courts with expectations of procedural standards and symbolic images that largely come from the courts that deal with more significant and usually more controversial cases. This observation

is important for two reasons: first, it tells us that people are not familiar with the trivial side of justice, which can lead to disillusionment in the courtroom; second, the way that the courts treat controversial cases and cases involving public figures is important in shaping how people see all institutions of justice in their countries. If higher courts do not respect equality and independence of justice from financial or political pressures, this image is likely to extend to all levels of courts, regardless of the actual levels of corruption or favouritism.

In summary, English courts overall are perceived as more traditional and historical institutions. They are seen as professional organisations, maintained by the state, but having internal integrity and independence from the government. English people see courts as services to which they are entitled, similar to health services. English courts are not seen as ideal institutions responding to all problems of society. However, while being criticized for excessive bureaucracy, inefficiency, and distance from everyday problems of the general public, they are seen as providing necessary, reliable, and overall consistent services. English legal professionals have a strong and traditional image, largely identified with the image of the courts: judges and legal counsellors are seen to belong to a narrow, elite circle of professionals, who are, however, not linked to the power of the state to the degree that can be observed in Russia. The emerging image of courts is complex and will become clearer after my discussion of people's individual experiences in courts.

The examination of general images and ideas about Russian courts suggests that people tend to associate them with state institutions, and even more so with the law enforcement institutions. This association in people's perceptions means that they attach to courts the distrust and scepticism which traditionally characterise Russian attitudes towards state institutions. Russian courts do not project an image of professional institutions, they are seen part of the larger state apparatus, which is considered biased and corrupt, serving the

needs of the state without any checks on state power. The image of Russian courts is intrinsically politicised. Having said that, Russian lower courts are perceived as accessible institutions, which may be due to a long tradition of dealing with state institutions on the basis of favouritism and personal connections.

My discussion illustrates that the aggregate impact of general knowledge about courts, coming from such sources as traditional roles of courts in society, expectations of legal procedure and remedies created by the media shape expectations of individual court users. These preconceptions are activated when people have to deal with the lower courts personally. The following discussion will investigate how these expectations come into play with people's perceptions of their experiences in the English and Russian lower courts.

PART III

This part of my dissertation investigates how experiences of ordinary citizens in the English and Russian lower courts shape their perceptions of legal institutions. In the following chapters I will reflect on the complexities of people's personal experiences in Russian and English. This part follows a logical progression from the larger social contexts that create people's expectations of courts to the elements that shape people's first-hand experiences.

I start with the analysis of the interaction between court users and court administration. Court administration plays one of the most active roles in creating images of legal institutions as it brings the institutions of courts to life. The next chapter addresses people's experiences in the courtrooms, which incorporate a variety of elements, with main emphasis being on people's perceived ability to voice their grievances and participate in the legal process. The following chapter examines how people's perceptions of legal professionals shape how people perceive legal institutions. In this chapter I discuss the roles of judges and legal counsel in people's everyday experiences in lower courts. The last chapter in this section addresses people's perceptions of the outcomes of their cases, and the extent to which these evaluations participate in creating the overall attitudes towards institutions of justice.

In this part I intended to analyse my finding in light of the existing literature on the Russian and English legal cultures and the themes that I identified in the previous part of my dissertation in order to draw a detailed and multi-faceted image of the process that leads people to hold certain attitudes towards institutions of justice in their countries. My aim is to develop a better understanding of the internal logic of the processes that shape people's perceptions of legal institutions in different legal cultures.

Chapter VI

Administrative Models and Perceptions of Courts

This chapter looks at the role that the interaction between court users and the machine of court bureaucracy plays in creating people's perceptions of institutions of justice. From the moment when people decide to initiate a case and throughout the process of justice in lower courts, the machine of court administration guides them through the maze of formal rules and procedures, as well as gives legal institutions a human image. The way that the bureaucratic machine of court administration sees and performs its roles in the lower courts in many ways determines how people see the courts themselves.

The interaction with court administration consists of a number of interconnected processes, most prominent of which are: direct or indirect communication between court users and court administration, exchange of information about court organisation and procedural steps, and facilitation of the legal process during the preparation and hearing phases. I will analyse people's experiences in the English and Russian lower courts from these perspectives: each section will look at various modes of communication between court users and court administration, the role of technology in this process of interaction, and the roles that court administration plays in procedural facilitation. Therefore, broadly speaking, this chapter investigates different ways in which court administration is organized, the different roles it performs, and the impact of these factors on people's overall attitudes towards institutions of justice.

A. Interaction with Court Administration and Institutional Image-building

This part of my discussion looks at the patterns of interaction between court users and court administration at the earliest stages of court use. My findings suggest that the way people see courts and envision the process of justice depends on the information they have

about the lower courts, and whether this information can help them in their experiences. In this section I attempt to bring to light differences between the approaches of court administrations in the English and Russian lower courts to their roles of guiding court users. I argue that these differences in the responsibilities of court administration lead to different perceptions of the institutions of justice overall.

I approach the impact of communication with court administration on the overall images of legal institutions from two perspectives: to what extent court administration provided helpful information and guidance, and how this interaction made people feel in the legal environment. Studies have shown that the availability of information outlining court procedure, necessary forms, and standards of relevant documentation, as well as general information about courts could potentially have positive effect on people's experiences in courts in general.[315] It has also been suggested that helpful information about courts is more likely to create realistic expectations of how courts work and lead to higher levels of preparation, which in their turn are more likely to result in higher levels of satisfaction with experiences in courts. Misconceptions about realistic outcomes have been linked to lower levels of confidence in the system of justice overall.[316] Higher levels of preparation as a rule indicate that people had had access to the information which allowed them to form more realistic expectations from lower courts.

[315] B. Chapman, et al., 'Improving Public Attitudes to the Criminal Justice System: The Impact of Information', *Home Office Research Study 245*(Development and Statistics Directorate, London), July 2002. For further discussion see M. L. Ambrose, R. L. Hess, & S. Ganesan, 'The relationship between justice and attitudes: An examination of justice effects on event and system-related attitudes', *Organizational Behavior & Human Decision Processes,* vol. 103 (2007), pp. 21-36, who suggested that informational justice is important in predicting overall attitudes towards organizations because it reflects the fairness of the explicit explanations and justifications provided about decisions; therefore, it is not information about specific events, but about the rules that govern the relationship between people and institutions.

[316] C. Mirlees-Black, *Confidence in the Criminal Justice System: Findings from the 2000 British Crime Survey*, Home Office Research Findings No. 137 (London: Home Office, 2001); K. Jansson, *Public confidence in the Criminal Justice System – findings from the Crime Survey for England and Wales (2013/14),* Ministry of Justice, 2015, accessed 25 November 2016, at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/449444/public-confidence.pdf.

1. England: the machine of court administration

The administration of English courts is officially handled by Her Majesty Courts and Tribunals Service, which provides support with the administration of justice in all courts in the UK.[317] As it has been mentioned in my general introduction to legal institutions in Chapter III, English court administration has an image of a well-staffed and organized agency that strives to make the work of courts more efficient. It is charged with communicating with court-users, providing necessary information, and handling most of case-related paper-work. A sample Combined Court Centre used in my research had a staff of 60 administrative officers making the work of twelve judges possible. The interviewed English judges expressed praise for the general system of court administration in England; admitting that it was not perfect, they commented that it was functional and helpful: 'I think our courts are very well organized, not many people know how much work is done behind the scenes'.[318]

As I described earlier, English county and magistrates' Courts seemed to work like well-oiled machines with the roles of members of court administration and legal profession clearly delineated: ushers managed the flow of litigants and public in and out of the courtrooms, court clerks assisted the judges with details of case files, printed out documents and distributed final judgments, while court administration officers worked behind the scenes preparing cases for hearings and communicating with litigants. The allocation of space in the English courthouses reinforced this image of courts operated by numerous members of court administration, rather than by the legal professionals. The common public areas of all English courts used in this research were equipped with information desks,

[317] 'HM Courts & Tribunals Service works with a range of Government departments and justice agencies to ensure access to justice is provided in the most timely and effective way possible', Her Majesty Courts an Tribunals Service, accessed 26 November 2016, at https://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about.
[318] Judge 5, RE.

where people could ask about the claim-filing procedure and any relevant documentation. This clear separation of space, enforced and regulated by court administration, made only certain areas open to the public, while judicial and administrative offices were located in security-protected areas of court buildings. While the democratic nature of this segregation of space is arguable, it is clear that it affects the way people experience courts.[319] One could get a sense that court administration served to physically direct the flow of people inside court buildings, as well as to coordinate court users' legal matters towards decision makers. The administration seemed in effect to occupy the space between the court-users and the decision-makers.

These efforts by the English court administration created a general understanding that if a court user had a question, it would be answered. This message was easily traced in court buildings, regardless of people's actual efforts to obtain helpful information. It was evident that the general availability of printed information prepared by the Ministry of Justice had a formative effect on the images of courts in England.

a. Interaction with Court Administration

Interaction with English court administration emerged as an indispensable element of people's experiences in courts. My discussion approaches interaction with court administration in terms of the effect it had on people's experiences in courts. When a court user walks into a court building of a county or magistrates' court, he or she is bombarded with posters, flyers, and leaflets outlining different court procedures, offering support lines and free advice by numerous public organisations. English lower courts are operated by specialized officers of court administration whose duty is to answer informational enquiries, with most of the supporting information available in the form of printed leaflets and brochures.

[319] L. Mulcahy, *Legal Architecture: Justice, Due Process, and the Place of Law* (Routledge, 2010).

People's interaction with English court administration was generally described as positive and helpful: 'I called to ask about the documents I needed to prepare for the hearing; the customer service officer was very helpful, but I still thought that I did not have everything necessary', commented a small claim litigant in London.[320] 'Everybody here was very helpful, they told me to see the duty solicitor, so I had to wait, but everybody was polite', said a respondent in an eviction case in London.[321] There was a general atmosphere of customer orientation.

However, despite this helpful image of administrative staff, English court users often commented that they were confused by the abundance of information available in courts and by the complexity of the legal language. The mere availability of printed information did not mean that people were able to understand it. 'It is quite intimidating to file a claim for the first time; I looked on the web-site of the court for advice', said a litigant in a London court.[322] 'This is my first time filing a claim, so I asked my colleagues whether it was worth bringing this matter to court at all, was it worth the trouble…'[323] said a respondent in a debt repayment case in a regional city. 'It was hard to understand what to do in my case, there is a lot of information, but it is very confusing', commented a claimant in a breach of contract case in London.[324]

English court users commented that the amount of legal English in court-related information and correspondence confused them and added to the feeling of uncertainty: 'I was confused with the special words they used. You sometimes feel like you need a dictionary to understand what you need for your case'.[325] For somebody who comes to court

[320] Respondent 13, LE.
[321] Respondent 16, LE.
[322] Respondent 11, LE.
[323] Respondent 6, RE.
[324] Respondent 14, LE.
[325] Respondent 5, RE.

for the first time, it is very confusing; the language itself is difficult to understand'.[326] These initial concerns mentioned by my English respondents related to courts being highly specialized agencies that required specialized knowledge of legal English.

Therefore, my findings suggest that English court users consider the clarity of information, rather than its abundance helpful in dealing with courts: 'I had all the details of how to file and what documents to prepare, but you really never know if you have enough information or if you understood it correctly. It is overwhelming to make sense of it all'.[327] 'We called the court a number of times to make sure that we understood the steps correctly'.[328] Another respondent in a regional city commented: 'You receive letters from the court saying what you need to send back and by what deadline; but it is very easy to miss something important'.[329] 'I had an idea of how to file, but then every case is different, so I may need different documents or something that I do not even know I need. It is hard to know when you prepared enough', commented a respondent in London.[330] 'If you do not have legal education or have never been in court before, it is difficult to know what is important'.[331] The information that people found helpful was related to simplifying legal English and making the procedure and legal requirements of filing claims clear and comprehensible to most ordinary people.

While the availability of information provided by the court administration created a rather positive sense of guidance for me as an outsider, English court users referred to it as too complicated to deal with. 'It is difficult to find your way: a lot of information and a lot of things you need to do, but I just felt overwhelmed'.[332] The overwhelming feeling of

[326] Respondent 7, RE.
[327] Respondent 18, LE.
[328] Respondent 17, RE.
[329] Respondent 13, RE.
[330] Respondent 15, LE.
[331] Respondent 8, LE.
[332] Respondent 23, LE.

uncertainty in a new legal environment was described by people who were inside the court buildings trying to determine the most appropriate way of dealing with courts. 'I feel like I am lost here,' commented a claimant who came to the county court to enquire about his claim.[333] It was evident that despite the availability of information in English courts, users of lower courts expressed a general feeling of uncertainty about their level of preparation, which is considered one of the most difficult stages in people's experiences in courts. As I mentioned above, the bulk of information aimed at helping English court users make sense of their experiences in courts reached them in a printed form, with a few exceptions of personal consultations by court administration.

In summary, the English court administration projected a customer-oriented image of helpfulness and availability. This image was supported by the abundance of printed information freely available to court users, who generally felt positive about using court services. This positive aspect of the overall image of court administration was counteracted by the confusing nature of legal English and the intimidating atmosphere of legal settings.

b. Technology and Images of Courts

This section looks at the how the image of lower courts is affected by people's interaction with the digital aspect of court administration. The technological element of the administration of justice is used as a means of communication with court users, and as a method of filing claims and checking case updates. It has become of the main sources of information about courts, as well as a way of giving courts a virtual identity.

Technology has become an active participant in the process of justice administration in English courts. It has blended into the process of communication with courts, into the distribution of information about courts, and into the very process of adjudication. The

[333] Respondent 14, RE.

Internet seems to have taken an important place in the chain of information exchange and in the process of case resolution. This leads me to an important observation that in a growing number of small claim cases in England the virtual interaction with courts has replaced the need to appear in court in person until the actual hearing, or in fact ever, if the hearings do not need to take place.

Despite the abundance of communication channels and the availability of information about court activity, court users without prior legal experience tend to perceive this information as confusing and complicated, which seems to add stress and uncertainty at the stage of case preparation. Technology is seen as an integral part of the daily court operation of the English lower courts, which does not seem to disadvantage any court users, as the Internet is widely used in England. Technological advancements adapted for court needs contribute to making the process of justice appear more user-friendly and seamless.

In addition to the numerous ways of simplifying the filing procedure and replacing direct interaction with the courts, the Internet has given them a 'virtual face' via individual web-sites with contact information and working hours. These websites are maintained by the central agency affiliated with Her Majesty's Courts and Tribunals Service. An important feature of the online activity of these courts is that all maintenance and updating activities are done by the court administration rather than the judges. As it will be seen in my further discussion, this is a stark difference from the practice in the Russian lower courts. This supports my earlier observation that the responsibilities of English court administration seem to be comprehensive, encompassing most communication with the general public out of the courtroom, as well as in the courtroom. This gives English court administration the visibility and presence that allows people to see it as the main participant in the process of justice.

Besides the online tools that facilitate initial stages of case resolution, technology is widely used during the hearings: evidence can be given by video-conferencing, necessary

information can be immediately obtained over the telephone or the Internet; decisions are printed, signed, and distributed on the spot. Technology is used to make justice seem immediate, efficient, and user-friendly. From the perspective of an observer, technology seems to blend smoothly into the everyday operation of lower courts. The resulting image of lower courts seems to contradict the overall idea of courts being distant and impersonal.

An important conclusion that can be drawn from the above discussion is that English court administration considers itself responsible for providing necessary information and communicating with court users at all stages of the legal process. These roles and responsibilities of the English court administration appear to be well-developed and compartmentalized, which places it in the forefront of the image of courts themselves. My findings also indicate that English court users tend to rely on written forms of communication with the court, and expect that the 'court machine' would take care of all relevant aspects of justice administration in their cases.

An even more important observation is that English court users considered information about court as their right and did not question the very nature of the service providing them with it. One of the roles of court administration was making sure that these rights were observed and respected. Respect of court users' rights was therefore seen as one of the services provided by the English court administration and by English courts in general.

This supports findings of previous research suggesting that the availability of accurate and clear information about courts is one of the leading factors that shape people's

perceptions of legal institutions: it helps people gain a better understanding of their cases, to feel a certain sense of control over their relationship with the court.[334]

c. Procedural Guidance and File Preparation

Creation of a case file is a crucial stage in case preparation. To what degree can English court users participate in file creation, and to what degree the paperwork and file-creation process shapes their images of courts? In the common law tradition, case file is where arguments are guided and developed in light of the legal discourse related to the facts of the case.[335] The file work is consequently seen as routine compilation of relevant documents, involving a degree of creative engineering, brainstorming and certain time flexibility.

As most cases heard in the English lower courts do not involve professional legal assistance, members of court administration tend to be in charge of creating and maintaining case files. The majority of English litigants participating in my research had a rather limited role in creation of their files: they provided documents required by the court, usually keeping a copy of all statements and materials for themselves in order to prepare for the hearings. Case files in the traditional sense of being the collection of all necessary documents prepared and checked by attorneys did not feature in most of the cases that I observed. Judges were given specific case-files scheduled for their dockets by court administration on the day of the hearings; this allowed them ten or fifteen minutes to review the facts of upcoming cases and prepare for the hearings. Litigants themselves had a vague idea of the contents of their files, with the exception of the documents they had provided

[334] J. A. Colquitt, D. E. Conlon, M. J. Wesson, C. O. L. H. Porter, and K. Yee Ng, 'Justice at the millennium: A meta-analytic review of 25 years of organizational justice research', *Journal of Applied Psychology*, vol. 86, no. 3 (2001), pp. 425–445.
[335] H. P., Glenn, *Legal Traditions of the World: Sustainable Diversity in Law*, 4th Ed., (Oxford University Press, 2010).

personally. 'I have copies of all the documents, just in case, but I sent everything to court, I just hope that it's enough', said a respondent in regional city.[336] An average English court user in a small claim court seemed to fully rely on court administration to collect and maintain necessary paperwork in their cases. As one of my respondents in London commented: 'I have tried to collect all the documents that the court requested; they know better what they need'.[337]

Even though English courts users in most cases did not have direct contact with their case-files, the formality of paperwork and the importance of exact wording in legal documents were understood and appreciated. 'It took me a long time to work out the wording of my statement, it is very important that it is written correctly', commented a claimant in the regional city.[338] Some of my respondents referred to the difficulty of finding the correct wording to describe their case in the most favourable and appropriate way. In some cases the judges were frustrated by inappropriate or unprofessional wording of official statements submitted by the parties, which made the parties feel inadequate. This may suggest that the paperwork and the ability to master legal English in the way that would match acceptable standards were considered important in dealing with the English lower courts. In the cases where litigants managed to understand legal English and feel more comfortable about the formalities of legal procedure, they tended to feel more positive about their experiences and about the courts overall.

In cases where legal assistance was involved, it was more obvious that litigants paid special attention to the procedural requirements of the lower courts: court users referred to the difficulty of drafting statements with their attorneys, or the relief they felt after their attorneys took over the formal stage of case preparation. 'I found a good solicitor; this

[336] Respondent 9, RE.
[337] Respondent 14, LE.
[338] Respondent 9, LE.

helped a lot. We had to rewrite our statement many times, but he made sure that it was correct', commented a claimant in the regional court.[339] Therefore, it could be said that English court users associated their experiences in lower courts with the formalistic and bureaucratic nature of traditional legal procedure. Bringing their claims to the required level of preparation and wording was seen an essential strategy of dealing with courts. My observations also support the argument that people feel more satisfied with their experiences and more positive about the institutions of justice overall if they feel that they had all the necessary information that allowed them to understand their cases.[340]

d. English Court Administration: final comments

To summarise the most important observations from the way English court uses see the role of English court administration, I would like to stress five factors. First, English court administration is responsible for communicating with court users at all stages of the legal process. Second, this communication is handled in a technologically streamlined and customer-oriented manner. Third, the English court administration is responsible for case-file preparation and maintenance. Fourth, these multiple roles of the English court administration create a functional barrier between court users and the judges, which safeguards the principles of due process and judicial independence. Fifth, the aggregate activity and resulting presence of the court administration makes it an essential part of the overall process of justice and the image of legal institutions. This association of courts with extensive and reliable court staff creates an image of courts as largely administrative institutions, where the process was justice consists of a number of set rules and procedures largely out of people's control. For these institutions to function, court users need to possess a reasonably high level of trust in the court administration and the institutions of justice themselves..

[339] Respondent 6, RE.
[340] See supra note 335.

2. Russia: chasing justice in the corridors of power

The following part of this chapter will discuss the main features of the administrative organisation of Russian lower courts and how they affect people's perceptions of their experiences in courts and overall images of legal institutions. What has emerged as a well-defined institution aimed at facilitating the work of courts in England will be contrasted with the administrative model of the Russian lower courts.

As I stated in the institutional introduction to the Russian lower courts in Chapter III, due to the limited administrative staff of these courts, most of the administrative duties of day-to-day operation fall on the judges themselves. With the Russian court administration in this limited form, Justices of the Peace are also responsible for personally guiding litigants through the process of case preparation during the pre-trial sessions. As a result of this judge-centred institutional structure it can be said that the institutions themselves are largely associated with the judges, rather than with the administrative apparatus, as we have observed in the English case.

Judicial centrality to the image of lower courts in Russia is supported by my earlier observation that the process of justice in Russian lower courts is extended from 'a day in court' to a period that consists of a number of pre-trial meetings, which eventually conclude with the announcement of the decision during the hearing. At all stages of this process the judge acts as the principal point of contact for court users, while the court administration assumes a supporting role in sharing the totality of duties and responsibilities of these institutions of justice.

As I described in the institutional introduction, preparation for cases in the Russian courts of Justices of the Peace generally consists of private meetings with the judge, during which he or she can advise potential claimants on the strength of their claims, procedural

steps for filing, and required documentation. Pre-trial sessions take place in the offices of the judges; they are not considered formal stages of the proceedings, and therefore, are not recorded. After a claim has been filed, they are noted as pre-trial meetings, but no formal transcripts are maintained.

My interviews and observations in courts suggest that most of my respondents took advantage of this direct access to the judge. As one of the respondents in the regional city commented: 'I came to see the judge two times: the first time he looked over my petition to make sure I had everything right to start the claim - the documents I needed. The second time, we looked at the answer from the other side. I think it was very important, I had some kind of idea of how my case would go'.[341] A litigant in a property division case in a regional city stated: 'At first the judge tried to talk me out of filing a claim: it is a family issue, he said it would be better to settle it by ourselves. But I see no other way here, so I filed anyway'.[342]

What was normally discussed in these sessions? The judges stressed that during the pre-trial meetings they could comment only on the procedural steps and evidence required for filing claims in their courts. As a regional judge stated: 'I cannot give legal advice; but I can try to talk to the people and see if their problem can be solved out of court. It is my duty to try and prevent the claim'.[343] Further conversations with the judges and claimants suggested that standard pre-trial discussions of potential claims involved both legal and procedural advice, mostly because people struggled to separate the substantive and procedural elements of their claims from the emotional side of their arguments. One of the judges in Moscow commented: 'Sometimes you have to explain to people in plain words

[341] Respondent 11, RC.
[342] Respondent 9, RC.
[343] Judge 2, RC.

that they do not have a claim here, or that they will not win just because they feel strongly. We have to educate people'.[344]

From the perspective of court users, pre-trial sessions were considered important in helping them navigate through the uncertainties of the legal process. As a claimant in a regional city stated: 'It is good that you can talk to the judge; at least, you understand your case better and know what to do. The judges can tell you how it is'.[345] Another claimant in Moscow described his meeting with the judge: 'He tried to talk me out of going to court; he said that it would be difficult, and I would not get as much as I want. But I have to do it; so he said that I need to think it over, come back, and then he will explain which documents I need to gather'.[346] From these and similar statements we can see that the judges perform multiple functions in the Russian courts of Justices of the Peace: they listen, advise, educate, manage the timing and preparation of cases, all of which is done while formally upholding the black letter of the Russian law. They are seen as 'one-stop-shops' for small legal matters, inseparable from the perception of the justice process itself, which unfolds as a multi-stage process of satisfying legal requirements in personal meetings with the judges.

The justices commented that on average they have at least one meeting with each party in civil cases. In their experience, litigants did not take advantage of these meetings very rarely, because discussing their cases with the judges personally gave them some piece of mind about their claims. 'Sometimes people come two, three times, and hope that it makes their case better. All we can do is help them understand what is necessary to prepare their cases. We can help them understand better what they need to do'.[347] The court users valued these meetings quite highly: 'I would rather come here five times and be ready for

[344] Judge 4, MC.
[345] Respondent 3, RC.
[346] Respondent 5, MC.
[347] Judge 2, RC.

everything, than lose my case',[348] 'If you have this opportunity, you have to use it. I came at first expecting this and that, but the judge tells you how things really are in your case'.[349] This suggests that pre-trial sessions give Russian court users a certain ability to shape the trajectory of their cases from the very beginning of their court experiences. Forming a better understanding of their legal causes, necessary evidence, and forthcoming procedural steps allows Russian court users to prepare for their cases more thoroughly and to form a concrete expectation of the outcome from the actual decision-maker in their cases.

This extended pre-trial stage also allows Russian court users to be more involved in the management of information that goes into their files. While the judge has the ultimate role of managing and updating files, with the help of the limited court staff, court users have active roles in collecting necessary evidence and presenting it in a required format. Justices of the Peace normally advise claimants on which documents are necessary for their cases; claimants have to go to other bureaucratic offices to obtain these documents, often with the precise wording requested by the judge; then the documents find their way into the file. Due to the existence of pre-trial sessions, case files in the Russian lower courts are created in increments, with litigants participating in every stage of this process. However, this ability to participate in the creation of case files taken together with the direct access to the judges adds to creating a partial and corrupt image of Russian courts in the general. This experience of informal ways of dealing with court administration and case management reinforces people's existing belief that every citizen, and especially citizens with higher social status, is able to use courts in this way; thus strengthening people's perception of corruption and favouritism of Russian institutions of justice.

[348] Respondent 8, MC.
[349] Respondent 11, RC.

a. Interaction with courts of Justices of the Peace

The degree to which court administration participates in shaping people's perceptions of legal institutions in Russia depends first of all on the physical presence of the court administration in lower courts. In comparison with the English courts, the administration of Russian courts of Justices of the Peace seemed limited to the bare functional minimum. As it was mentioned earlier in one of my earlier chapters, court administration of Russian lower courts typically consists of a judicial secretary, an archives officer, and more rarely (depending on the size of the district) a judicial assistant.

As it can be seen from my discussion, the institutional model of Russian courts of Justices of the Peace does not include a well-defined administrative body that facilitates and expedites case resolution. As a result, Russian Justices of the Peace have to perform a great deal of administrative functions and are seen as ultimate decision-makers, as well as the heads of court administration. They do delegate some of the paperwork and organisational duties to their secretaries, but, they remain almost in complete control of their courts and case files. This means that all responsibilities of preparing cases, updating files, communicating with relevant authorities, and general administrative and secretarial duties usually fall on the Justices of the Peace, who can then distribute them down the line of authority. This observation reflects a general tendency towards centralized institutional structures in Russia, which creates and reinforces traditional vertical relationships of power and authority.

b. Procedural Guidance and File Preparation

How did Russian lower courts assist people in dealing with the administrative and procedural aspects of court use? In my experience, helpful information in Russian lower courts took the form of physical samples of petitions and lists of supplementary documents

pinned on public bulletin boards in the waiting areas. More precise information could be obtained from the secretaries in the form of advice and from the judges themselves during personal consultations. However, there seemed to be a complete lack of informational leaflets or brochures that could help people in their interaction with the courts. In addition, most of the documentation that had legal bearing in the courts of Justices of the Peace is usually submitted in a hand-written form. While typed statements are acceptable, it is a general rule that hand-written statements are preferred.

In comparison with the English lower courts, my observations in Russia created a general impression that people coming to lower courts for justice were kept in the dark regarding their rights, procedural standards, or particular case requirements. This created a need for clarifying information, which could be obtained only by approaching members of court staff personally or securing a meeting with the judge. This created a general feeling of dependence on people who possessed this specialised knowledge. As it was summarised by one of my respondents: 'You have to ask, this is how our courts work; nobody will do anything until you ask'.[350] Since helpful information was not openly available in Russian lower courts, it seemed to give certain power to the limited court administration: 'It took such a long time to figure everything out. You have to run after them, when you are finally in their office, they give you a minute or two, I felt like I was begging for it', said a claimant in a Moscow court.[351] This brings me to the conclusion that Russian court users did not consider that they had a right to clear information; quite on the contrary, information was considered something that was held by court officials because it put them in the position of power.

Whereas the English court administration was responsible for providing relevant information to court users, courts of Justices of the Peace did not see the issue of

[350] Respondent 4, RC.
[351] Respondent 9, MC.

information as their responsibility. When the issue of information about courts was raised with the judges and court secretaries in the Russian lower courts, their explanation was that cases coming to the lower courts were usually very simple in substance, which made explanatory leaflets and brochures unnecessary. As a judge in a regional court stated: 'These are very simple cases, they do not require any deep understanding of the law or the rules of procedure …'[352] A Moscow judge stated: 'I can help them write the initial claim ('*zayavleniye'*) where they explain what they ask for. In fact, I or the court secretary, we do it very often'.[353] As a regional judge commented: 'There is really no need for detailed brochures or instructions; cases that come to our courts are uncomplicated. What I think people really need is more education about their rights; they sometimes do not know that a certain right has been violated or think that they have some rights because they saw it on TV'.[354] While this supports my previous observation that the media shape popular expectations of justice, it also suggests that these expectations are in many ways unrealistic. The unrealistic element of people's expectations of courts is not unique to Russia. What is, however, more characteristic of the Russian situation is a wide-spread expectation that the reality in court would be disappointing and the resulting readiness to deal with all eventualities.

While the authorities in the Russian lower courts considered that their courts were quite easy to navigate, the court users commented that the process of interaction with courts was not clear or self-explanatory. My respondents complained that they had to search for information by finding the right court official, catching them during their open hours, and asking them for specific information as a favour. The court users commented that members of administrative staff were usually hard to find and the information they provided was brief and not always exhaustive. 'She [court secretary] just told me when my hearing was,

[352] Judge 2, RC.
[353] Judge 2, MC.
[354] Judge 2, RC.

nothing else, not what to bring or anything else', commented a litigant in a regional court.[355] 'You always have to ask them for details, then they send you to the secretary, the secretary then sends you to judge himself. It is like everywhere with us ('*u nas'*)', said a litigant in Moscow.[356] Even if they managed to obtain relevant information from the limited court administration, my respondents commented that it was not clear how to use it. 'You have to talk to the judge himself to understand everything they never have time to explain it. At least with the judge I can understand how to my case will go', said a defendant in a regional city.[357]

Therefore, the lack of professionalized administrative staff with clearly defined roles and an orientation toward customer service create an image of a confusing and almost intentionally unfriendly institution. Russian lower courts are seen to operate largely by a set of informal rules, not unlike other state institutions in Russia. Unlike English court users, Russian court users did not have an easy way to learn what to do, and how things should be done in court. It was considered a common practice for Russian court users to put extra effort into obtaining relevant information from court staff. The resulting confusion and frustration seemed to reinforce pre-existing low expectations from the courts.

Another interesting comparative note is that Russian court users tended to see information as something oral and obtained through personal communication with the court personnel, while English court users perceived relevant information as something formally printed and distributed to them by court administration. There was a general understanding that Russian court users had to do research not only into the legal aspects of their cases, but also into the inner workings of the court. It was understood that they had to speak to secretaries or court clerks about their cases, necessary forms and procedures, who would

[355] Respondent 14, RC.
[356] Respondent 11, MC.
[357] Respondent 7, RC.

then give them advice to come to visit the judge during the reception hours. This personal involvement in every step of the process creates a very informal and personalized image of lower courts.

My observations suggest that court users both in Russia and England share a certain level of uncertainty and discomfort in dealing with the lower courts, yet they deal with this uncertainty differently. The administrative organisation and information availability in English lower courts leave a sense of predictability and reliability of official channels of information, while in the Russian case people deal with a higher level of uncertainty, which leads to more stress and a more chaotic use of courts. The underlying trust in court officials and the belief that courts work according to the principles of impartiality and equality may be at the core of this difference between perceptions of legal institutions in Russia and England.

In relation to the association between the Russian lower courts and the general image of state institutions, my respondents commented: 'It works everywhere like this: if you need something done, you have to talk to a lot of people, open a lot of doors; nobody will do it for you',[358] 'You just try and go to the police or the OVIR (Office of Visas and Registrations) to get a foreign passport. There are procedures and there are *procedures*: some people wait in line for hours, some people just walk in because they know somebody. You either know somebody or you pay'.[359] These statements contain a number of powerful messages. First, they suggest that Russian court users had a clear understanding that courts were part of the system of state institutions which operate by different sets of formal and informal rules. Second, they highlight that Russian court users draw a direct link between courts and 'blat', favouritism, and finally corruption. Even though this ubiquitous belief in corruption at all levels of state authority in Russia is more likely to indicate high levels of perceived rather

[358] Respondent 9, RC.
[359] Respondent 15, MC.

than actual corruption, it is particularly poignant in my research, because it shows a complete lack of mechanisms that would give Russian courts a reliable and trustworthy image.[360] The importance of these observations is that Russian lower courts are lumped together with all state institutions and are associated with the vices of society that they themselves are in charge of confronting. This shows that Russian people do not believe that courts are capable of upholding justice indiscriminately, and consequently can be trusted to protect their interests.

Therefore, Russian court users associate lower courts with the traditional bureaucratic institutions within the Russian state, expecting little and anticipating that the success of their experience in court depends on their active involvement with the court officials and the judges. One of the court users in Moscow commented: 'What can you expect from courts? This is a feeder ('*kormushka'*) for them (court employees), as it is with all our organs of power ('*organi vlasti'*). We come to them to ask'.[361]

Therefore, when English court users tend to rely on court administration for information and guidance because they feel a certain entitlement to court services, Russian courts users have to rely largely on themselves. One of the reasons behind this is the fact that Russian court administration does not see the provision of helpful and readily available information its responsibility. Due to the highly institutionalized nature of English court administration and its active role in communication with court users and daily court operation, English court users seem to assume a passive role of receivers and users of administrative services. In contrast, due to the limited services provided by Russian court administration, and to the traditional association of all levels of Russian courts with state institutions, Russian court users are placed in a proactive position, in which they have to

[360] M. L., Smith, 'Perceived Corruption, Distributive Justice, and the Legitimacy of the System of Social Stratification in the Czech Republic', *Communist and Post-Communist Studies*, vol. 43 (2010), p. 439.
[361] Respondent 16, MC.

actively seek information and rely on personal communication with court staff in order to be able to use courts effectively.

Therefore, to summarize how interaction with court administration shapes people's perception of legal institutions in England and Russia, I need to stress that court administration has different roles and responsibilities in English and Russian courts. English court administration is inseparable from the image of the courts themselves, because it manages all communication with court users, provides assistance with helpful information, and maintains the procedural order of court proceedings. The patterns of interaction with the Russian court administration, on the other hand, produce a different image in people's perceptions. The administration of Russian lower courts, limited as it is, has the image of uncooperative administrative officers, who serve the interests of the court, rather than court users. As a result, Russian court users see lower courts as unfriendly state institutions with little concern for the interests of ordinary citizens.

Having looked at how people's images of legal institutions are influenced by their interaction with court administration, I shall now turn to the discussion of technological developments in the everyday operation of the Russian lower courts. The growing involvement of technology in the legal process in lower courts alters the balance of administrative and judicial roles in the everyday activity of lower courts. As we have seen in the English case, the digitalisation of court services not only tends to take the pressure off the main actors in the legal process, but also to create more streamlined and efficient images of legal institutions. Below is my discussion of this adjusted distribution of roles in the legal process and the resulting images of Russian courts.

c. Technology in Russian Courts

In comparison with the role that technology plays in the English lower courts, its role and presence in the Russian courts of Justices of the Peace is limited and tends to reinforce different elements of the process of justice. The official introduction of the web-sites of courts of Justices of the Peace in 2010 could suggest that Russian court users gained more access to helpful information about the stages of legal process, legal requirements, and current status of their cases. However, because Russians tend to interact with state institutions in a personal face-to-face way, court web-sites seem to serve a formal function of improving what is officially seen as transparency and accessibility of legal institutions.

The judges themselves commented that recent technological developments in court administration became burdensome appendages to their work. 'I am the head justice here, so I am responsible for the web-site for our joined court centre. It takes us a lot of time to put everything on web-sites. Sometimes I spend 50 per cent of the day writing decisions, updating them, and posting them online', said a regional judge.[362] Other judges commented that this responsibility made their workload heavier, which led to court decisions being condensed to the bare minimum before being posted. The process of posting is considered particularly time-consuming due to the need to eliminate any identity-related information from the text. Some judges described their approach to the daily production of decisions as: pre-typing decisions during the morning preparation to hearings, adding final touches to them immediately after the hearing, taking the litigants' names out for privacy reasons, and posting them online immediately.

While Justices of the Peace have developed methods of coping with this increased pressure of maintaining online presence, from the perspective of court users, it created an impression that public hearings were unnecessary or irrelevant because most cases were

[362] Judge 2, RC.

decided in advance. As a respondent in the regional city commented: 'I could have not come at all, it would not have made any difference. The judge already knew how to decide, he just brought in the typed-up decision right away'.[363] Another claimant in Moscow commented after his hearing: 'You don't really need to say anything, just answer when necessary. I think the judge had the decision already written, he just read it out'.[364]

It is important to note what while a great deal of court-related information could be found on the web-sites of individual Russian courts, very few of my respondents commented that they knew about these websites or about their content. As some of my respondents in Moscow stated: 'I did not know about the web-site. But why do I have to go home and find the forms on the website. They make these web-sites, but who uses them?'[365] 'Yes, but it is better to come here and check if I have all the documents, if everything is correct'.[366] 'All you need you can get from the court, you need to come and they will explain what to do with your case, the forms and the tax you need to pay ('*poshlina'*)'.[367] Very few of my respondents in the Russian lower courts were aware of the existence of court web-sites with downloadable information.

Having said that, the use of Internet in Russia is much more limited than in England, especially among the older population.[368] This would suggest that despite the availability of

[363] Respondent 6, RC.
[364] Respondent 10, MC.
[365] Respondent 11, MC.
[366] Respondent 9, RC.
[367] Respondent 23, MC. Regarding the filing fees in Russian Courts of Justices of the Peace, for filing a civil or criminal claim court fees are taken in the form of tax payment ('*gosposhlina'*) is calculated according to a formula: for claims under 20000 roubles, tax equals 4% of the sum of the claim, for claims from 20001 to 100000 roubles, tax equals 800 roubles with 3% of the sum above 20000 roubles. An online calculator of 'gosposhlina' is available online: 'Calculator Gosposhlini', Moskovskiy Gosudarstvenniy Sud, accessed 26 November 2016, at http://www.mos-gorsud.ru/calculator/.
[368] Statistics of Internet use is Russia suggests that 71 per cent of the population have access to high-speed Internet. According to GFK Research, recent increase in Internet use is due to accessibility among the younger population. ('With 84 million users, Russia's Internet penetration rate has nearly doubled in five years', Combined reports, Russian Search Marketing, East-West Digital News / February 8, 2016, accessed 16 November 2016, at http://www.ewdn.com/2016/02/08/with-84-million-users-russias-internet-penetration-rate-has-nearly-doubled-in-five-years/). According to the Office for National Statistics, Internet use in 2016

information on the court web-sites, not all users can realistically benefit from it. 'The judge told me that I could get these forms on the Internet and check the number of my case, but I really don't have the Internet at home, I don't use it. I would rather get some information here in person',[369] commented a respondent in the regional city. This led me to an observation that Russian court users treated online sources of information with certain scepticism, or just ignored them. This once again supports my previous observation that Russian court users treat oral information that comes directly from court officials as more reliable.

In relation to the presence of technology in the courtroom, Russian lower courts were considerably less equipped than their English counterparts. Due to the different organisation of the Russian legal process, public hearings in the courtrooms are considered more as final and formalistic stages in the overall process of case resolution. Hearings in the Russian lower courts are not recorded verbatim; however, a formal protocol, usually dictated by the judge and typed by the court secretary, is maintained. Pre-trial sessions are not recorded and no protocols of them are maintained. In comparison to the mandatory nature of audio-recording in the English lower courts, Russian Courts of Justices of the Peace produce an image of trivial state offices, where the judges carry most of the responsibilities and powers without leaving an accurate record that could prove that they uphold their responsibilities in an unbiased and reliable way. In the absence of the official verbatim record of the case, Russian court users are in effect forced to rely on the judge to make sure that all procedural standards are met.

In conclusion, the presence of record-keeping computers in Russian courts of Justice of the Peace and the availability of information on the official court web-sites that are not

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reached 87.9 per cent, with the use among people over the age of 65 on the increase. ('Internet Users in the UK: 2016', Statistical Bulleting, Office for National Statistics, 20 May 2016, accessed 26 November 2016, at https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2016).

[369] Respondent 6, RC.

widely used – these features can best describe the role of technology in the process of justice in Russian lower courts. This role is considerably less significant than in the English lower courts, which adds to my previous observation that helpful information about Russian courts is seen scarce and controlled by the court administration. Both the legal and the administrative functions in the Russian lower courts are headed by the judges themselves, which reinforced the centrality of the judge in the image of Russian courts.

B. Conclusion

In this chapter I argue that the perceived roles of court administration both shape how court users in England and Russia see their institutions of justice and reinforce the already existing images of legal institutions. My main conclusions relate to how differences in procedural models, administrative organisation, and technological aspects of interaction with court determine the degree to which people see institutions of justice as accessible, manageable, and trustworthy.

While court users in both countries described initial interaction with lower courts as overwhelming and challenging, the presence and place of courts in these interactions were perceived differently, and had different effect on how people saw legal institutions in general. English court administration was seen as a bulky but well-oiled mechanism that guided people through the process of case resolution. It was seen inseparable from the image of the court, as it was positioned between the people and the judges in order to facilitate and organize legal process, as well as to safeguard judicial inaccessibility and anonymity.

Russian court administration, on the other hand, was not seen as an organized institutional substructure of the courts. Due to the limited number of court staff and the persisting traditional approach of personal dealing with state bureaucrats, Russian court users perceive court administration as individual people, susceptible to influence. Moreover,

the judges were seen as functional members of court administration due to their direct accessibility and extended responsibilities. Therefore, Russian perceptions of courts are characterised by direct and personal interaction between the court users and the judges, which tends to reinforce the ideas of corruption and favouritism.

The need for helpful information and guidance in dealing with lower courts has emerged as an important factor that shapes people's perceptions of their experiences in lower courts. The availability of clear explanations of the legal and procedural requirements for filing or defending claims in the lower courts is important in people's overall understanding of their relationship with legal institutions. The court users in both countries expressed the need for information about courts and their services, but evaluated its availability differently. English court users expected that their legal institutions would provide them with necessary information and would also assist in the clarification of legal English. This expectation reinforced the images of English courts as paternal institutions, whose role was seen not only to solve legal matters, but also to assist people with the legal bureaucracy, uncertainty, and discomfort of their experiences.

A particular feature that distinguished people's perceptions of English institutions of justice is the position of court administration between the court users and the judges. The multiple roles assumed by the English court administration take the routine of case administration and file preparation away from the judge, leaving him with the primary responsibility of decision-making. Russian judges, on the other hand, carry both decision-making and administrative responsibilities. As a result of these expanded administrative duties of Russian Justices of the Peace, it can be said that they are seen part of the general court administration, rather than independent decision-makers. It is important to point out that the roles of the judges, particularly in Russia, have emerged as one of the main factors that shape people's overall perceptions of courts.

My research also suggests that one of the main distinguishing features of court users' experiences in the Russian lower courts is the availability of pre-trial sessions. These informal meetings with the judges give Russian court users a chance to obtain necessary guidance in dealing with the lower courts, to assess their claims at any stage before the hearing, as well as to establish a relationship of familiarity with the judge. It indicates that Russian people approach legal institutions as all other administrative agencies of the Russian state. The idea that justice has to be safeguarded and unbiased does not find support in the reality of operation of Russian lower courts, which may be one of the reasons behind the lack of trust towards Russian legal institutions.

In summary, the resulting images people's experiences with court administration in the English and Russian lower courts create different ideas of how courts in Russia and in England function. In order to obtain justice in the English courts, court users have to go through a well-organized intermediary of court administration, supported by the technological element of court administration. This creates a bureaucratic, complex, but usable image of courts. Institutions of justice in England are seen as a service provided by a well-defined institution through a number of steps and communications mostly with court administration, rather than with the judges personally. English courts seem to provide court users with a sense of order, control, and predictability of the justice process.

In contrast, Russian court users experience lower courts without extensive court administration, which forces them to deal with the court staff and the judges directly and individually. Helpful court-related information is limited, and can be obtained in the form that is seen most reliable only from the court officials, or the judges themselves through direct contact. Therefore, the lower courts in Russia are seen as approachable and manageable through personal interaction with the decision makers, which is quite different from the distance between the people and the judges maintained in the English lower courts.

The implications of such an open and personalised image of justice on the overall attitudes towards institutions of justice will be discussed further in the following chapters.

Chapter VII

A Day in Court:

Perceptions of Public Hearings in English and Russian Lower Courts

A. Introduction

This chapter discusses how court users experience public hearings in the English and Russian lower courts, and what effect these experiences have on people's overall images of legal institutions. Participation in public hearings involves a variety of processes and exchanges of meanings in courts, from explicit interaction between the parties in the courtroom, to the litigants' ability to express their grievances and feel that they have been treated with respect and understanding. In this chapter, I shall examine themes that link people's perceptions of their experiences in the courtroom to their images of the legal institutions themselves.

My examination of people's perceptions of their experiences in the lower courts will start with the analysis of their expectations, which will tell us about pre-exiting notions and ideas that people had before coming to court. The distinction between what people expect to happen in the courtroom and their actual experiences will help me understand the process of formation of generalisable attitudes towards legal institutions in England and Russia, i.e. how general preconceptions about public hearings affect the ways in which people experience this vital stage of the legal process. I aim to identify the discrepancies between people's expectations and their experiences that can tell us about the stable attitudes to courts in the English and Russian legal cultures. I will pay specific attention to the examination of how litigants understand their roles in the courtrooms, and to the importance and the degree of their participation in the hearings.

My discussion of how court users interpret their experiences in court builds upon existing organisational behaviour research which examined people's attitudes towards court systems from the perspective of both procedural fairness judgments and individual outcome satisfaction.[370] This chapter will address people's evaluations of procedural fairness in the English and Russian lower courts, whereas people's evaluations of case outcomes will be discussed in the following chapter. Procedural fairness judgments are closely related to perceptions that procedures are unbiased, and with perceived dignity of the procedure, the perceived carefulness of the process, evaluations of legal counsel, comfort with the procedure, and perceived control over case events.[371] Organisational behaviour research suggests that in order to feel that justice has been reached in the legal process litigants wanted 'a dignified, careful, and unbiased hearing of their cases… [they] wanted to exercise some control over the handling of their case… [they] wanted procedure with which they could feel comfortable'.[372] Therefore, this chapter will investigate how participation in public hearings makes people feel about themselves and their relationship with the institutions of justice.

As I stated in my theoretical introduction, the principal factors responsible for shaping people's perceptions of legal process are perceived voice and participation. While these factors have been approached in previous research, they have not been evaluated in the context of the Russian institutions of justice. Therefore, this study is the first of its in kind in its attempt to investigate the extent to which these previously identified factors can help us understand the formation of attitudes towards courts in post-Soviet Russia.

[370] I., Ajzen and M. Fishbein, *Understanding Attitudes and Predicting Social Behavior*, Prentice-Hall: Englewood Cliffs, New Jersey. 1980.
[371] Lind, A.E., at al., 'The Perception of Justice: Tort Litigants' Views of Trial, Court-Annexed Arbitration, and Judicial Settlement Conferences', *RAND Report R-3708-ICJ*, (RAND Corporation, Santa Monica, CA, 1989), p. ix.
[372] *Ibid*., p. x.

The traditional method of evaluating people's participation in the legal process stems from organisational behaviour research. This research largely aimed to identify and map factors responsible for shaping perceptions of procedural fairness in various organisations, including courts. Perceptions of procedural fairness is a concept well known by legal professionals as well, because it is contained in the concept of due process, the guiding principle for reaching fair and just decisions. A substantial amount of research has also looked at how the general public perceives procedures.[373] Research has also linked judgments of procedural fairness to the overall attitudes towards legal institutions and legitimation of the laws and authority of these institutions.[374]

It has also been suggested that awareness of court procedure and norms of behaviour appropriate in a courtroom can lead to higher satisfaction with case outcomes.[375] Studies have shown that the availability of information outlining court procedure, necessary forms and standards of relevant documentation, as well as giving general information about courts could potentially have a positive effect on the feelings of satisfaction with courts in general.[376] As I have discussed in my previous chapter, the informational element of justice perceptions is important in predicting overall attitudes towards organisations because it evaluates the fairness of explicit explanations and justifications provided about actions and

[373] L. B. Heuer, and S. Penrod, 'Procedural Fairness as a Function of Conflict Intensity', *Journal of Personality and Social Psychology*, vol. 51 (1986), PP. 700-710; A. Lind, et al., 'Reactions to Procedural Models for Adjudicative Conflict Resolution: A Cross-National Study', *Journal of Conflict Resolution,* vol. 22 (1978), pp. 318-341; J. Thibaut, at al., 'Procedural Justice as Fairness', *Stanford Law Review*, vol. 26 (1974), pp. 1271-1289.

[374] T. R. Tyler, and R. Folger, 'Distributional and Procedural Aspects of Satisfaction with Citizens-Police Encounters', *Basic and Applied Social Psychology,* vol. 1 (1980), pp. 281-292; T. R. Tyler, *Why People Follow the Law* (Yale University Press, New Haven, 1989). Further discussion on role of procedural justice perceptions in institutional legitimation see: K. A. Rasinski, at al., 'Exploring Dimensions of Legitimacy: The Mediating Effect of Personal and Non-personal Legitimacy on Leadership Endorsement and Systems Support', *Journal of Personality and Social Psychology*, vol. 49 (1985), pp. 386-394; T. R. Tyler, at al., 'The Influence of Perceived Injustice on Support for Political Authorities', *Journal of Applied Social Psychology*, vol. 15 (1985), pp. 700-725.

[375] Low levels of knowledge about crime and punishment were associated with more negative ratings of courts and sentences. See M. Hough and J. Roberts, *Attitudes to Punishment: Findings from the British Crime Survey*, Home Office Research Study No. 179, (London: Home Office, 1998).

[376] B. Chapman, et al., 'Improving Public Attitudes to the Criminal Justice System: The Impact of Information', *Home Office Research Study 245*, Development and Statistics Directorate (London, July 2002).

decisions of the court. Moreover, it has been suggested that is not the information about specific events, but about the rules that govern the relationship between people and institutions that affects people's attitudes towards legal institutions.[377]

Therefore, this chapter will be subdivided into two parts. The first part will address people's expectations in relation to the process of justice in the English and Russian lower courts; the second part will be dedicated to the detailed analysis of people's perceptions of their experiences in courts after their appearances in courts.

B. The Role of Expectations in Perceptions of Procedures

1. England

People's expectations of the legal process play an important role in shaping their perceptions of their experiences in courts because to a great extent they create a framework for the evaluation of these experiences. This section investigates existing ideas and images of legal process that English court users bring with them to the lower courts.

The main themes related to people's expectations of the lower courts generally relate to people's ideas about accepted rules of interaction with courts, their chances of achieving desired outcomes, and successful strategies of dealing with courts. When asked about their expectations from the hearings, English litigants commented that they had an approximate idea of the legal process inside the courtroom. 'I think the judge has to listen to both sides, and then decide whose case is stronger', said a claimant in London.[378] 'I think it is important to prepare what you will say in court, it can decide your case, especially if you are by yourself',[379] 'I've rehearsed my main points, I am very nervous; I just hope I will be able to

[377] M. Ambrose, R. L. Hess, and S. Ganesan, The Relationship between Justice and Attitudes: An Examination of Justice Effects on Event and System-related Attitudes', *Organizational Behavior and Human Decision Processes*, vol. 103, no. 1 (2007), pp. 21-36.
[378] Respondent 11, LE.
[379] Respondent 9, RE.

explain myself well'.[380] My respondents stressed the importance of appearance in court and therefore the importance of adequate preparation.

My respondents in England commented that they generally expected the courts to impose strict rules of procedure; some of them hoped that procedure would be more relaxed in the small claims courts, but that did not eliminate the stress and apprehension attached to court appearances. 'I am not quite sure how to address the judge; I don't know if it is very formal, and what happens if I say something wrong', commented a small claims litigant before his hearing in London.[381] 'I just have this image of a judge in a wig, it is quite intimidating', said another respondent.[382] My respondents seemed apprehensive about the formality of the upcoming hearings; they were afraid that they would not have sufficient knowledge of legal English or required conventions of behaviour in the courtroom and interacting with the judge. Therefore, we can see that English court users without prior experiences in court associated court hearings with formal rules and procedures, as these qualities have been traditionally attached to the images of English courts.

My respondents commented that, while they were apprehensive about appearing in court, they hoped that their judge would be a good and understanding person, somebody who would listen to them and empathize with their story. English court users generally described their images of judges as patient and understanding arbiters: 'I hope that the judge is nice; I heard that judges can be quite difficult, so I just hope that this judge is reasonable', 'The judge has to listen and then decide what is fair. I think it is a tough job, listening to both parties and then telling somebody that they are right or wrong'.[383] As I will discuss in greater detail in the following chapter dedicated to legal professionals, English judges were

[380] Respondent 17, LE.
[381] Respondent 17, LE.
[382] Respondent 15, LE.
[383] Respondent 10, RE.

largely seen as neutral arbiters; but most importantly, they were seen at the heart of the hearing, which was in its turn considered the most important stage of the justice process.

English litigants expected to play active roles during the hearing: they expected to be given sufficient time to explain their situation to the judge or to answer any questions or accusations of the other side: 'I need to be clear and to the point, to make a strong statement,'[384] 'I will try to explain our situation; if the judge is a reasonable person, then it should be clear'.[385] While in many cases my respondents expected a chance to tell their stories in the courtroom, English judges commented that people generally came to court with unrealistically dramatic ideas of hearings. 'People try to act very theatrically in court, they think hearings unfold as dramas, and we have to disillusion them', said a judge in a regional city.[386] The judges admitted that in many situations they had to guide the hearings in efficient and legally meaningful ways, which unfortunately led to the disappointment of some litigants. 'Some, especially older litigants feel that they were not given their day in court, if they are not allowed to act dramatically in the courtroom. This can be a problem, because they bring their ideas about how courts work into the courtroom. This also affects our roles: we have to manage the proceedings around these misconceptions'.[387]

Therefore, we can see that English court users associate courts with public stages for expression and recognition of their grievances. This observation supports the findings of previous research into the importance of process control, or 'voice', in the evaluations of procedural fairness.[388] Can voice be historically linked to the image of court in common law systems, or is it an essential part of the idea of justice that transcends legal traditions? While this question goes beyond the scope of my research, my observations and interviews allowed

[384] Respondent 13, LE.
[385] Respondent 9, RE.
[386] Judge 3, RE.
[387] Judge 2, RE.
[388] T. R. Tyler, K. Rasinski, and N. Spodik, 'The Influence of Voice on Satisfaction with Leaders: Exploring the Meaning of Process Control', *Journal of Personality and Social Psychology*, vol. 48 (1985), pp. 72-81.

me to conclude that English people expected a chance to voice their grievances at all levels of courts. What is more important is that English court users believed that courts were capable of producing just outcomes. Court users did not come to courts questioning their ability to reach justice; their function in society was clearly understood and taken for granted.

2. Russia

When asked about their expectations before the hearings my respondents in the Russian lower courts had a rather vague idea of what to expect: 'What the judges says, how it is all decided - that's what think I am expecting',[389] 'I have spoken to an attorney, I know how much I can receive; but who knows, it is all up to the judge'.[390] The level of uncertainty among the Russian court users seemed to be much higher than in England. It was also directly linked to the authority of the judge, rather than to the strength of the legal argument or the litigants' performance in the courtroom. 'I talked to the judge, he said that with my documents I have a strong chance of winning, but you really never know how it all works out in court'.[391]

Even in the cases with seemingly clear outcomes and procedural requirements, my respondents in Russian lower courts were not sure if those outcomes were guaranteed. This uncertainty despite outward predictability could be attributed to the fact that Russian court users did not believe that courts would deliver what is expected without some extra effort or initiative on the part of the court users. A claimant in a divorce case said: 'I think I know how it will end up, but who knows it: the judge may change his mind, something may be missing, the other side may have talked to the judge, or something else'.[392] Another

[389] Respondent 4, RC.
[390] Respondent 12, MC.
[391] Respondent 18, RC.
[392] Respondent 14, RC.

respondent in Moscow commented: 'Let's wait until the hearing is over; when the final decision is in your hand, then you can be sure'.[393] These statements indicate that while Russian court users felt that they could estimate how the court proceedings would unfold, they did not believe that the outcome would meet their expectations; they, in essence, cautiously understated their expectations in order to factor in the uncertainties of the inner workings of the Russian courts.

From these and similar statements it became clear that Russian people believed that the success of their experiences in court depended on their ability to navigate through this uncertainty of traditionally Russian institutional operation, which in most cases meant establishing a relationship with the judge. As one respondent told me: 'I don't want to talk to anybody but the judge; it is my business'.[394] Another litigant in Moscow commented: 'At least you can actually talk the judge; so you can know what is happening and what to do next'.[395]

Because of this reliance on the understanding between the litigants and the judge, Russian court users felt very protective of their relationship with the judge. This could be seen in the number of objections that I received when I tried to observe pre-trial hearings. Russian court users were not comfortable with a third party witnessing their meetings with the judge. The pre-trial sessions that I was able to observe related mostly to criminal matters, where the procedure and the outcome were more certain, and only the details, such as the date of the hearing, arrangements with the prosecutor's office, or prisoner transportation, were discussed. In almost all pre-trail consultations in civil cases which I attempted to observe, either the judge or the claimant asked me to stay outside for privacy reasons.[396] My

[393] Respondent 11, MC.
[394] Respondent 21, MC.
[395] Respondent 16, MC.
[396] I was able to observe two pre-trial sessions in civil cases in the regional court. The matters discussed were largely procedural: the judge reviewed newly submitted evidence.

experiences in the Russian lower courts suggest that privacy was recognized as a serious issue in civil pre-trial hearings in particular; while criminal cases were left open to the public. This could be explained with a special value that the courts users, as well as the Justices of the Peace, assigned to meetings in private. It was assumed that these meetings contained earnest discussions of claims and personal interests of the parties. Bearing in mind that pre-trial sessions are not considered official stages of case management and are not recorded, we can rely only on their descriptions by the judge or by the parties. The importance of the protective stance towards these private sessions also indicates that Russian court users felt entitled to these personal meetings with the judge. As a result, the image of a judge in Russian lower courts was associated with direct accessibility and possibility of establishing an informal relationship, rather than with the seclusion for the purposes of unbiased justice.

This situation could not be observed in the English lower courts, where one could see a clear separation and inaccessibility of judges from the general public. This inaccessibility was enforced by the court administration and built into the architecture of court buildings. It could be said that English court users perceive these restrictions of legal process as safeguards against biased and unfair decisions, which allows them to trust courts even when they are faced with the uncertainty of legal environment. English court uses associate the judge with delivering justice without any chance of meeting either party before the hearing and, moreover, creating a relationship of familiarity.

3. Summary of expectations

Therefore, in Russian lower courts it was understood that in order to deal with the lower courts successfully, Russian court users had to obtain informal advice from the members of court staff, who would in their turn advise potential litigants to see the judge during his or her reception hours. This personal involvement of court users at every step of

the process creates an informal and personalised image of legal institutions in Russia. Personal connections are seen as essential elements that facilitate interaction between people and legal institutions. This image of courts is linked to the overall image of state institutions as bureaucratic machines characterised by outward formality and inaccessibility, but traditionally operating by the informal rules of favouritism and personal connections.

My data collected in the English lower courts did not point out at the problems of corruption of favouritism in the perceptions of court users. The presence of a well-defined administrative agency that safeguards strict channels of communication between court users and decision-makers adds to the creation of a trustworthy image of a legal institution on the whole, where different agencies within the court perform their clearly delineated roles.

It can also be seen from this discussion that Russian perceptions of legal institutions are characterised by an understated expectation of the court's ability to reach equal and fair decisions. This intentionally cautious expectation exists due to the prevailing belief that successful outcomes cannot be reached without a special relationship with court officials. The social status and connections of litigants seem to be perceived as dominant factors in achieving favourable outcomes in Russian lower courts. In the absence of those, people attempt to create certainty by reaching an understanding with the judges in private, which is an organisational element of the work of Justices of the Peace. This perceived personalized approach to interacting with legal institutions comes from and feeds into the traditional belief in institutional corruption and favouritism, which in reality coexists with the fact that court users themselves may not be involved in these illegal dealings.

C. Courtroom Experiences and Institutional Images

This section will address my findings in relation to people's evaluations of their experiences in the English and Russian lower courts. Looking at the litigants' personal

experiences in light of their expectations is a useful analytical tool in the investigation of how people construct their images of legal institutions.

1. England: Courtroom Experiences

As I observed cases in two English courts with different procedural requirements, it would be helpful to outline the general procedural differences between the two main groups of cases that appear in English lower courts. Small civil matters allocated to the small claims track in county courts can be described as most informal in terms of procedural requirements: claims can be filed online or in person with one form, pre-printed for claimants; courts communicate with the litigants by post or email; a date for the hearing is set by the court and parties are invited to appear. The communication between the court and litigants usually concerns such matters as defence of the claims, necessary documentation to support the claim and important deadlines. The appearance in small claims hearings is informal, and most cases are heard in the judges' chambers.

Cases allocated to the fast track and multi-track of English county courts go through a more formal procedure, as these claims tend to be more complex and involve larger amounts of money. Cases in the English magistrates' courts involve small criminal violations that could carry more severe penalties, which raises the level of procedural standard applied to these proceedings. All cases are heard in public courtrooms in a traditionally formal manner usually enforced and monitored by the clerk of court. Even though the required level of formality is higher in small criminal hearings, my observations suggest that English court users tend to rely on court administration and the judge to guide them through their experiences in the courtroom.

I shall now turn to the examination of people's responses immediately after the hearings. English court users generally associated their experiences in court with appearance

in front of the judge, from which they tried to assess how the case would be decided. Reflecting upon their experiences, the litigants in England stressed the importance of their interaction with the judge: 'I think the judge was fair, he took the time to explain what was happening to me', commented a defendant in a magistrates' court.[397] 'The judge was patient: it was difficult for me to follow at times, but he took the time to explain and waited for me to answer', said a litigant in the regional city.[398] 'I feel like Judge [X] was understanding; he said he did not want me lose my flat. I think he tried to understand my situation'.[399] This suggests that English court users valued the understanding and compassion of the judges as a part of their courtroom experiences. The litigants felt better when they understood what was happening in the courtroom, as well as when they felt that they were able to express themselves clearly to an understanding and compassionate decision-maker.

There were cases in which the litigants or their counsel were not able to establish a positive rapport with the judge. This usually took place because the judges were unsatisfied with the level of preparation or behaviour of the parties, and expressed their dissatisfaction directly in the courtroom. In these cases court users were particularly upset about their experiences, because they felt that a very important element of their day in court went wrong. A couple involved in a breach of contract case in the regional city commented after their hearing: 'You saw what happened: the judge was very tough, almost mad at us. It is difficult to appear without a solicitor; you cannot reasonably anticipate that we would understand every legal aspect of the case and prepare everything perfectly'.[400] In another breach of contract case in London the defendant stated: 'I think the judge was unfair, he confused me with all the legal words - and I was totally lost'.[401] As we can see, English litigants were impacted by their interaction with the judges. It seemed that English people

[397] Respondent 14, LE.
[398] Respondent 9, RE.
[399] Respondent 5, RE.
[400] Respondent 17, RE.
[401] Respondent 7, LE.

expected positive and polite interaction, as it was an essential part of the larger image of courts and fair proceedings in their perceptions.

When asked about their communication with court in general and the clarity of information about the legal procedure of their cases, English respondents provided mixed answers. Some of the litigants commented that the court communicated with them adequately, that the information about their case procedure was generally available and the court administration was ready to answer their questions. At the same time, most answers mentioned that despite this availability of helpful information and assistance, it was quite difficult to understand it and follow all the procedural steps accurately. 'I received the letter from the court with instructions; I think I followed all of them. But now the judge says that not all documents were sent back. I don't understand why it has to be so complicated', commented a claimant in the regional city.[402] Another respondent said: 'I had the list of documents I had to provide, but today the judge asked if I had other statements and medical records. It seems that I am always missing something'.[403] 'I am glad that I had called and asked about my claim earlier; they told to what to bring with me to the hearings. It is always better to be overly prepared', commented a litigant in the regional city.[404]

The judges commented that while the litigants did not have to appear with legal counsel, the presence of a trained legal professional generally simplified the hearings. As a judge in London stated: 'People do not know the law, they waste time by not preparing adequately and then face problems in the courtroom. The rules of procedure have to be complied with; an exception cannot be made in their case'.[405] While the judges generally do not have the responsibility to explain procedural or substantive elements of the cases, the reality of managing cases on a daily basis makes is unavoidable. During many of my

[402] Respondent 11, RE.
[403] Respondent 8, LE.
[404] Respondent 5, RE.
[405] Judge 6, LE.

observations in both county and magistrates' courts the judges made consistent efforts to explain pertinent legal and procedural points to the litigants in simple layman terms. As a defendant in a housing dispute in London stated: 'I was not following the judge; I know that he has to follow the procedure, but I was totally lost. I understood that the judge was trying to be helpful and explain things to me; but I was still very lost'.[406]

In some cases with positive outcomes the parties did not understand how their decisions were reached: 'I am relieved that I won, but I am not sure how. I think the other side made a technical mistake. I think if they fix this mistake they can restart the case; and I really hope not to appear in court again'.[407] Especially in the cases where solicitors were present, the parties seemed to be unaware of what exactly was happening in the courtroom; this could be observed both in fast track and multi-track cases in the county courts, and in more complex criminal hearings in the magistrates' courts.

Despite my observation that most English court users were confused with the procedure in the courtroom, the judges in most cases were aware of that, and tried to not only explain the reason and meaning of certain procedures, but to make people understand their implications. For example: 'Now, do you understand what that means? You will have to talk to your solicitor and provide the note from your doctor. Otherwise, you can still be evicted. Is that clear?', 'Mr. [x], just to make sure that you understand: your case is not closed, it is suspended as long as you make arrangements to pay the minimum amount of rent. Do you understand that you will need to be back in court to make an arrangement for the terms of the suspended order?'[408] These and similar statements illustrate that English judges take on the duty of interpreting procedural steps to the litigants who are confused. Procedurally, this creates two narratives in the English courtroom: one narrative takes place

[406] Respondent 18, LE.
[407] Respondent 15, LE.
[408] Judge 4, LE.

to satisfy the rules of civil or criminal procedure, and the other narrative – to interpret those procedures and their implications for the litigants.

Despite the problems with legal English and difficulties with adequate preparation, English court users generally described their interaction with court administration as positive and helpful: 'I called to ask about the documents I needed to prepare for the hearing, the customer service officer was very helpful, but I still thought that I did not have everything necessary',[409] 'Everybody here was very helpful: they told me to see the duty solicitor, so I had to wait; but everybody was polite'.[410]

Another significant difference from the Russian courts of Justices of the Peace is the universal presence of audio recorders in all courtrooms in England. This rule includes all small claims hearings, which often take place in the offices of the judges and are considered less formal. The beginning of an official hearing is indicated by the judge switching on the audio recorder and announcing all present parties. All sessions relating to existing claims (which can be submission of new evidence, witness statements, etc.) are recorded in this manner. Being able to file online and rely on the verbatim record of one's case creates an impression of accountability and transparency of the local courts in England. This also gave me a sense that technology validates the process that takes place in the courtroom and emphasises the importance of the official time in front of the judge within the justice process. Considering that cases in the lower English courts are small and are often heard informally, the very fact that the requirement of formal recording is preserved even during these hearings suggests the importance assigned to it by the system of justice overall. The recording requirement stresses the element of procedural formality in English courts, which adds to the overall image of formality stemming from the English legal tradition.

[409] Respondent 13, RE.
[410] Respondent 7, LE.

When asked to describe how they were treated in the courtroom, English court users generally replied that they were treated fairly, equally with the other parties. 'I think the judge gave us equal time, he was strict with me and with the other party. I think it was appropriate', said a litigant in the regional city.[411] 'The judge was very nice, she tried to explain things to me',[412] 'The judge was reasonable; I think our judges can be quite strict'.[413] With a few exceptions, English court users generally did not have complaints about how they were treated.

The areas of concern were related mostly to people feeling inadequate in terms of the legal procedure or understanding of the legal principles involved in their case: 'The judge made me feel stupid. He said I did not prepare adequately, and that I don't even know what is necessary to bring my claim to court. I felt very inadequate', said a claimant in a payment for services case in the regional city.[414] Another litigant commented: 'I think the judge was dismissive, just because I did not understand what he meant does not mean he can look down on me'.[415] The analysis of these statements suggests that the most problematic areas that produced negative perceptions among English court users were related to the lack of legal representation and feeing inadequate in a foreign legal environment. These concerns were also mentioned by the Russian court users; yet my Russian respondents seemed to accept such treatment by court officials and judges as a norm. This suggests that the underlying nature of the relationship between court users, court officials, and legal institutions as a whole is different in Russia and England. The way people perceive their entitlement to justice in courts creates different expectations of the justice process and leads to different experiences in the courtroom.

[411] Respondent 14, LE.
[412] Respondent 8, RE.
[413] Respondent 9, LE.
[414] Respondent 6, RE.
[415] Respondent 11, RE.

2. England: Voice in the Courtroom

As it was suggested in my theoretical introduction, the ability to participate in hearings is one of the leading factors that affect people's evaluations of fairness of their experiences in courts, as well as their overall images of legal institutions.[416] Regarding their ability to voice their grievances during the proceedings, English litigants commented that they expected more personal involvement in the hearing. English litigants felt that they were not given the chance to present their case well and to make themselves understood. Most cases in lower courts were heard in a matter of 15 to 20 minutes on average, which as a rule did not allow participants time to make extensive arguments and make full opening and closing statements; they mostly had to answer the questions form the judge and to follow his instructions.

This leads me to conclude that English court users had a rather exaggerated expectation of their role in the hearings, which led to a certain level of disappointment: 'I was not able to speak at all, it went so quick. I did not understand some questions of the judge, I felt inadequate'.[417] 'I felt that all that preparation was not necessary; I had no opportunity to speak, the judge just went through the procedure, and the decision was ready'.[418] An important conclusion that comes from these statements is that despite, or even due to, the availability of detailed information, English court users have a more idealistic expectation of their role and the general procedure of the hearings. This preconception may be shaped by a variety of external factors, such as existing images of courts in media and the general popular culture. My resulting main observation is that English court users see their appearance in court as an opportunity to speak in a public forum. It seems that the

[416] See supra note 402.
[417] Respondent 18, RE.
[418] Respondent 5, RE.

opportunity to voice their grievances and to be heard is directly associated with people's idea of the process of justice in the courtroom.

How did English court users describe their feelings in relation to the mismatch between their expectations and reality in the courtroom? The answer is complex: (a) they blamed the judges, 'The judge was rude. But he was fair, he did not let the other party speak a lot either',[419] (b) they felt powerless and disillusioned, 'I have done what I could. I don't know what I could have done differently,' 'I thought it would go differently',[420] (c) they felt confused and inadequate, 'I tried to explain to the judge that I did not know about the problem, I gave all my papers to my solicitor, I don't understand why the judge did not listen. I don't understand where the problem is'.[421] The latter statement was supported by multiple observations in the courtrooms where there was a mismatch between what the parties were trying to achieve and what the judges were looking for. The judges seemed to focus on efficiency and time-management, whereas the litigants were more interested in telling their stories and receiving certain validation of their efforts.

As one judge in the London county court commented: 'People do not think about their cases in terms of procedure, they want to tell their story, to make us believe them; but very often cases turn on procedural technicalities, and that is difficult to explain to people'.[422] 'What they do not understand is that the strength of their opinion is different from the strength of their case', commented another judge in the regional city.[423] Taken together with my observations and interviews, these statements suggest that the litigants in the lower English courts have difficulties with separating the procedural aspects of their cases from the substantive legal arguments, which is not surprising.

[419] Respondent 11, RE.
[420] Respondent 16, LE.
[421] Respondent 9, RE.
[422] Judge 6, LE.
[423] Judge 4, RE.

Throughout my research it became apparent that people's evaluations of personal experiences after hearings suggest that their image before the hearing did not match the reality of the courtroom, as most court users commented that they did not have a chance to express themselves to the extent that they had anticipated. What does it tell us about the emerging narratives of legality among English court users? Could we say that this disillusionment made people challenge the very authority of courts, as Ewick and Silbey suggested in their 'against the law' narrative?[424] My findings suggest that this discrepancy did not produce a feeling of distrust towards the courts overall; it was attributed to misunderstanding of legal procedure and poor preparation in individual cases. Therefore, English legal institutions are seen as cumbersome and complicated in terms of legal and procedural requirements; this, however, does not distract from the people's overall attitudes towards courts as reliable institutions.

What is the effect of the simplified procedure of small claims track on people's perceptions of their experiences? While it has created an easier and more streamlined process that improved the efficiency of court operation, it may not have created a simplified image of courts in the eyes of the people. In this I agree with John Baldwin, who argued that this simplified procedure did not eliminate the legal nature of small claims, which the general public sees as confusing and intimidating without professional legal assistance.[425] While the litigants in small claims courts are told that they can represent themselves and save on attorney's fees, they discover that the reality of legal hearings is more complicated than they had expected. Therefore, the informal and procedurally simplified ways of litigation do not seem to solve the problem of discrepancy between people's expectations of

[424] P. Ewick and S. S. Silbey, *The Common Place of Law: Stories From Everyday Life* (Chicago: University of Chicago Press, 1998), pp. 30-31.
[425] J. Baldwin, *Small Claims in the County Courts in England and Wales: The Bargain Basement of Civil Justice?* (Clarendon Press: Oxford, 1997).

the legal process and the reality of their experiences in court. However, this discrepancy does not weaken their overall attitude of trust in the system of justice in England.

In summary, my observations and interviews with English court users suggest that people's expectations of the legal process do not always match the reality of hearings in lower courts. Even in the cases of simplified legal procedure and relaxed standards of hearings, the court users felt challenged by the procedural and legal aspects of their cases. Most important areas of disappointment were related to the court users' ability to express themselves to the extent that they felt was necessary, and to be understood by the judge. However, even in cases where court users were confused and did not feel that they had their day in court, the institutions themselves were not challenged. This suggests that the underlying stable attitudes towards English courts are not challenged by people's perceptions of their individual experiences to the extent that would make people question the legitimacy and trustworthiness of these institutions.

3. Russia: Judge-centred Courtrooms

My examination of the Russian court users' responses brings me to an important observation: most of my respondents commented that everything that happened in the courtroom was dictated by the judge, and they had no other option but to relinquish any control or initiative they expected to have in presenting their cases. Russian litigants knew that the proceedings would be formal and minimalist, and their experiences largely confirmed these expectations: 'I did what the judge said: sit, stand, then answer. This is my first time in court, so I just wanted to do what the judge said',[426] 'It was difficult because the

[426] Respondent 3, MC.

judge wanted me only to answer his specific questions; it was very fast, and I did not have time to think, it all went very quickly'.[427]

My respondents commented that they anticipated the hearings to be important it the overall process of justice; but they realised that the judge had already known the outcome before the hearing started. A claimant in the regional city commented while the judge was out of the courtroom preparing the decision: 'The judge has seen all the documents, he knows the case because he told me what documents I needed; so I think he knows what decision to take. I am just worried if there were any changes or if the other party did something [extra-legal means of influence].'[428]

The Justices of the Peace admitted that as a rule they knew which decision to take ahead of time, because the applicable law was clear and they had all the necessary documentation to support their decisions; new and unexpected evidence or statements by the parties would rarely emerge during the hearing itself. 'I decide cases according to the law: it is important to determine all the facts of the case; that is done in pre-trial investigation, in civil cases - in pre-trial hearings. So the case has to be very clear before the day of the hearing,' said a senior judge in the regional court.[429] In the next section I will address how this formalistic approach to the public hearings affects perceptions of courts among Russian court users.

4. Russia: Interaction in the Courtroom

In comparison with the English litigants, the Russian court users expressed more negative evaluations of the ways in which they were treated in court. The abruptness and shortness of interactions with the judge in the courtroom created an impression that the

[427] Respondent 11, MC.
[428] Respondent 16, MC.
[429] Judge 2, RC.

hearings were held only for formal purposes. As I mentioned in one of my earlier chapters, Russian court users described a usual situation in which they needed to chase court staff in order to obtain useful information. The pre-trial private meetings with the judges offered court users a chance to understand how their hearings would unfold. The cumulative effect of this relationship with the court was that Russian litigants did not feel that they were treated with respect and dignity by the court, with the exception of their private meetings with the judges.

While this outwardly projected image of Russian courts as unfriendly and dismissive creates concern regarding the ability of Russian court users to use courts easily and effectively, a different picture emerges when we consider the nature of the relationship between the court users and the Justices of the Peace that forms during the pre-trial sessions. The increasing use of lower courts suggests that Russian citizens are not deterred by the closed doors and the lack of information. Most of the Russian litigants had an understanding that personal effort and persistence were the appropriate strategies for obtaining necessary information and benefiting from the personal meetings with the judges.

While most of my respondents complained about the difficulties of dealing with courts, they also expressed the resignation to follow the unspoken rules of dealing with court officials. 'One has to know his way around here; no one will just open the door and give you what you want'.[430] After a long wait in a dimply lit corridor another respondent commented: 'They treat us like they are big bosses, and we have to do everything they say; they either have lunch, or have more important people to see'.[431] Russian court users were frustrated with the accepted rules of operation of lower courts; yet, despite that, people had to interact with the courts according to these widely accepted norms of behaviour. 'What can I do, I am

[430] Respondent 17, MC.
[431] Respondent 12, RC.

a simple person, I want my case to be over with, so I need to do what they say', commented a litigant in Moscow.[432]

My data suggest that Russian court users see courts as institutions that do not show sufficient respect and dignified treatment. However, due to the direct accessibility of the judges for pre-trial consultations, Russian court users are able to create a completely different relationship with the judges personally. This brings me back to the discussion of the duality of the Russian legal culture, as the different images of the judges in people's perceptions correspond with the different perceptions of law in the Russian legal culture.[433] Despite the outward formality of Russian courts, the image that emerges from my research suggests that Russian court users have a very complex set of ideas in relation to court use, which reflects their understanding of how the Russian society operates on different levels. Therefore, while people are distrustful towards state institutions overall, they generally agree that law and justice are important in their lives; and while people think that the state institutions are generally corrupt and permeated by personal connections, they approach their local judges on a personal level and think that it is the best way around institutional formality. These contradictions indicate the complex nature of the narratives and behaviours that come together to form the Russian legal culture.

5. Russia: Voice and Ability to Control the Proceeding

This brings me to a more detailed discussion of voice, or the ability to actively participate in the proceedings in the Russian lower courts. Similarly to the English court users, my respondents in Russia commented that they wanted to be able to speak more in court; it was important for them to tell their story: 'I could not even explain anything to the judge. I think it was unfair, the judge asked questions, and when I wanted to speak, he said it

[432] Respondent 19, MC.
[433] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.

was not relevant to the case',[434] 'I thought I could tell my side of the story, but it seems like it was all already decided, why did I have to appear at all?'[435] These statements did not come from the parties who lost. A defendant who received a suspended sentence in a criminal case commented: 'I am glad that it all ended well; I was very worried because I could not say anything in the courtroom; you just have to answer questions when the judge asks, but it is good that it ended positively'.[436] Another successful claimant in the regional city stated: 'I thought I would need to explain the situation in the beginning or somehow make a statement, but the judge already had my statement and just read it. I guess that is how the hearing goes'.[437] These statements indicate that Russian court users, just like their English counterparts, valued the ability to tell their story and to be heard by the decision-maker. However, in the context of the courtroom Russian litigants faced the reality of formal procedure which allowed them very little personal speaking and participation time.

As a regional Justice of the Peace suggested: 'People want to tell their story; but they have to do it in the way that is correct according to the procedure. They had plenty of opportunities to talk, to express their complaints, or to describe the facts of their cases in the pre-trial hearings. In the courtroom I just need to determine the facts on the basis of which the decision will be made, and to give people a chance to admit or deny them; that is what I want to hear, not the whole story from beginning to end'.[438] Another judge in the Moscow court said: 'People do not know about court procedure, they come thinking that it will be like in the TV programmes. I have 18 cases from the Taxation Service to resolve, and I have

[434] Respondent 11, MC.
[435] Respondent 18, RC.
[436] Respondent 9, RC.
[437] Respondent 13, RC.
[438] Judge 3, RC.

to make all the calculations, then three criminal offenses; and if I listen to everybody, we will be here until 10 p.m'.[439]

Therefore, we can see that the Russian court users expected to have more active roles in the hearings; but it is important to note that their reaction to the lack of voice seemed more subdued than the reaction of the English court-users. Russian litigants expressed more deference to the judge and more willingness to follow the procedure imposed on them for the sake of their case reaching a successful outcome. 'I can tell you that it is incorrect when you cannot even talk openly in the courtroom, it is my opportunity to tell the truth. But you know how it works, the rules are the rules. I did not want to argue ('*konfliktovat'*) with the judge. It all could end badly',[440] said a litigant in the Moscow court. This treatment in the lower courts seems to be accepted by the Russian court users, even though they realise that it is unjust. Sensing this injustice, however, does not empower them to demand other treatment from the decision makers, or state workers. I would argue that Russian people use this gaming attitude towards courts and find ways of dealing with the particularities of this institutional arrangement.

Therefore, the unwillingness of the Russian court users to oppose the judges, in addition to the high level of formality in the hearings coexisting with the informality of pre-trial sessions - are the main characteristics of the legal process in the Russian lower courts.

D. Conclusion

Bringing my discussion of court users' perceptions of their experiences in the Russian and English lower courts to conclusion, I need to stress that in many cases the elements that I compared were different in their contextual interpretation. What court users in England saw as procedural rules and how they defined their role in the process of justice was

[439] Judge 6, MC.
[440] Respondent 19, MC.

different from how Russian people perceived these elements of their experiences due to organisational and historical differences between these institutions, which were addressed in Chapter V.

It can be seen from my discussion that the expectations of court procedure in England and Russia are similar inasmuch as people in both countries associate court experiences with the ability to voice their legal complaints and to be understood in court. As the legal world seems alien and confusing, both English and Russian court users seek information that would help them understand how to deal with courts adequately. Not always this information is available, or people feel that they are treated in the way they expected, which leads to disappointment and negative evaluations of individual experiences. The reality of the courtroom experiences in England and Russia showed that people's expectations were largely too dramatic and unrealistic, but the underlying relationship with the legal institutions and the organisational differences between them allowed court users in England and Russia different degrees of involvement in their cases.

The availability and extent of control over case trajectories in lower courts is something that people in England and Russia understand and experience differently. In England this control is understood as extensive preparation, self-reliance on adequate performance in the courtroom. In Russia, on the other hand, people's ability to shape the trajectories of their cases takes shape in a number of personal pre-trial meetings, which in reality allow litigants and Justices of the Peace to work out the most likely solution for the case and to manage necessary documentation. Notably, Russian litigants place less value on their personal appearance in court during the final hearings than their English counterparts.

In the English case, my findings suggest that the court users saw their experiences in the lower courts as something difficult to understand and requiring extensive preparation and ideally legal assistance. People's actual experiences in lower courts tend to be less

formal and involved than they expected. However, despite their individual experiences, English court users thought that the institutions overall lived up to the requirements of fairness and justice.

The experiences of Russian court users in the courtroom seemed to be less important in the overall legal process and more formalistic. These experiences were the final stages in the relationships that court users had been able to establish with the judges during the pre-trial sessions. This unique feature of the Russian procedural model allowed the court-users to have more involvement in their cases during the preparation phase and be more comfortable with the outcome during the hearing. However, the availability of pre-trial sessions and the mere formality of the hearing in the Russian lower courts may be reinforcing the problematic aspects of the institutional images of the Russian courts overall. .

Chapter VIII

Legal Professionals and Images of Lower Courts

A. Introduction

The mages of legal institutions are closely connected to the images of legal professionals who represent the ideas of justice and help court users cope with the intricacies of the legal world. In this chapter I investigate the roles that English and Russian judges and legal counsel perform in the lower courts; and how these roles affect the way ordinary people form their images of legal institutions. I open my discussion by presenting portraits of English and Russian judges and describing the main characteristics of their judging styles. The second part of this chapter focuses on the independent legal professionals present in the lower courts, and how their participation in the legal process influences people's perceptions of their experiences.

The importance of legal professionals in shaping people's perceptions of courts is linked to the fact that one of the main roles they perform is the transformation of the exclusively legal context of court experiences into the narrative understandable by ordinary court users. As it has been mentioned in my earlier chapters, courts are often seen distant from the lives of ordinary people due to the exclusivity of legal profession and the complexity of legal language. Therefore, in addition to making sure that cases are resolved according to the substantive and procedural standards, legal professionals help people make sense of their legal experiences. Performing this additional role, legal professionals assist people in dealing with the uncertainty and discomfort of their experiences in courts.

My investigation of the inner workings of the lower courts with respect to the legal professionals is an examination of the internal legal cultures of Russia and England. Laurence Friedman defined this culture of legal professionals as 'the values, ideologies, and

principles of lawyers, judges, and others who work within the magic circle of the legal system'.[441] My discussion will show that the ideas and practices that can be described as elements of internal legal culture have a direct link to the ways in which courts are perceived externally. The term 'legal professionals' for the purposes of my research refers to people with different levels of legal training that participate in people's experiences in lower courts: all levels of judges in the UK, Russian Justices of the Peace, attorneys, solicitors, and barristers in England, as well as other court officers who received special training, such as clerks of court in England, and judicial assistants in Russia. Due to the differences in the legal traditions and institutional organisation of these respective systems of justice, English and Russian legal professionals have different backgrounds and are assigned different roles within the legal process. How these differences are perceived by court uses will be addressed in greater detail bellow.

B. English Judges and Formation of Institutional Images

English judges perform central roles in the legal process, as well as carry strong symbolic roles in the larger English society. The judges, their personalities, judging styles, and multiple roles they perform in the courtrooms have significant influence on the formation of people's images of courts. As statistical reports of English courts show, up to 30 per cent of the English judges presiding in lower courts are female; which suggests that the image of the judge of the UK is mostly male.[442]

The professional background of English judges is considerably different from their Russian counterparts: English judges presiding in county and magistrates' courts are

[441] Friedman (1987), p. 223.
[442] 'Gender Statistics', Courts and Tribunals Judiciary, accessed 26 November 2016, at https://www.judiciary.gov.uk/publications/gender-statistics/.

required to have professional experience as advocates before being appointed judges.[443] Coming from the legal profession and having personal experience of appearing in court and representing clients, English judges approach their profession, roles, and responsibilities in the ways that substantially differ from their Russian counterparts. My description of the judging styles of the English and Russian lower court judges will show how differences in judicial backgrounds and judicial roles within respective legal traditions can lead to different images of courts in people's perceptions.

I will group judging styles according to the commonalities in adjudicating approaches that emerged during my research in both countries. As it will become apparent throughout this chapter, the diversity of judicial characters and personalities is more clearly identifiable in English rather than Russian courts. My research suggests that the judging styles in England tend to range according to how the judges see their own roles within the process of justice, and to the extent that they allow their legal and personal background to influence their reasoning and behaviour in the courtrooms. My analysis of the different judicial styles and their impact on the people's perceptions of the lower courts will help us understand the complexity of the process of formation of the overall images of legal institutions in England.

As my interviews with the administrators and solicitors in the English lower courts suggest, it is considered a common practice that different judges may come to different decisions in the same case. As a solicitor in the regional English city commented: 'It is important to which judge the case is allocated: some judges are tougher than others, some

[443] Most judicial appointments in England and Wales are made by Judicial Appointments Commission, JAC. Most judicial posts will require a relevant legal qualification that has been held for either five or seven years. For more information see: Her Majesty Courts and Tribunals Judiciary, accessed 16 November 2016, at http://www.judiciary.gov.uk/about-the-judiciary/judges-career-paths/becoming-a-judge/.

are particularly strict in their special area of law'.[444] Therefore, it is important to see how different judicial approaches affect people's perceptions of their experiences in courts.

Below is my discussion of a number of judging styles which I was able to identify in my research in the English lower courts. My classification of these judicial styles will be focused on three main sets of variables which avail themselves for comparative analysis. My findings suggest that English judicial styles are best described and compared on a number of continuums: formal – informal approach, detached – involved treatment of litigants, authoritarian – egalitarian management of the courtroom. The formality continuum refers to the extent to which the judges insisted on following the official court procedure, which includes demanding the knowledge of and compliance with the legal and procedural standards of lower courts and the appropriate behaviour of the litigants. The continuum of involvement refers to the extent to which the judges were empathetic with the litigants' stories and their discomfort in the courtroom, and therefore tried to be facilitating and helpful. The authority continuum refers to the extent to which the judges stressed the centrality of their positions in the courtroom.

In addition to these main variables, my data in England suggest that judges can also be classified according to the reasoning style used in case resolution. This variable is not equally useful in the analysis of the Russian lower courts, where the judges are charged with the application of written law rather than reasoning on the basis of case facts. While the list of variables describing individual judging styles is much longer, these four continuums offer me the analytical framework for investigating how different judicial styles affect people's perceptions of their experiences in the courtroom. My discussion will follow from the most to the least widely observed judging styles.

[444] Legal Representative 2, RC.

1. Judging Styles: Informal, Involved, Egalitarian

This judging style can be characterised by an orientation towards integrating court users into the legal process during the hearing. The accommodating quality of this style refers to the effort that the judges put into making ordinary people understand the legal aspects of the hearing, which requires clarification of the legal English terms, confirmation of people's comprehension, encouragement, and psychological support during the hearing. This style could be said to be most demanding of the judges themselves, as they have to find the time and diplomatic skills to allow ordinary people to participate in the hearing fully and effectively.

Out of all my experiences with the judges in the Combined Court Centres and in the magistrates' Courts, the judge that made the most accommodating and helpful impression was Judge 3, regional English city. Judge 3 was in her mid-forties; she had been working as a District Judge for five years after over ten years of private legal practice. She had a very neutral, business-like, yet involved and assisting approach to handling her cases: she avoided pressuring the parties into taking a certain course of action, and made sure that the parties understood that the small claims courts were informal. If an unrepresented litigant looked confused with respect to court procedure, Judge 3 tried to clarify the necessary procedural steps, as well as options available to the litigant. Most importantly, if a litigant was confused regarding a certain legal issue, she tried to explain the issue involved in the layman's terms. During the interview she commented that while it was not her job to provide legal assistance, she felt that limited clarification during the hearings facilitated case resolution and saved time, particularly in the small claims cases. She also concentrated on making sure that the hearing went without prejudice to the unrepresented person, and no side had an unfair advantage. This judge used a degree of assertiveness that did not antagonize litigants. Her assertiveness was observable in cases when she was pressured by the legal

counsel of one of the parties to take a certain view on the case. In such cases, she stressed the most important points involved in the case and retained a firm control of the hearings.

The second judge who could be characterised by the involved and helpful judging style was Judge 2, magistrates' court in the regional city. His personal approach to the hearings in the criminal courtroom was reserved and polite. He explained to me that he used this style more as a disarming technique: 'If you treat somebody who is argumentative and upfront very politely, they are more likely to respond in a polite way'.[445] He had an assuring voice and diplomatic manners with everybody in the courtroom. He did not hesitate to ask the clerk about something he did not hear clearly or wanted to double check. This created an image of a confident, professional, and balanced judging style. One would expect him to be rather mild in sentencing as well, which was not necessarily the case. He seemed to use his diplomatic judging style to facilitate smooth and efficient hearings and to make all parties feel at ease, while he went through the required procedural steps. This judge was also one of the younger judges: he was appointed a full-time District Judge in 2009. My interview with him showed that despite his mild judging style, he had strong opinions towards defendants with drug addictions, rehabilitation programmes, and short-term prison sentences - most of which derived from his personal experience as a barrister specialising in criminal law.[446] He commented that in his understanding his judging style was a product of his legal experience, which showed him what types of interaction in the courtroom were most productive.

The accommodating and helpful style of judging produces a more relaxed and informal environment in the courtroom. Whether the underlying motivation was to help the litigants, or to make the hearings run more efficiently, litigants noted that they felt understood and respected by the judges who were helpful and made them feel at ease. 'It is good that the judge in my case was understanding; he helped me when the language got

[445] Judge 2, RE.
[446] Judge 2, RE.

confusing, or I did not understand something'.[447] While English court users commented that they felt involved in the hearings in front of the judges who used this accommodating approach, it should also be noted that this judging style seemed to put additional strain on the judges: the pressure to resolve cases in a timely and efficient manner often competed with their willingness to help unrepresented litigants. This observation supports my earlier statement that despite the formally recognized simplicity of cases allocated to the lower English courts, the court users often found themselves unable to deal with these claims by themselves. The judges described above realized that a certain level of assistance was necessary for the hearings to proceed in a way that allowed unrepresented court users fair and equal hearings.

2. Judging Styles: Informal, Detached, Practical

This approach to judging can be characterised by an efficient and detached method of judicial reasoning and emphasis on the practical management of the hearings. Judges in this category were not excessively helpful and accommodating; however, they used pragmatic reasoning and logic, which considered the overall situations involved in the hearings and gave the litigants an impression of empathy and understanding. While this approach was not as personalized and accommodating as the first approach I mentioned, it created a more relaxed and business-like atmosphere in the courtroom. Judges using this style were seen as legal professionals, who used their training, experience, logic, and understanding of the human circumstances to resolve legal matters.

The importance of distinguishing this approach comes from the fact that it seemed to dominate people's expectations of English judges. My interviews suggest that small claims litigants hoped that their cases would be allocated to a reasonable judge with a common-sense approach to reaching decisions. A solicitor in London commented: 'A lot depends on

[447] Respondent 2, LE.

the judge, some judges see cases quite clearly and use their reasoning, some have strong opinions about matters and tend rely to on them in making decisions'.[448] Most of the litigants commented that in their understanding English judges reached decisions on the basis of their reasoning, experience, and knowledge of relevant law. While the pragmatic approach did not allow the hearings to become litigant-focused, it seemed to assure litigants that their cases were resolved fairly.

An example of this reasonable and detached approach was Judge 5, a female judge in her late forties, who had worked as a county Court judge for over eleven years. This judge had a pragmatic, down-to-earth approach to hearings and sentencing; she was strongly against inefficiency in the use of court resources, was intolerant of people who wasted her time and misused the courts. She expressed some impatience and concern while working with immigrant defendants who were not proficient in English. Yet, even with a low level of English proficiency, they were allowed to submit necessary evidence and rely on it during the hearings. She put extra effort into making confused litigants feel more confident during the hearing by giving them time to compose themselves, or by making sure that they understood the overall impact of their actions and statements on their cases. This stress on efficiency in the courtroom and a degree of impatience may have been attributed to her extensive experience in dealing with similar cases. Overall, she could be characterised as a considerate and reasonable judge: she took sufficient time to consider her decisions, asked the parties what they wanted, and then interpreted her decisions and their legal consequences to the parties.

Another judge that could illustrate this approach was Judge 6, a male judge in his late sixties with an extensive background as a District Judge in the county court in the same regional city. He followed the general rule of instructing the parties during hearings as to the

[448] Legal Representative 2, LE.

order of speaking and acceptable forms of evidence. However, in comparison with the other judges in this group, he was not very accommodating towards the unrepresented defendants. He was respectful and brief. He put the emphasis on the application of common sense, and eliciting clear and truthful statements from the parties. He did not engage in emotional discussions with the parties, or listen to their extended arguments; his goal was to get to the bottom of the case. However, his rather dry and reserved style of conducting hearings did not mean that he was dismissive towards people's interests or personal situations. I had an impression that he preferred not to show his emotions or to respond to the emotional statements of litigants as they were not appropriate in the courtroom. When making a decision he considered a variety of external factors, such as the overall economic situation in the country, litigants' family situation, and other personal and financial factors that would make his decision not only reasonable, but realistically enforceable.

Based on my observations, it is evident that this reasonable and detached style of judging produced a more formal environment than the accommodating style described earlier, even though the judges did not demand strict adherence to court procedure. The litigants in these cases commented that they were confused with the legal language and procedural standards of their hearings, yet they did not find these hearings or their outcomes unfair. The feeling of inadequacy regarding the legal aspects of the hearing usually did not prevent people from seeing the judge as a reasonable and understanding professional, who tried to get to the bottom of the matter. Therefore, it could be said that this judging style reinforced the traditional image of English judges as detached professionals aiming to use their reasoning and legal expertise to resolve cases.

3. Judging Styles: Formal, Abstract Academic, Egalitarian

This approach to judging could be described as more academic and contemplative in comparison to the previous style. Judges in this group represent the most traditional aspects

of the existing perception that English judges belong to a specialist elitist institution detached from the everyday lives of ordinary people. Focusing on the substantive aspects of cases, these judges created an impression that the legal principles involved in certain cases had value outside of the merits of individual cases. These judges looked for a clear and sound chain of reasoning, which in many cases led them through a number of abstractions and hypothetical situations. This approach to judging looked like an academic exercise in logic and reasoning.

Judge 7, QC, belonged to the generation of older judges; he was the oldest of the judges I interviewed for this project and was very proud of his senior position. Because of his seniority, he was assigned most of the fast track and multi-track claims. His judging style was more philosophical rather than inquisitorial and pragmatic. He was polite during the hearings, yet slightly condescending toward the litigants who were not following his reasoning, struggling with the standards of legal procedure, or legal English. He could also be described as more academic in his reasoning. However, even with his tendency to seem detached and wander off on philosophical tangents, he was in favour of conducting hearings efficiently. He addressed the parties from the bench quite informally, even though all of his cases were heard in an official public courtroom, rather than his private office. His reasoning was guided by expertly applied common sense, rather than previous decisions or instructions to the court.[449]

This observation goes back to my earlier statement that some English judges were more willing to accept the guidelines of the Woolf Reforms and therefore move away from independent thinking and reasoning.[450] Other judges, mostly part of the older generation, felt rather defensive of their traditional approaches to judging. This difference between the two

[449] These guidelines are mostly provided it the area of sentencing, but it is not limited to criminal matters. Civil matters, such as possession claims, recovery of debt, and others are also given guidelines in the Rules of Civil Procedure.
[450] See supra note 160.

camps of judges could be seen in the courtroom: the proponents of the Woolf Reforms were more likely to be seen as efficient, detached, and pragmatic in their case management and decisions, while the older judges were more likely to seem helpful and understanding to court users.

It could be said that this judging style strengthens the traditional image of legal institutions in perceptions of the English court users. The traditional element of these professional and elitist judges is a large part of this image: judges project an image of specialists in legal reasoning, which is seen as inaccessible to ordinary citizens. This image contributes to courts being seen as specialist institutions detached from people's ordinary lives and intended to inspire awe and respect from the general public.

4. Judging Styles: Formal, Detached, Authoritarian

A small number of judges I was able to observe were particularly focused on reinforcing the image of courts associated with adherence to procedural rules. They insisted on the strict compliance with the rules of case filing, appropriate appearance in court, presentation of evidence, as well as forms of addressing the judge. This judging style strengthened even further the distant and intimidating image of English courts.

One of the examples of this strict judging style was Judge 8, regional city, a male judge in his late-fifties. His approach could be described as the strongest in terms judicial presence in the courtroom, which had earned him a rather negative reputation among other legal professionals in this district court. My observations and interviews with the solicitors who had personal experience in his courtroom suggest that his main point of contention with the litigants, as well as the legal counsel, was poor or inadequate preparation for the hearings, insufficient documentation, and a general lack of professional standards in court. During the hearings he made sure to point out all errors in case preparation, format of the

documents and statements attached, and ultimately in the way that parties behaved in the courtroom.

Judge 8 had complete control over what was happening in his courtroom. He used strong language towards the litigants and their legal counsel, if present. His most fervent criticism was usually directed towards the solicitors, who were put in a position of patiently listening to his criticism, admitting their faults, or the faults of those who instructed them. His judging style was intense and intimidating. When he reached a decision, he did not explain it to the parties; he stated his decision very briefly, and commented that his reasoning was obvious to those who understood the legal issue in the case. It would be difficult to summarize his judging style from one day of observations. Yet my impressions were confirmed by the legal counsel after the hearing. He was known for his firm and demanding judging style. This approach to judging occupies the most extreme point on my continuum of authoritativeness and formality; and it was not received well by the litigants. What is important, however, is that litigants who appeared before this judge did not criticise the institution for their experiences, they just considered themselves unlucky.

5. Concluding Comments

To summarize, a number of judging styles have emerged from my observations and interviews in the English lower courts. The prevailing judging style described the judges who tried to empathise with the unrepresented and underprivileged litigants; these judges were accommodating and helpful. They were more likely to clarify legal procedure and the reasoning behind their decisions to the litigants. This accommodating judging style did not necessarily produce more lenient sentences; most judges I observed had to apply existing precedents or appropriate regulations during the sentencing stage of the hearings. Within this group I observed different degrees of empathy towards litigants, yet the main characteristic of this judging style was the willingness of the judges to adapt the rules of procedure and

legal language to the needs of ordinary people. The willingness to explain and to make the atmosphere of the hearing less intimidating is one of the most distinct features of this judging approach; it added a human and compassionate dimension to the overall image of English courts.

At the other end of the spectrum of judging approaches are the judges who valued the procedural standards and the formal requirements above personal stories of court users. Upholding courts as places where justice is reached in a traditional sense, they stressed the need for compliance with the official rules of legal procedure. They saw it to be their responsibility to promote respect towards English courts, and they tried to achieve it in their everyday actions.

The analysis of my interviews with the English court users suggests that judges were seen more positively in cases where they were helpful and considerate to the individual circumstances of the parties. My English respondents generally did not have complaints about unequal treatment or favouritism from the judges. There was a general feeling that the fairness and unbiased nature of the hearing were guaranteed by the very presence of the judge.

While most English judges tend to put extra effort into clarifying legal matters in order to alleviate the tension and discomfort of legal appearances, this could not be accomplished in all cases: some judges were visibly under stress from the high number of cases on their docket and lost their temper in particularly poorly prepared cases; other judges were visibly exhausted from the need to constantly clarify simple matters, which should have already been known to the litigants. The pressure to resolve small cases efficiently and the absence of legal representation in most small claims seemed to produce a situation in which the judges became more involved in the personal stories of the parties.

The image of English judges that has emerged out of my findings supports the general idea that legal profession in England is seen as a rather isolated and narrow circle of privileged and highly educated professionals only to a degree. While the judges were often seen out of touch with the everyday problems of ordinary court users in the opinions of English society at large, my research suggests that most English court users described their personal experiences in courts as fair and reasonable. Moreover, the helpful and accommodating judging styles were seen in the everyday operation of lower courts and were valued by the court users. Therefore, an important observation coming from my research is that English judges are seen as fair and reasonable despite the existing criticisms of the English legal system overall. English lower court judges in particular add new facets of compassion and involvement to the traditional image of English courts.

C. Judges and Institutional Images of Russian Lower Courts

The emerging portraits of the Russian Justices of the Peace differ from their English counterparts first of all due to the nature of their positions and their professional background. As a rule, Russian Justices of the Peace do not come from the legal profession, as it happens in England. Current Justices of the Peace could be subdivided into two large groups: the first wave of judges who became Justices of the Peace when the institution was reintroduced in 1999 by switching from other law enforcement or civil service professions; and the second wave of Justices of the Peace, who became judges more recently directly after graduating from law programmes and undergoing special training. The second group also includes judges who previously worked as assistants to Justices of the Peace, which is seen as a form of apprenticeship.

While the official statistics of gender distribution in Russian courts are difficult to obtain, most sources refer to the overwhelming 89 per cent female representation among the

Justices of the Peace in particular.[451] This percentage decreases in district courts and courts of higher instances. However, it is important to note that most positions of lower court judges in Russia are held by women, in contrast with the largely male representation in the English lower courts.

In the following part of this chapter I investigate whether the different backgrounds of Russian lower judges and the different roles they perform within the Russian procedural model produce differences in their judging styles; and how these judging styles affect people's experiences in the Russian lower court users.

I shall continue using the main variables introduced earlier in this chapter; yet not all of them will be applicable to the Russian lower courts. Russian judging styles will be described along the formality variable, with a necessary disclaimer that the informal approach was exercised mostly during the pre-trial sessions, while most official hearings were handled with the stress on formality. This suggests that Russian lower court judges were capable of using both formal and informal approaches, but they used them at different stages of case resolution. This also suggests that court users saw different images of the judges at different stages of the legal process; they also understood the need to adjust their own behaviour accordingly.

In addition to the different levels of formality used in the pre-trial and trial hearings, I must point out that my analysis of the reasoning styles is not applicable to the judging styles in the Russian courts. As it was mentioned in my introductory discussion, Russian judges

[451] Statistics on gender representation among judges of Courts of Justices of the Peace are not reported officially. Individual regions publish statistics of gender representation on a voluntary basis. It is a general consensus that women dominate at the level of Courts of Justices of the Peace. Tatarstan Region – 64 per cent, Saratov Region – 89 per cent, Kurgan Region 98 per cent, Russian Federation overall estimate 71 per cent. Accessed 25 November 2016, at http://pravo.ru/story/view/123961/; http://chertovskoyff.ru/?page_id=100; http://kurganobl.ru/content/organizaciya-kadrovoy-raboty-upravleniya-po-obespecheniyu-deyatelnosti-mirovyh-sudey-v; http://www.kommersant.ru/doc/2820307. For more information on gender representation in the Russian system of justice over all see: Volkov, V., et al., 'Rossiyskiye Sudyi kak Professionalnaya Gruppa: A Sociological Investigation', *Institute for the Study of Rule of Law*, European University in Saint Petersburg, 2012.

follow the civil law principles of case resolution: their main purpose is to find the law that fits the case and apply it with the intention of the legislator in mind. This creates noticeable differences in the legal process: most decisions in the Russian lower courts are drafted before the hearings, with the hearings being reserved as stages for the final announcements of these decisions. Therefore, while the English court users in most cases are able to see how the judges decide their cases during the hearings; Russian litigants come to the hearings largely for formal purposes, to confirm that everything is correct and to listen to how the facts of their cases fit the applicable laws.

Keeping these differences in mind, I shall focus on the main variables that describe the judging styles in the Russian lower courts: involved versus detached, authoritarian versus egalitarian, and small variations within these.

1. Judging Styles: Detached, Authoritarian, Formal

One of the most prevalent judging styles in the Russian lower courts was a strong formal power-centred approach, which can be characterised with the heavy use of judicial authority in the courtroom. In comparison with a purely bureaucratic style of adjudication, the particular assertiveness and formality of this style come from the Russian judge directly representing and personifying the law and authority of the Russian state. This judging style produces a prominent image of a judge-centred courtroom, where the judge is closely associated with the principles and power of the Russian state. With such prominent powers of the judges, court users are placed in a position of dependence and almost complete deference to them.

The formal method of judging can be described as more focused on the efficiency and timeliness of case resolution. Many of the younger judges used this judging style in order to deal with the great number of small cases that appear in their courts. The formal and

detached judging style can be described as rather dry and normative in its application of the law. They seem to be more concerned with accomplishing the goals set for their particular courts, which gives them little time to listen to people's stories and get involved in explanation of the nature of their office.

Here are a few portraits of the traditionally authoritarian and bureaucratic Justices of the Peace. Judge 1, Moscow court, was a former employee of the local office of the Ministry of Internal Affairs, MVD, where he worked in a position of '*kriminalist'*, or a forensic scientist. He became a Justice of the Peace in 2004. At the age of 35 he can be considered one of the younger members of this profession. His assistant was a recent graduate of the Moscow Humanitarian University, department of law, and was preparing for becoming a judge herself. The judging approach of this justice could be described as detached and highly formal: he dictated the facts of the cases to the secretary to create appropriate records; he addressed the litigants very briefly to secure necessary answers, and he dismissed all unnecessary interruptions from the parties. In a brief interview he stated that he prepared most of the decisions ahead of time, which saved him time during the hearings.[452] This judging style was bureaucratic and administrative, based on the reliance on the black letter of the law.

Judge 2, Moscow court, belonged to the second wave of younger judges: he was in his late thirties; he graduated from the law department of a Moscow university and worked as a judicial assistant in a different district in Moscow before being appointed a Justice of the Peace. He did not have an assistant, but had a personal secretary and could use the services of a court archivist as well. His approach to case resolution was very pragmatic: he listed the cases that would take the shortest time in the first part of the working day. As most of those cases included taxation matters and small administrative matters; the parties were not

[452] Interview with Judge 1, MC.

expected to appear. He went through these small cases with his secretary in a business0-like manner. The afternoon hearing time was allocated to small criminal and civil cases in which parties were expected to appear. His judging style was similar to Judge 1: rather dry, bureaucratic application of relevant laws. He commented that he was familiar with the cases before the hearings, and the primary goal of the hearing was to announce the decision. He seemed to enjoy his work, which an observer could describe as more administrative than adjudicative in nature.

Judge 3 in the Moscow court is one of many Justices of the Peace who could be described by this judging method. She was in her late forties and could be considered part of the first wave of Justices of the Peace. She had extensive experience as a prosecutor for the Russian Ministry of Internal Affairs, *MVD*, before being appointed Justice of the Peace in 2001. She was the Head Justice of the court centre hosting the judges of three Moscow districts. She shared services of one court secretary with another Justice of the Peace, but worked mostly with her assistant, who was responsible for the majority of her paperwork and case preparation. Judge 3 commented that they were constantly experiencing shortage of trained legal personnel.

This judge approached her judging in a very organized way. She was polite with the parties in the courtroom, but did not clarify issues that were obviously not understood by the parties. It seemed that her goal was to find the correct solution with minimum time and court efforts involved. If the parties became emotional during the hearing, she waited for them to calm down, but did not engage in conversation. In the allocation of her time she followed the standard practice of other Justices of the Peace: a significant part of the day was allocated to issuing decisions *in absentia* in her courtroom, and more demanding cases were left for the second part of the day.

The younger female justice in the regional court, Judge 1, could be an example of a mixture of purely administrative and authoritative judging styles. She had been working as a Justice of the Peace for the industrial and agricultural parts of the city since 2005. Most of her cases was small administrative matters that had to be resolved without the presence of the parties. However, when she had a chance to hear more difficult cases in the courtroom, she seemed to assume a more authoritative tone and exercised strong control of the courtroom.

A particular note should be made about the elder Justice of the Regional Court, Judge 2. He had participated in my previous research on Russian legal consciousness. He had extensive experience working with students sent to his court for summer internships from various law programmes in the region and believed the studying his profession could help future judges and the general public understand courts better. He became a Justice of the Peace after more than twenty years in the military service in the Russian army and then civil service in the Russian Ministry of Internal Affairs. He had been working in his current position since the establishment of courts of Justices of the Peace in the regional city in 2002. His judging style could be described as a mixture of authority and intimidation: he controlled the courtroom with a commanding style and managed the hearings exactly how he saw was fit. Most of his decisions were prepared before the hearings, as in the cases of the other Russian judges I met. He seemed to be in absolute control of the courtroom, which he accomplished quite effortlessly.

In comparison with the other Russian judges, however, he seemed to be more involved in the hearings: he took the time to listen to litigants; he felt that it was his duty to get to the bottom of the case and exercise his wisdom in reaching the final decision. Regardless of this personal interest, what he dictated to the secretary was the bare minimum of what the parties said in the courtroom and what was necessary for the case to proceed.

My findings suggest that the older Justices of the Peace saw their roles more from a perspective of their place within local community. As Judge 2 told me in an interview: 'I do feel a part of the community: I have been working in this area for very long, a lot of people know me and recognize me in the street. It gives me a bigger responsibility of look over them, to maintain peace'.[453] The legal representatives in the regional courts commented that he was famous for his authoritative style, but despite that, he was seen as a fair judge.

2. Judging Styles: Formal, Administrative, Involved

Moving in the direction of the judges who were more involved in the stories of the litigants, I would like to describe the judging style that can was not observed very often and characterised mostly younger judges. While the caseloads of all judges were heavy, some judges preferred to resolve matters in a more personalized way even in the courtroom. These judges felt more comfortable making the courtroom a neutral space that would allow them to resolve matters quickly and effectively. This style could be compared to the approach of Judge 2, magistrates' court. Judges developed this approach and used in a targeted way in order to affect how litigants behaved in the courtroom.

3. Russian Justice of the Peace: People's Perceptions

As we can see, the judging styles of the Russian Justices of the Peace can be characterised by high levels of authority and formality. However, they also exhibit willingness to create a calm and productive atmosphere to facilitate effective case resolution, which is usually accomplished by the mechanical application of appropriate laws. The cases that reach the final stages of public hearings in the courtroom unfold in the ways that allow the judges to establish the authority of state institutions formally.

[453] Judge 5, RC.

The key difference that emerges is that while most of the English judges sought what they saw reasonable, or 'common sense' decisions, Russian judges did not go into the reasoning behind the laws or methods of their application. I would like to stress that this observation is linked directly to the different sources of law in the Russian and English legal traditions, which creates different demands from the judicial profession. The main roles of the Russian judges are to make sure that all necessary documents and evidence are present in case files, and to know and apply the appropriate laws. The reasoning and discretionary ability of the Russian Justices of the Peace is reserved for unusual cases, in which they might need to look into the original intent of the legislator, and in those cases they are assisted by the guidelines and explanations accompanying the legal codes.[454] This is particularly important for comparing how court users experience their experiences in front of the judges. The emerging image of the Russian lower courts suggests that court users have very little opportunity to impact the trajectory of their cases during the actual hearings.

Traditionally the image of the judge in Russia has been rather complex. In the Tsarist Russia, the system of courts at every level was characterised by corruption and exchange of favours.[455] During the Soviet era, the judges were seen as a part of the law enforcement organs; they were responsible for maintaining the legal and political order in the country. As a result, courts became associated with law enforcement and punishment, and were seen as the last link in the long chain of state administration of power. They were explicitly serving the goals of the Communist Party. The reforms reintroducing Courts of Justices of the Peace in Russia after the dissolution of the USSR envisioned them as independent institutions. However, the pre-existing images of the Russian courts and their attachment to the power of

[454] For detailed guidelines in Civil Procedure please see: https://www.justice.gov.uk/courts/procedure-rules/civil/rules

[455] A. Leroy-BeauLieu, *The Empire of the Tsars and the Russians*, translated from the 3d French ed., with annotations, by Zenaide A. Ragozin (New York: G. P. Putnam's Sons, 1893-1896). He wrote about courts in Tsarist Russia: 'The symbolic scales of justice serve to weigh not so much rights and titles as offers and presents'.

the state could be counteracting those intentions: multiple cases of the Russian state using courts to promote its political interests, to eliminate viable political opposition, as well as to encroach on a number of human rights have been attracting public attention and sending a message that modern-day Russian courts are still being used by the Russian state. As a result, Russian people continue to rely on the traditional image of the Russian courts as a part of the law enforcement apparatus. 'I am glad that my case is small, otherwise I think somebody would get interested and they would get involved from the top. As long as they [the government] don't care, you can get some things done', commented one of my respondents in the regional city.[456]

While the overall attitudes towards courts in Russia may be complex due to their historical path of development, people's evaluations of individual judges and their roles in the lower Russian courts point at the complexity of this issue. My interviews and observations indicate that Russian court users tend to have neutral or positive images of individual judges on a personal level: 'I think our judges are good, they decide according to the law',[457] 'They do not get paid a lot, I think, just like police; and they have to deal with a lot of mess ('*besporyadok'*)'.[458] This positive evaluation may be linked to the people's ability to meet with the judges during the informal pre-trial sessions, where they can interact without the formality of legal procedure or the presence of other parties.

Despite this rather positive evaluation, the Russian judges in my research were seen as strong-handed and autocratic: people believed that the judges could choose which laws to apply, or whether to close their eyes on certain violations or requirements of court procedure. When I asked court users whether they trusted that there was the law that would solve their situations, most of my respondents commented that they were certain that the law

[456] Respondent 15, RC.
[457] Respondent 6, RC.
[458] Respondent 11, MC.

that applied to their situation existed, but it was the judge who ultimately had the power to decide which law to apply. 'We have a law for everything, but how it is all really decided is up to the judge'.[459]

Similarly to the English litigants, the Russian court users also expressed feelings of uncertainly and confusion in the legal environment. However, Russian court users dealt with this uncertainty by relying on the judges and try to work out the desired outcomes via the pre-trial sessions. 'I saw how it all happens on TV: judges tell people what to do in the courtroom, so you have to do what they say; I just hope my judge will be alright - an understanding person'.[460]

To summarize perceptions of judges among Russian court users, one needs to stress the traditional role of the judge in the Russian society and to the unique features of the Russian legal tradition. My findings suggest that Russian court users associate the judges with the power of the state. As a result, the existing attitudes towards the state and its detachment from the interests of ordinary Russian people are attached to the offices of Justices of the Peace. The individual evaluations of the judges, however, suggest that people see them as 'human' bureaucrats, who have to do their job, but who are approachable and understanding behind the official curtains of formality. Therefore, the whole legal system is seen as a large bureaucratic outwardly upholding the formality of state dominance, yet informally operating by the rules of personalized interaction based on connections and favours.

I would like to emphasise that one of the most important distinctions of the Russian small courts is presence of informal pre-trial sessions. Therefore, the judging styles in Russia involve an additional dimension of informal personal interaction with court users

[459] Respondent 8, MC.
[460] Respondent 13, MC.

before the final hearing. As a result, Russian court users come away with two images of the judges: the judge in pre-trial sessions, giving advice and understanding their problems, and the judge in the courtroom, going through the formalities of the hearing. I would like to stress that this duality of the image of the judge is a part of the traditional way Russian people perceive institutions: they see institution as something formal, impersonal, administrative, and authoritative in nature, while at the same time they deal with these institutions by identifying people in positions of power and approaching them in personal and informal ways.

D. Comparative Summary

My discussion has shown that judicial images in the Russian and English lower courts in many ways shape how ordinary people experience justice in these legal institutions. My findings bring to light a number of judging styles that participate in creating different institutional images in England and Russia. It has become clear that the roles of the judges in lower courts extend far beyond adjudication: judges clarify legal procedure, empathise with the litigants' personal situations, and give formal validation to their grievances. Yet due to the organisational and administrative differences, judges in England and Russia perform these roles differently, which creates different relationships and attitudes towards the courts.

Most of the English judges tried to create a relaxed and informal atmosphere in the courtroom. They confirmed litigants' expectation that they have a right to justice in lower courts. The extent of their willingness to help the unrepresented litigants varied, yet almost all judges realized that ordinary people needed assistance and clarification in order to fully participate in the legal process. Another important observation is that English court users never questioned the integrity and legitimacy of judges and their decisions. The judges were not always seen as fair or empathetic, but the legitimacy and reliability of the institution they represented were perceived taken for granted.

In the Russian case, we can see the duality of the multiple layers of duality of the Russian legal culture in the everyday operation of legal institutions: while official public hearings are seen as formal and authoritative, pre-trial sessions, which have the potential of actually deciding the cases, are informal and consultation-like. The judges reinforce this perception by being helpful during the pre-trial sessions and overly formalistic during the hearings. This duality can also be traced in the larger perceptions of Russian court users: they tend to have negative evaluations of the Russian system of justice and its operation in general, but they have neutral or positive evaluations of their local judges.

E. Legal Counsel in Lower Courts

As it became evident from my previous discussion, images of institutions of justice both in England and Russia are also shaped by people's interaction with legal professionals, which refers to a wide group of members of court administration, judges, and legal counsel, when present. It has also become clear that the lower courts in both countries are designed to deal with the legal problems that are considered simple enough to be resolved without legal representation. Disposing with the need of legal representation in small cases makes courts more attractive financially and accessible to people without specific legal knowledge or previous court experience. My discussion above has shown that the absence of legal representation tends to increase the need for court administration or the judges to offer people legal and procedural guidance and advice before and during the hearings. The differences in the organisational structure of the lower courts in England and Russia put this increased duty on the different agents of court: English courts assign these duties to court administration, while Russian courts assigned some of them to the judges due to the lack of a well-defined agency of court administration. What has become clear is that court users in both countries do not see court use as simple as the systems of justice presume it to be. Therefore, it is necessary to investigate whether the presence of legal counsel affects

people's overall perceptions of legal institutions. I will address this by looking at how court users see the role of legal representation, and how accessible legal representation was in the lower courts in England and Russia.

Perceptions of competent legal assistance have been recognized as one of the main factors shaping people's overall perceptions of organisational justice.[461] Existing research has recognised that litigants' evaluations of their justice system experiences depend in part on their relationship with legal counsel. 'If lawyers are viewed as agents of the legal system and if they are the agents which whom the litigant has most contact, then favourable impression of the lawyer might generalize to produce favourable impressions of the system. In addition, evaluations of lawyers might influence perceived fairness and satisfaction by virtue of the importance of the lawyer for successful litigation'.[462] It has been suggested that litigants were more likely to believe that procedures were fair, to be satisfied with their outcome and with the court overall when they trusted their attorneys and viewed them as having a good grasp of the case. What is clear is that favourable evaluations of counsel were associated with greater perceived fairness and satisfaction.[463]

1. Legal Assistance in England: Civil Courts

While small claims procedure in county courts has created an easier and more streamlined process that was aimed to improve court effectiveness, it is interesting to examine how this simplification of legal claims affects people's perceptions of their experiences in lower courts. Therefore, I shall investigate whether the lack of legal counsel adds to people's feelings of confusion, inadequacy, and alienation from the legal process, and whether it affects how people perceive courts overall.

[461] J. Gibson.
[462] A. E. Lind, at al., 'The Perception of Justice: Tort Litigants' Views of Trial, Court-Annexed Arbitration, and Judicial Settlement Conferences', *RAND Report R-3708-ICJ*, (RAND Corporation, Santa Monica, CA, 1989), p. 20.
[463] *Ibid*., p. 62.

While English court users in small claims courts are told that they can represent themselves and save on attorney's fees, my case observations and interviews show that the reality of legal world is quite challenging for ordinary citizens.[464] Most English respondents felt that they could tackle their cases without legal assistance, yet in some cases both the claimants and the defendants felt the need to back their understanding of their cases with professional opinions: 'It looked like a simple claim at first, but when you actually file and need to go through all the details, it was confusing'.[465] A claimant in the regional city stated: 'You really need a trained professional in court with you, you feel like you don't have to worry about doing something wrong or not understanding'.[466] Legal assistance in the form of help of independent or court-assigned legal professionals allowed people to make sense of their experiences in courts. Legal professionals translate the claims of ordinary people into legal language, thus transferring ordinary disputes into legal claims.

At the time this research was conducted English county courts offered free legal assistance to underprivileged court users. This meant that court users could call free legal aid support lines in preparation for their cases, or could obtain legal advice immediately before their hearings in court.[467] In the public area of most English Combined Court Centres one could see posters and fliers offering information about possible legal aid. In some cases, separate rooms or booths were allocated to free solicitors on duty. In my experience, solicitors were quite busy; their services were paid by the court administration and were offered free on first come- first served- basis. 'We did not know about that before coming to court today. We tried to obtain free legal advice, but it was very difficult, you need to qualify, and it takes a long time'.[468] The important observation about the English lower

[464] Respondent 11, RE.
[465] Respondent 6, RE.
[466] Respondent 8, RE.
[467] I refer to the availability of legal assistance at the time of my research.
[468] Respondent 5, RE.

courts is that affordable or free legal assistance was available with the support of court administration.[469]

Another interesting aspect of the English lower courts is that legal assistance was not always initiated by the court users; it was common practice on the part of the English court administration to require court users to obtain legal advice before the hearings. Quite often the judges and the clerks inquired if court users had had a chance to see the solicitor on duty before their scheduled hearings. Unrepresented court users were routinely asked this question when they arrived into the public area adjacent to the courtrooms. When these users had not received legal advice, they were sent to see the solicitor on duty. I observed multiple cases where parties in eviction and repossession claims were required to see the solicitor on duty before appearing in front of the judge, which in some cases lead to delayed the hearings. One of my respondents in London stated: 'When I came, they asked me if I had spoken to a solicitor. I said no, so they asked me to wait in line for a free consultation'.[470] In another case, a litigant was asked to leave the courtroom because the judge adjourned the case to give him a chance to see a solicitor on duty.

This suggests that legal assistance was considered essential by the English court administration, as well as by the judges in the lower English courts, especially for the underprivileged or vulnerable groups of court users. Free legal assistance seemed to be offered more to the people who were likely to be at a disadvantage in the absence of professional legal advice. This refers to cases of repossession, eviction, debt collection, and all criminal cases, which will be discussed below. Giving people a chance to be advised was considered a prerequisite for appearing in court.

[469] 'European Judicial Systems: Efficiency and Quality of Justice', *CEPEJ* (Council of Europe Publishing, 2008, 2010, 2013). According to CEPEJ, 24 per cent of overall budget on average is spent on Legal Aid in England and Wales yearly.
[470] Respondent 15, LE.

Litigants who were able to afford legal assistance, chose to do so in very few of the small claims that I was able to observe. As one the respondents commented: 'I have a right to represent myself; why should I pay for a solicitor, if I can handle this case myself?'[471] Another respondent said: 'I was told that it's a simple claim, and that I can do it by myself; it is mostly paperwork'.[472] This suggests that court users expected their experience in lower civil courts to be uncomplicated and bureaucratic in nature.

Those litigants who voluntarily used the help of a solicitor commented that they did not feel sure about their understanding of the legal aspects of their cases and wanted to be more secure in dealing with the court: 'We were generally overwhelmed when we filed our claim and realized how demanding the preparation would be', commented a couple in a breach of contract case, which did not end in their favour.[473] After their hearing they commented that they regretted not hiring a solicitor. Other court users supported this sentiment: 'It is much easier to deal with the whole experience and not worry if you have a good solicitor', commented a couple in the regional city.[474] Another claimant in a Fast track case said: 'We were very lucky to find a good solicitor; she helped us draft all the statements, I would not be able to do it myself'.[475] These and similar statements suggest that using professional legal assistance even in small claims courts made people feel more comfortable with their experiences and more secure that their cases were handled appropriately.

Therefore, legal representation adds to the perception of comfort and confidence in court, which is an important factor in shaping people's overall perceptions of their experiences in courts. This supports my previous observation that ordinary court users find it

[471] Respondent 13, RE.
[472] Respondent 14, LE.
[473] Respondent 17, RE.
[474] Respondent 17, RE.
[475] Respondent 14, RE.

challenging to deal with lower courts, despite the relative simplicity of these claims in legal terms. Legal assistance is perceived necessary even in the lower courts and could have a potential of making the image of courts more accessible and usable.

2. Legal Assistance in England: magistrates' courts

As most cases heard in magistrates' courts are small criminal violations, there are noticeable differences regarding the procedure of case resolution and the degree of involvement of legal counsel: defendants usually have an appointed solicitor present, or appear by themselves after having consulted a solicitor. Prosecution always represents the state in small criminal cases. Prosecutors are generally selected from the list of local solicitors who agreed to assist in the small criminal cases.

The presence of legal assistance in criminal cases is not a matter of choice by the defendant, the type of legal assistance, however, may be subject to personal choice. Free legal advice is offered to all criminal offenders as a due process requirement. Some defendants prefer to find their own solicitors, because they fear that a free solicitor is not able to provide adequate legal services. However, in reality free solicitors provided by the prosecution are very busy. It is common practice for them to handle a number of cases in the same courtroom consecutively. The presence of a legal advisor in criminal hearings seemed to be a natural part of the hearing: my respondents referred to the quality of legal aid in our conversations. As a defendant in a traffic violation case commented: 'I think it is better to find an independent solicitor, it is a serious matter, I don't want to have a criminal record or something that stays with me for my whole life'.[476] Another defendant in a London commented: 'I think it is very important to have a good solicitor. I want somebody

[476] Respondent 21, LE.

experienced, not somebody who has just qualified to practice. I think that the free advisors here are very young and inexperienced'.[477]

Considering the totality of responses in relation to legal assistance, free or paid, in England, I would argue that English court users expected that they would be able to achieve their desired outcomes regardless of legal representation. Legal advice and clarification were still considered very important, but many of my respondents expected it to be available from court administration. External legal advice was considered an additional, and not a required, way to secure successful outcomes. The reality of the courtroom, however, made many of my respondents appreciate legal assistance and wish they had been better equipped for the hearings.

Therefore, the availability of legal assistance makes the image of courts more accessible and usable to ordinary people, as it creates a more transparent and clear relationship between the courts and the court users. My findings suggest that the informal and procedurally simplified ways of litigation of lower English court do not to remove the intimidation and uncertainty from people's everyday perceptions of courts. There is a gap in people's perceptions in relation to the role of legal counsel in lower English courts. If people are told that they can handle small cases themselves, they anticipate that attorneys will not be needed. The reality of dealing with courts, however, shows that even though the cases are deemed to be simple enough, people are not equipped to deal with them, showing a clear demand for legal assistance. An important related observation is that while English court users expressed discomfort and the need for better understanding of their experiences in courts, it did not challenge their overall attitude of trust in the system of justice in England.

[477] Respondent 19, LE.

3. Legal Assistance in Russian courts of Justices of the Peace

Regarding the availability of professional legal services and their use among the Russian court users, only a small number of litigants who participated in my research turned to the help of external legal professionals in preparation for their hearings. One of them, a defendant in a divorce case stated: 'It is serious, so I had to find an attorney; you need to treat this seriously'.[478] Another litigant in an inheritance claim in Moscow said: 'I thought I could do it by myself at first; then I talked to the judge, and it became clear that I did not know the laws and the deadlines. He said that in these cases it is better to have an attorney. You need to pay, but at least you know that it will go well'.[479]

As an attorney in the regional city told me: 'People come when they want to make sure that they understand their case, or when they are really confused. The law says that citizens can handle claims in the courts of Justices of the Peace by themselves; but in many cases it is not that simple. There are a lot of laws you need to know in order to even understand that you have a claim, and then to cite the correct laws in documentation. For many people it is too much'.[480] These and similar statements suggest that Russian litigants sought the help of independent legal professionals in cases that involved complex legal disputes, and in many cases after the initial pre-trial consultation with the judge.

Another group of cases that involved external legal assistance were cases in which people were not satisfied with their relationship with the judges, did not expect good outcomes based on their initial meetings with the judges, or were told that their cases were not sufficiently strong. 'I came to talk to the judge, but it was very confusing: it seemed that he already had a negative opinion about my case. I went to the local attorney to double-check and then filed the case. It is a pity that I cannot take my case to another judge, but the

[478] Respondent 9, RC.
[479] Respondent 12, RC.
[480] Attorney 1, RC.

attorney said that we have a strong case'.[481] This suggests that Russian lower court users largely turned to attorneys after they tried to evaluate their cases in pre-trial sessions and realised that they needed additional support. The availability of pre-trial sessions in Russian courts put attorneys in a secondary advisory position; people relied on them when they could not rely on the judges in gaining certainty about the outcomes of their cases.

A short note needs to be made about the availability of free legal aid to Russian court users. Free legal assistance is available to qualified Russian citizens according to a federal law that went into force in 2011.[482] The groups of citizens that qualify for this assistance include pensioners, invalids, minors, and other disadvantaged citizens. However, my research suggests that none of my respondents were aware of the existence of free legal assistance. The judges themselves referred to it as a very complicated scheme: 'People have to request free legal assistance from the court, which means that they need to know about it; but if we (judges) don't tell them, they don't know about it. This whole idea does not work in reality', said a judge in the regional city.[483] We can clearly see that the English court users at the time of my research had more access to and actual use of free legal aid in lower courts.

The use of paid legal services in Russia has been growing. Compared to the findings of my previous research project conducted in Russia in 2007, more and more interviewees tend to mention that they have consulted an attorney before bringing their matter to court. 'There is a small attorney's office in the building where I work, so I went and told her my story to see if I can do anything. She said that she deals with inheritance cases quite often, but it can be difficult to do all the paperwork by myself', said a claimant in the regional

[481] Respondent 11, RC.
[482] Federalniy Zakon Rossiyskoy Federatsii, 21 November, 2011, N324 – FZ, accessed 26 November 2016, at http://www.rg.ru/2011/11/23/yurpomosh-dok.html
[483] Judge 2, RC.

city.[484] 'I went to an attorney to make sure that I have a strong claim; it is not that expensive if you don't want to be represented in the hearing but only want some advice', commented a claimant in Moscow.[485] Describing her experience in the courtroom, one of the litigants in the regional city stated: 'It is good that I came with an attorney, otherwise I would not be able to understand what to say and when'.[486]

My respondents commented that the presence of attorneys in the courtroom offered them more confidence not only from the perspective of securing favourable outcomes, but also from the perspective of appropriate participation in the hearings. A defendant in a petty theft case in the regional city commented: 'I was seriously afraid to say something that would damage my case; the judge asks so quickly, and I did not understand all the time what he wanted'.[487] A defendant in a divorce case commented after the hearing: 'The attorneys know what the judge means; it is difficult for a normal person to understand what happens in the courtroom'.[488] These statements suggest that Russian litigants perceived legal representation in the courtroom as something that could have serious influence on the outcomes of their cases. In the cases where only one party had an attorney, the other party commented that he or she felt inadequate in the courtroom: 'They spoke their own language, and I was absolutely ignored. If you cannot afford an attorney, how can you defend yourself in the courtroom?'[489] An attorney in the regional city commented: 'I think we give confidence to people in the courtroom. Lately more people have been coming for advice in preparing their cases, but they went to court alone to save money. They can do it; but it is much smoother when we come with them. I have known our district Justice of the Peace for

[484] Respondent 5, RC.
[485] Respondent 9, MC.
[486] Respondent 13, RC.
[487] Respondent 12, RC.
[488] Respondent 8, RC.
[489] Respondent 7, RC.

years; so I know what he wants and how he handles cases'.[490] While English solicitors and judges frequently knew each other due to the nature of their practice, the very presence of attorneys in Russian lower courts was much less frequent.

The increased willingness of the Russian public to consult attorneys before court appearances was mentioned by the Russian judges as well: 'People are still very sceptical of appearing in court with attorneys, costs being one of the main reasons; but we have much more attorney offices here now, so more people are taking advantage of that'.[491] When asked to describe how people use attorneys in case preparation, one of the judges in the regional city stated: 'I don't think it is necessary; cases we hear are not complicated. And in most cases we (the judges) can help with documents or details. But I do think that people use attorneys more and more: more people can afford consultations, and more attorneys have opened offices in our area'.[492] In some cases, and especially in the busy districts, the judges referred people to local attorneys that had active practices. In case of attorney referrals, Russian judges seemed to rely on a network of attorneys who had already appeared in their courtrooms and were deemed reliable. An attorney in a regional city commented: 'I receive quite a few referrals from the judges here; they know me, so they send people to me. It is easier for all the parties then: I know how to prepare, and I can appear in court if necessary, and the judges already know me'.[493]

Therefore, independent legal assistance in the lower Russian courts was generally seen as a way to secure desired outcomes in difficult cases, but it was not considered necessary mostly because court users expected legal clarification and procedural assistance from the judges. My findings show that Russian court users perceived the judges themselves as sources of legal advice. 'That is why you come before the hearing: the judge can explain

[490] Legal Representative 1, RC.
[491] Judge 2, RC.
[492] Judge 2, RC.
[493] Legal Representative 1, RC.

what you don't understand', commented a pensioner in the Moscow court.[494] The judges themselves commented that despite not having this responsibility and in fact being precluded from giving legal advice, in many cases they have to clarify legal aspects to people who need their help. 'I know it is not my responsibility, but I don't want anybody's time to be wasted and I have to explain legal aspects of complaints quite often'.[495]

As it can be seen from my discussion, the availability of professional legal advice in Russia has increased. Russians are becoming savvy users of courts: they carefully evaluate their chances of winning before coming to court.[496] However, despite this recent increase in the use of legal services, only a small number of my respondents turned to the help of attorneys, and even fewer were represented in the courtroom. Even though Russian judges commented that they were not responsible for giving legal advice, in reality people preferred to rely on the judges for legal guidance.

While the English judges offered help to the unrepresented parties, the Russian judges tried to ignore these situations in the courtroom. This could be explained by the availability of pre-trial sessions, which gave Russian court users an opportunity to gain legal and procedural advice directly from the judges. Another interesting observation is that Russian court users considered it an unfair advantage if the other side had an attorney. This suggests that while Russian people use legal services more, they do not see them as a fair advantage in the courtroom. 'I think it is not right when people with money can afford to hire an attorney and their hearings go without problems. I had to do everything myself; where is the justice?' said a pensioner in Moscow. [497] 'In our country rich people can arm themselves with attorneys; and then the judge did not even look at me', said a claimant in a traffic

[494] Respondent 11, MC.
[495] Judge 2, RC.
[496] K. Hendley, 'Who Are the Legal Nihilists in Russia?' *Post-Soviet Affairs*, vol. 28, no. 2 (2012), pp. 149-186; M. Kurkchiyan, 'The Illegitimacy of Law in Post-Soviet Russia', in D. J. Galligan and M. Kurkchiyan, (eds.), *Law and Informal Practices: The Post-Communist Experience* (Oxford: Oxford University Press, 2003).
[497] Respondent 16, MC.

accident case in the regional city.[498] This discussion points at the heightened sensitivity of Russian people in the areas of financial inequality and at their belief that courts favour people with higher financial and social status.

F. Conclusion

The role of judges and legal counsel in shaping images of lower courts should not be underestimated. My data suggest that judges in England tend to live up to the expectations of court users by handling cases in ways that are consistent with the general image of justice among the public. The English lower court judges in particular tend to be more helpful and understanding towards unrepresented parties; while the overall image of the judge remains professional and distant from the everyday interests of the people.

Judges in the Russian lower courts tend to reinforce an already existing image of a judge as a state bureaucrat, with most judges putting stress on authority and inquisitorial nature of their profession. Despite this formally strong image of the judge in the Russian lower courts, my data indicate that court users have multiple opportunities to create a more informal and favourable relationship with decision-makers during the informal pre-trial sessions. This distinguishing feature of the Russian lower court procedure reinforces the overall informality of the process of justice in the lower courts and allows for the presence of multiple narratives in the everyday operation of courts.

To summarize the role that legal professionals play in shaping people's perceptions of courts, both English and Russian court users expressed the need for professional legal assistance even at this lowest level of legal institutions. Since legal counsel was not required in lower courts in both countries, legal advice was obtained in the form of helpful information from the source that would officially or unofficially provide it. My findings

[498] Respondent 12, RC.

suggest that sources of professional legal assistance were more numerous in England, with many of them being provided by the court administration and perceived by court users as part of the services provided by the institutions of justice themselves. As provision of legal assistance is seen as a duty of the English court administration, English court users perceive the availability of legal assistance as a part of the service package provided by courts.

While the use of courts without legal advice is considered complicated, intimidating, and stressful in both countries, Russian court users deal with these complications by relying more on the personal interaction with the judge during the pre-trial sessions, which is then backed up with the opinions of external legal professionals. While external legal advice in Russian lower courts is readily available, the organisation of the Russian courts allowed court users to obtain advice informally from the judges during the pre-trial sessions. With free legal aid being virtually unused in the lower Russian courts, costs of professional legal services are considered a deterrent from using external attorneys. The informality of communication between the court users and the judges allows for more informal flow of information and thus more clarification and explanation during the pre-trial meetings. This could be connected with the traditional way in which Russian people perceptive state institutions, including courts. As I argue throughout my thesis, Russian people see legal institutions as part of state bureaucracy, but interact with them by identifying people and connecting with them personally and informally. This supports my previous observation that the traditional ways in which people interact with state institutions have a strong effect on how they interpret their experiences in these institutions.

Chapter IX

Evaluation of Outcomes and People's Perceptions of Courts

While previous research has recognized a link between procedural fairness and outcome evaluations, this relationship has not been approached on a comparative level. One of the tasks of my research is to look at how the cumulative perceptions of administrative and procedural aspects of court operation converge with people's interpretations of outcomes of their cases. This interplay of a variety of facets of people's experiences in lower courts will contribute to our understanding of larger images of courts in people's perceptions.

In this chapter I shall investigate how people's interpretations of outcomes of their cases participate in the formation of their overall attitudes towards legal institutions. Throughout this chapter I will compare what people expected to obtain in lower courts to their evaluations of their final case outcomes and interpretation of their experiences.[499] It is important to mention that in many cases people's expectations and final outcomes combined ideas related to the legal arguments involved in their cases, as well as to the procedural and interactional elements, which makes my task of isolating perceptions related only to individual case outcomes a difficult task. However, for the purposes of my research, people's satisfaction with case outcomes will be considered distinct from their evaluations of procedural fairness: 'a litigant might think that the procedures used in the case were fair but may nonetheless believe that the outcome was wrong. Conversely, a litigant might think that the procedure was unfair but might still like the outcome and find it satisfactory.'[500] For analytical clarity, this chapter will focus only on court users' ideas, expectations, and

[499] G. E. Higgins, at al., 'Race, Ethnicity, and Experience: Modeling the Public's Perceptions of Justice, Satisfaction, and Attitude Towards the Courts', *Journal of Ethnicity and Criminal Justice,* vol. 7 (2009), pp. 293-310.
[500] See supra note 479, p. 9.

evaluations in relation to the outcomes of their cases. My goal is to see how perceptions of individual outcomes relate to people's general attitudes towards legal institutions.

As it has been discussed in my theoretical introduction, favourable outcomes are likely to lead to more positive evaluations of court experiences, which in its turn could produce more positive attitudes towards the courts in general. Previous studies in the criminal justice system in the USA and the UK have shown that people view procedures as more fair when they receive favourable outcomes, than when they receive unfavourable outcomes.[501] 'System satisfaction is likely to be affected by case outcomes by virtue of the likelihood that outcome-linked changes in outcomes satisfaction will in turn affect the overall level of satisfaction with the system'.[502] The applicability of this argument in the context of post-Soviet states has not yet been examined.

People's interpretations of case outcomes may be evaluated on a variety of levels: feeling of satisfaction with individual outcomes, satisfaction with performance of particular institutions, and satisfaction with systems of justice overall. Political science literature tends to not differentiate between the terms 'satisfaction' and 'attitudes', using them interchangeably and linking them to such concepts as 'confidence' and 'trust'. [503] 'If a particular group of people are found to have particularly low levels of political-institutional trust, this could signify political alienation and dissatisfaction with the treatment they receive from those in positions of power'.[504] Identifying how interpretations of individual

[501] J. D. Casper, at al., 'Procedural Justice in Felony Cases', *Law and Society Review*, vol. 22, no. 3 (1988), pp. 483-508. See also J. M. Landis, and L. Goodstein, 'When is Justice Fair? An Integrated Approach to the Outcome versus Procedure Debate', *American Bar Foundation Research Journal,* vol. 11, no. 4 (1986), pp. 675-708.
[502] C. Menkel-Meadow, 'For and Against Settlement: Users and Abusers of the Mandatory Settlement Conference', *UCLA Law Review*, vol. 33 (1985), pp. 485-514.
[503] E. A. Lind, et. al., 'Procedure and Outcome Effects on Reactions to Adjudicated Resolution of Conflicts of Interest', *Journal of Personality and Social Psychology*, vol. 39 (1980), pp. 643-653.
[504] C. Attwood, at al., *2001 Home Office Citizenship Survey: People, Families, and Communities* (London: Home Office Research Study 270, 2003), accessed 26 November 2016, at https://ostromworkshop.indiana.edu/library/node/2010.

court outcomes relate to people's overall perceptions of courts will contribute to my analysis of the attitude of trust towards courts and systems of justice in England and Russia.

Social psychologists suggest that general attitudes towards institutions are less strongly influenced by positive interpretations of individual outcomes: people are unlikely to alter radically their overall attitude towards the court system on the basis of a solitary good or bad experience.[505] While human reaction to good and bad outcomes may be universal, it may be different when we examine the long-standing traditions and images of courts that influence people's evaluations of their experiences in courts.

The main factors that lead to court users' satisfaction with individual case outcomes are: how realistic were the expectations of case outcomes, and were they reached at the end of the proceedings. It has also been suggested that the cost and delay of proceedings, generally associated with court efficiency, can be related to people's satisfaction with case outcomes.[506] The outcomes can be approached from a binary standpoint, winning or losing, or from a multivariate perspective which includes perceived fairness of the outcome.[507] My findings suggest that from a qualitative standpoint the evaluations of outcomes contain a variety of perceived evaluations and comparisons.

It is also important to note that the relationship between the absolute level of outcomes received and the interpretation of those outcomes may impact people's evaluations of their outcomes. Previous research has shown that the absolute level of outcomes matters relatively little; it is where the outcome falls in relation to expectations that is important in determining whether the outcome is satisfactory.[508] If a litigant wins more than expected or

[505] See supra note 479, p. 10.
[506] See supra note 307.
[507] R. Moorhead, at al., *Just Satisfaction? What Drives Public and Participant Satisfaction with Courts and Tribunals*, Ministry of Justice Research Series 5/08, (March 2008).
[508] See supra note 479, p. 18; see also H. H. Kelley, and J. W. Thibaut, *Interpersonal Relations: A Theory of Interdependence*, (Wiley: New York, 1979).

loses less than expected, he or she will be more satisfied, regardless of precisely how much is won or lost. In this case, even a loss can leave the litigant satisfied with the outcome as long as the loss is less than what was anticipated.[509] It may be the case in the Russian lower courts that when people do not anticipate their outcome to be realistically achievable, even if they are entitled to it, they are more likely to be satisfied with the lower outcome. This suggests that they have either a decreased sense of entitlement overall or a lack of confidence that courts are able to provide the outcome to which they feel entitled.

When talking about outcomes, we refer to a variety of court decisions: guilty and non-guilty sentences, compensatory and financial arrangements, eviction and repossession orders, as well as settlements which were encouraged and approved by the court. Different outcomes are also expected from different courts: claimants in small claims courts can expect monetary judgments or enforcement of contracts, claimants in criminal cases can face a variety of sentences of more serious nature, including remaining in custody, suspended sentences or payment of fines, and claimants in family proceedings anticipate resolution of such sensitive matters as dissolution of marriage, property division, and child custody. Previous survey-based studies have looked at people's satisfaction with outcomes in criminal, civil, administrative cases: outcomes and the assessment of the fairness of outcomes by participants in court cases has been identified as independently associated with satisfaction.[510] This chapter is organised along the two groups of factors leading to people's perceptions of case outcomes: pre-existing expectations and evaluations of outcomes.

[509] *Ibid*.

[510] For satisfaction with outcomes of small claims cases see R. Gosling, *Survey of Litigants' Experiences and Satisfaction with Small Claims Process,* (London: Department for Constitutional Affairs Research Series, 9/06, 2006). Study of perceptions of fairness among witnesses in criminal cases suggested that evaluation of verdicts as unfair was associated with greater likelihood of dissatisfaction with the overall experience of being a witness. See H. Angle, at al*., Witness Satisfaction: Findings from the Witness Satisfaction Survey 2002*, (London: Home Office Online Report, 19/03).

A. Expectations of Case Outcomes

1. England

In this section I will present the analysis of my findings in the county and magistrates' courts in England with the main goal of capturing people's expectations of outcomes of their cases. English respondents approached before the hearings shared mixed feelings about what to expect from their upcoming experiences in the courtroom. Respondents involved in small claims proceedings were more aware of what to expect both on the claimant and the defendant side: 'My claim is for £2000. If all goes well, I think I will get that much; I am not sure about the costs of the hearing and fees and such, but I think that is what I can get'.[511] In the cases that involved more complex claims, including compensation, insurance claims, or negligence claims, the amount has to be stated in the claim, yet the final amount of the award depends on the reasoning of the judge and a variety of other factors.

In general, my findings in the English lower courts suggest that claimants were nervous about the very fact that they were to appear in court, but had a positive or neutral expectation of the outcome. A defendant in a housing dispute in London stated: 'I just received a letter saying that I need to appear on this date. I don't really know what to say in court, but I don't want to be evicted. I think the judge will understand'.[512] It is also necessary to note that English court users anticipated that their own ability to convince the judge and to make a strong emotional case in the courtroom could affect their final outcomes. 'I hope to explain my side; if I can make my case clear, I am going to win'.[513] 'I am very nervous, I think I need to be convincing in order to win, I hope I don's freeze up', said another litigant before his hearing in the regional city.[514] As I have stated in my earlier

[511] Respondent 7, LE.
[512] Respondent 14, LE.
[513] Respondent 9, RE.
[514] Respondent 16, RE.

chapters, English litigants believed that their performance in court was a vital element of the overall process of justice.

English defendants in monetary compensation cases assumed a more argumentative stance when asked about the potential outcomes of their cases: they were aware of the amount claimed by the opposing parties, but focused on showing their side of the story to the judge. 'I did not get a solicitor; it is expensive, and I believe that I can defend myself. I think I understand my case, so I just need to explain it to the judge'.[515] These responses suggest that English court users put emphasis on the actual unfolding of the hearing: they realised that a number of factors could influence the final outcomes of their cases, most of which were related to the opinion and reasoning of the judge and to the strength of the opposing argument.

Some claimants confirmed that their ideas of possible outcomes came from the media, as it has been discussed in Chapter VI. 'I think I am entitled to receive the deposit back and the damages that I suffered; I saw how these cases get decided on TV', commented a claimant in a regional small court.[516] 'I hope to convince the judge that the amount I ask is reasonable; I have all the calculations. I have a general idea how to do it, I saw it in films', commented a claimant in London.[517] While some of the claimants had overestimated expectations of how much they would be able to receive, the majority of English court users were realistic in their expectations due to the precise amount of the claim they had to state in the claim forms. I would argue that the unrealistic element of their expectations was related more to the nature and the extent of their expected participation in the hearings, which I mentioned in one of the preceding chapters.

[515] Respondent 18, LE.
[516] Respondent 9, RE.
[517] Respondent 14, LE.

The analysis of my findings makes it is quite difficult to draw a clear separation between people's expectations in relation to case outcomes and their expectations of court procedure. In many cases English court users mentioned that the outcome was dependent upon their participation in the hearing, their preparation, as well as on the personality of the judge that would hear their case: 'I think my case is pretty straightforward, but I am not very certain about how everything will go in the courtroom. The judge may ask for something I don't have, and then the situation may be different'.[518]An important observation that emerges out of my findings is that English court users had slightly overstated expectations of outcomes of their cases. This overestimation may come from the general images of courts in wider society and the way that mass media portrays remedies available in courts.

My findings also suggest that English court users thought that there was a variety of forces at play in the courtroom that could affect the outcomes of their cases: the level of their preparation, the level of preparation of the opposing party, their ability to clearly express their legal matter before the judge, and the personal characteristics of the judge hearing their case. These factors, however, did not include social status and financial or political pressure from the litigants, as courts were generally seen neutral in their treatment of litigants.

It is also important to note, that these expectations were captured immediately before the hearings, which is the first time English court users meet the judge. This is categorically different from the people's experiences in the Russian lower courts, where court users had multiple opportunities to evaluate their chances of winning and form a clear idea of the outcome during the pre-trial meetings with the judges.

[518] Respondent 7, RE.

2. Russia

When asked about their expectations before the hearings respondents in small cases in Russian courts described a rather vague idea of expected outcomes: 'What the judges says, that's what think I am expecting',[519] 'I have spoken to an attorney, I know how much I can receive, but who knows, it is all up to the judge'.[520] An interesting observation was that in the cases with seemingly clear outcomes people were not sure if those outcomes were guaranteed and could be delivered by the court. A claimant in a divorce case said: 'I think I know how it will end up, but who knows it, the judge may change his mind, something may be missing, or something else'.[521]

This lack of certainty has to be considered in light of the availability of pre-trial sessions, which theoretically should allow Russian court users to form realistic expectations of outcomes. I would like to stress that despite the personal discussions of their cases with the judges in pre-trial hearings, Russian court users had very little certainty that their desired outcomes would actually be achieved. 'I talked to the judge, he said with my documents I have a strong chance of winning, but you really never know how it all works out in the court', commented a litigant in the regional city.[522] Russian court users had difficulty relying on the estimate of the judge because of their deeply-seated lack of trust in the system of justice. Because of their lack of trust in the workings of state institutions, Russian court users tend to anticipate that external factors, such as bribery or other forms of influence on the judge, could influence the final outcomes of their cases.

Another important observation is related to the role and image of the judge in the legal process of the Russian lower courts. The accessibility of the judge and people's dependence

[519] Respondent 4, RC.
[520] Respondent 12, MC.
[521] Respondent 14, RC.
[522] Respondent 18, RC.

on a favourable relationship with him or her did not produce a feeling of certainty or belief in the positive outcome: the judge was not seen as a trustworthy, consistent, or unbiased person, but as any other bureaucrat in state institutions. I came away with a general sense that Russian court users tried to establish some predictability of their outcomes via personal meetings with the judges, yet even that was not considered enough. Because the judge is seen part of the institution that is not trusted, people cannot feel secure in their interaction with him or her until the final decision has been reached. This suggests that the lack of fundamental trust in the institution of justice cannot be replaced by establishing personal ties with individual judges. These ties serve more as strategies for dealing with uncertainty, rather than as building blocks of stable relationships of trust.

In comparison with the English courts, where a pre-trial relationship with the judge was impossible, I would like to stress that Russian court users felt particularly protective about their relationship with the judge formed during the pre-trial sessions. The availability of pre-trial sessions is a crucial difference in the formation of expectations of outcomes among court users in English and Russian courts: my data suggest that Russian court users used the extended procedure of private pre-trial consultations to gain some level of certainty about their outcomes, while English court users did not have this opportunity.

In other words, while the expectations of case outcomes remained largely underestimated and uncertain, Russian court users were aware of the strategies that could make outcomes more certain and positive. When Russian people were asked what they thought could affect outcomes in courts, the most common suggestion was the social status parties. A litigant in an insurance claim stated: 'I think if a director of some company comes, he will definitely get a better decision, even if it was his fault'.[523] Russian court users referred to wealth and social status as factors that opened doors in all areas of Russian

[523] Respondent 4, RC.

society. A claimant in a traffic accident case stated: 'The defendant was driving a big Mercedes. When the police came to the place of the accident, he was treated like it was I who hit his car, and not the opposite. The same here: he will now come, show everybody how rich he is, and I will get nothing'.[524] This supports my previous observations, suggesting that Russian people anticipate discrimination and corruption in all areas of life, including the courts, even though they themselves do not admit to take part in it. 'I don't know whether this judge does it [takes bribes]. I have not tried it and don't know even how to do it. But who knows what other people do. Why do people who have money win then?' commented a respondent in Moscow.[525] This and similar statements indicate that Russian court users have a pervasive association of state institutions with personal connections and favouritism, and the lower courts are not exceptions from this general rule.

Therefore, it can be seen from this discussion that Russian court users tend to have an understated evaluation of their outcomes due to the lack of certainty that outcomes can be reached without a special relationship or guarantee from the judge. The social status and personal connections seem to be perceived as dominant factors in guaranteeing successful outcomes in lower courts. In the absence of those, people attempt to establish certainty by reaching an understanding with the judges in the pre-trial sessions.

The ability to see the potential outcome of one's case together with the certainty that it is achievable is an important element of a trustworthy relationship between people and courts. Whereas Russian people believe that they have to be personally involved in every stage of their case in order to obtain a positive outcome, English people rely on the administrative machine of the courts, and hope for a reasonable judge. My comparison of people's expectations of their outcomes highlights the lack of underlying trust in state institutions, and courts in particular, among Russian court users.

[524] Respondent 9, RC.
[525] Respondent 22, MC.

B. Evaluations of Case Outcomes

In this section I shall discuss how English and Russian court users perceived the actual outcomes of their cases in relation to their expectations. I will refer to the findings that came from my observations of how people reacted to the outcomes of their cases in courts and interviews with litigants that followed the hearings.

1. England

When asked to express their opinions about their experiences in courts, English court users who received positive outcomes suggested that courts were useful and neutral. Their main observation was that despite some difficulties with the legal and procedural aspects of their cases, they were able to achieve their goals in court. 'I think it is demanding without the help of a solicitor, even though they say you don't need one. But the judge was very helpful, he explained what to do to both parties', stated a litigant in the regional city.[526] Another respondent in London stated: 'I think our courts are useful; they may be not very efficient, but they are very useful'.[527] There was a general understanding that English courts were not organized ideally, that court users had to deal with a lot of paperwork and go through a variety of administrative steps, yet the courts were seen as necessary and useful, and served their purpose in society.

In the cases of negative outcomes, English court users usually referred to the judge or the lack of legal representation as reasons for their outcomes. When asked about their overall attitudes towards the lower courts, they complained about their lack of understanding of how courts operate, of the legal principles of their cases, and occasionally about the judging style of a particular judge. 'I think the judge was extremely tough in our case. He said that we did not follow the court's instructions, that we were completely unprepared and

[526] Respondent 18, RE.
[527] Respondent 25, LE.

wasted his time', said a couple who lost their contract case in the regional city.[528] 'If I can represent myself in court, it should be possible to do it. It is very difficult to make a legal case so that you can win', said a plaintiff in a damages case in the regional city. [529] 'It is all overwhelming; I did not understand most of what the judge said, all the legal terms, but then you have to respond, and I did not know what to say'.[530] Here we can see that people who struggled with legal English and procedural standards of their hearings linked these elements of their experiences in courts to their negative outcomes.

I would like to stress that litigants with unfavourable outcomes seemed to blame court administration, bad character of the judge, or the complexity of legal principles rather than the institution of the courts themselves. The images of courts were mentioned in relation to negative outcomes only in relation to court bureaucracy, delays, and legal fees. Litigants with negative outcomes did not express disappointment in the legal system overall.

2. Russia

When asked to evaluate their experiences immediately after the hearings, the court users in Russia were considerably more shocked and shaken by the proceedings than the English respondents. Even in the cases where outcomes were favourable, people did not describe their immediate reaction and feelings as positive. 'I am just glad it's over; I feel relieved that it ended,'[531] 'How can you be happy after this? You saw how stressful it was',[532] 'It was so difficult, I feel like I was just very lucky',[533] these were the most common comments in Russia. 'I think it was just; the judge told me that it was probably going to end this way before, so I am not really surprised', said a litigant in Moscow.[534] 'Yes, I am happy

[528] Respondent 17, RE.
[529] Respondent 9, RE.
[530] Respondent 18, LE.
[531] Respondent 9, RC.
[532] Respondent 17, MC.
[533] Respondent 22, MC.
[534] Respondent 16, MC.

with the outcome, I cannot say anything more,' was one of the more common answers as well.[535] The shortness and reserve of comments after successful outcomes were generally accompanied by a general feeling that something rather unusual or lucky had just taken place. Russian litigants did not want to discuss the outcomes of their cases, as if for the fear that if examined, their outcomes would be reversed or somehow taken away from them. The overall perception of justice had a rather fleeting and ephemeral nature.

In some favourable cases Russian court users praised the judge, but did not extent their praise to the courts themselves: 'The judge was good. It is important, you know, for a judge to be a human being ('*chelovek'*). You can talk to him, and he can understand you'.[536] Another interviewee commented: 'I was lucky to have a good judge; he helped me prepare my case. Otherwise, I would not have known what to do'.[537] The emerging theme is that Russian people perceived their success in court as something lucky and unusual, something that happened despite the system being unwelcoming and unfair. 'I really hope to never have to do it again; all this going to the court and worrying and not knowing how to behave in the courtroom - it is really heavy,' commented a respondent in Moscow.[538]

In cases of negative outcomes, Russian court users mentioned the following reasons: a negative outcome was expected, and they did not keep their hopes up, 'What else could you expect from courts?'[539] 'It would be unrealistic to expect to get justice; obviously those who arrange it get justice'[540]; the system was corrupt, 'I don't know why the judge just took their side; it cannot be as easy as that, I even had an attorney, I paid for legal help, and it was useless. The judge had decided it all beforehand'[541]; their status was not sufficient to

[535] Respondent 13, RC.
[536] Respondent 15, RC.
[537] Respondent 17, MC.
[538] Respondent 25, MC.
[539] Respondent 8, RC.
[540] Respondent 18, MC.
[541] Respondent 9, RC.

guarantee their victory, 'If I were somebody, it would have been decided differently'[542] 'I am just a pensioner: I don't know legal things, I don't have money or children in high places'.[543]

Many respondents also attributed their negative outcomes to the lack of preparation and clarity of communication with the court: 'I live on the other side of town. I had to come here four times, because every time they told me to get different documents; they don't want to do anything',[544] 'One day the judge says you need this document, then you need an expert opinion, then they say you need something else, and they always tell me that it's unknown if that's enough documentation'.[545] These signs of frustration are not unique to Russia; the distinguishing feature, however, is that the Russian court users did not seem surprised with negative outcomes. Negative experiences were seen as the norm. At the same time, cases of favourable outcomes were classified an aberrations from the general norm.

Another important observation in the Russian lower courts is that the evaluations of case outcomes seemed to differ between those who had pre-trial consultations with the judges and a small number of those who did not. The litigants who took advantage of the pre-trial meetings with the judge were generally more composed and realistic about their expectations: 'I met with the judge two times to prepare. He explained what documents I need, it took me a long time to collect them, hope all this hassle pays off',[546] 'I think the judge was very helpful, I came a couple of times because I was really unsure about my documents. He took the time to explain it to me'.[547] People who did not have pre-trial sessions with the judge and hoped to win purely with their own preparation felt very strongly about their cases, but were more agitated: 'I have done everything myself, I

[542] Respondent 9, RC.
[543] Respondent 19, MC.
[544] Respondent 14, RC.
[545] Respondent 13, RC.
[546] Respondent 9, RC.
[547] Respondent 19, RC.

researched all the forms, I know what I am asking for in this case. I am not going to ask for it from the judge in private, the other party has done it, it is not right'.[548]

The parties who did not have private consultations with the judge felt that they lost an opportunity to influence their case: 'I did not know that I could come and discuss my case with the judge. I live far and have to work all day; it's not fair that others come and talk to him, and they now know each other'.[549] This indicates Russian court users felt that the judge was going to take sides; and that not all of them were aware of the pre-trial procedure, which relates back to my discussion of limited information availability in Russian lower courts.

Therefore, Russian court users had undervalued expectations of what they could achieve in lower courts primarily due to their lack of trust in the state institutions. The underestimated expectations, mixed with people's belief that decisions usually depend on the social status and personal connections of litigants, created low levels of confidence in the court's ability to reach fair and just decisions. People's experiences were interpreted in light of these negative images of courts: successful outcomes were attributed to luck and personal perseverance, and negative outcomes were considered a norm and blamed on the lack of social status, corruptions of the courts or other parties' personal connections with the judge. The lack of trust in the impartiality of Russian courts is reinforced by the direct accessibility of the judges during pre-trial sessions, even though these sessions served multiple useful purposes.

C. Conclusion

In this chapter I investigated how differences in the court users' perceptions of their outcomes relate to their overall attitudes towards institutions of justice. My findings suggest that courts users in both England and Russia suffer from relatively unrealistic expectations

[548] Respondent 11, RC.
[549] Respondent 19, RC.

of outcomes before coming to courts. These expectations are shaped by the images of courts shared in respective societies. These images differ between societies and countries, but produce similar problems of creating the expectations that do not match the reality of the lower courts.

The main differences between the evaluations of outcomes among Russian and English lower court users lie in the area of expectations: Russian people do not come to court with high expectations of legal remedies; in fact, they come to court with a pessimistic outlook on their possible outcomes. While the personal evaluations of Justices of the Peace can be positive after successful outcomes, they do not affect people's overall evaluations of courts. Russian court users see courts as bureaucratic institutions serving the interests of the state, while they see individual judges as persons who be influenced by social status, money, and connections. The Russian procedural element of pre-trial hearings allows people to establish informal relationships with the judges, which in effect reinforce the existing perception of courts being biased and corrupt.

The English court users, on the other hand, had slightly overstated expectations of possible outcomes; they expected that their cases would be resolved in a reasonable way with their active participation in the hearings, which they considered essential for securing successful outcomes. Even in the cases when their expectations were unrealistic, the English court users did not doubt that courts would be able to deliver them. The court users in England believed that courts were supposed to be helpful and work efficiently. Therefore, their main complaints were related to inefficiency, lack of help in the preparation stage, as well as the impersonality of treatment by a highly bureaucratic agency. The negative outcomes in the English lower courts made people see them flawed in organisational or procedural areas, but did not create pessimistic or distrustful attitudes towards the courts overall.

To draw a broad conclusion from this chapter, the satisfaction with individual case outcomes in Russia did not improve the existing attitudes to local courts and the system of justice in general. The negative outcomes seemed to reinforce the already existing negative attitudes. My observations and interviews suggest that even in the cases of positive outcomes Russian people are more likely to characterize them as lucky exceptions from the general situation of injustice in courts, which indicates that successful outcomes do not improve pre-existing negative attitudes towards courts. Russian people tend to describe outcomes in court as something they managed to achieve despite the limitations of the system and its imperfect organisation.

In the English case, the perceptions of positive case outcomes seemed to reinforce the already existing positive attitudes towards the courts and the system of justice, while the negative outcomes did not affect existing attitudes and were explained with not being fortunate with the judge, or not being able to actively participate in the hearings. This suggests that evaluations of individual case outcomes build upon already existing attitudes towards legal institutions. This points to a particularly persistent problem in the Russian attitudes towards legal institutions, where existing attitudes are negative and remain such despite people's satisfaction with the individual outcomes of their cases. These expectations are deeply rooted in Russian socio-cultural and historical tradition and tend to get reinforced due to the specifics of the procedural model of the Russian lower courts. The positively evaluated outcomes in the English lower courts, on the other hand, were referred to as something normal and expected rather than as something strange or outstanding from the norm. This indicates that perceived satisfaction with particular case outcomes reinforced existing positive attitudes towards legal institutions in general, while dissatisfaction with individual outcomes did not make English people to challenge their long-standing positive attitudes.

Chapter X

Conclusion

1. Summary of Research

In this dissertation I investigated the complex nature of the relationship between ordinary people and legal institutions in English and Russian legal cultures. My main aim was to investigate the connections between people's individual experiences in lower courts and more stable attitudes towards institutions of justice in their countries at large. In order to capture how people interpret their experiences at most accessible level of justice, I focused on the everyday operation of lower courts in Russia and England. This detailed examination of how people deal with the totality of their experiences in courts, including their expectations, preparation, interaction with legal professionals, and evaluations of their appearances in court and final outcomes, offers us a unique insight into how people perceive their relationships with legal institutions. I aimed to identify ideas and narratives that characterise people's attitudes towards legal institutions in English and Russian legal cultures. My goal was to capture these ideas as they became activated when people came in contact with their local institutions of justice.

I was particularly interested in tracing the roots of people's attitudes of trust towards legal institutions. Seeing how these attitudes express themselves in individual experiences is a valuable tool for identifying the underlying causes of lack of trust in legal institutions in certain legal cultures. This link between people's everyday experiences in courts and their more stable attitudes towards legal institutions is essential for developing a better understanding of the inner organisation of legal cultures, which can shed light on the underlying causes of low trust towards legal institutions in Russia. Having conducted previous research in Russia, and being a former member of the Russian society myself, I saw myself linguistically and culturally equipped for tackling this question. Comparing the

traditional notions about courts in Russia and England to people's perceptions of their individual experiences in courts gave my research a unique perspective, which required comparing not only people's experiences in courts but also the different legal contexts in which they originate. These contexts are defined by the larger legal cultures of England and Russia, within which I examined the impact of respective legal traditions on the procedural and administrative models of Russian and English lower courts.

I would like to stress that England was not chosen as a model example of lower courts and people's overall attitudes of trust towards them. I selected England for two main reasons: Russian lower courts were modelled on the English lower courts at the time of their establishment; and, while not ideal, the English legal system can be characterised by relatively stable levels of trust towards legal institutions. In addition to these main reasons, I was able to conduct research in my native languages and in familiar cultural settings, which facilitated my analysis of the findings. Most importantly, the lower courts used in my research occupy the same place within the English and Russian systems of justice: they deal with the majority of small cases initiated in both countries. While the claims that come to the English and Russian lower courts are not identical, the largest groups of cases heard in these courts are very similar: namely, small civil and criminal matters. Due do the differences in the jurisdiction of these lower courts I was not able to observe family or administrative matters in the English lower courts. Having said that, the Russian Courts of Justices of the Peace and the English county and magistrates' courts are the first institutions of justice that ordinary people turn to if they decide to resolve their problems formally.

Why is the matter of trust in legal institutions of primary importance at this low level of justice? As I have pointed out in my theoretical introduction, trust as a relationship that permeates our everyday lives: from people's ability to support political regimes to their ability to interact with other members of society on a daily basis. In the situations of

uncertainty trust allows people to interact and build relationships even if they do not have the absolute knowledge that the other party acts in their interest.

Therefore, my dissertation examined the nature of these relationships between ordinary people and legal institutions in Russia and England with the goal of understanding the larger mechanism of formation of institutional trust. While large-scale studies can tell us that the level of trust in legal institutions in Russia is lower than in the UK, my study has looked at the substance of this indicator by asking how people perceive their relationship with institutions of justice, how they deal with uncertainty of their experiences in courts, and whether they are more likely to trust other people or state institutions in justice. Hence, my research tried to identify the elements of public trust and interpersonal trust, as well as generalised and particularised trust among the users of Russian and English lower courts.

While previous research on institutional trust has produced a variety of analytical frameworks, my goal was to narrow my investigation to whether and how people in Russia and England trust courts in their countries, and to identify possible explanations for the emerging differences. I must also clarify that my study starts and finishes with the premise that people's trust in legal institutions is not a predicate for their use of legal institutions.[550] As we can see in the Russian case, the use of lower courts has been on the rise. What is more important, is that trust as a social value that defines people's relationships with legal institutions does not seem to improve with the increased use of these institutions. Therefore, understanding the causes behind this phenomenon and eventually behind the deeply-seated notions of distrust towards legal institutions in some political regimes is a uniquely valuable inquiry, because it can help us understand the underlying relationship between citizens and

[550] J. Baldwin, *Small Claims in the County Courts in England and Wales: The Bargain Basement of Civil Justice?* (Clarendon Press: Oxford, 1997).

the state in countries that suffer from citizen apathy, negative images of law and courts, and the 'negative myth of law'.[551]

The question of how we can evaluate people's broad attitudes of trust towards legal institutions by examining their individual experiences in lower courts deserves special attention. My research is based on the interpretative approach to the study of people's perceptions of their legal experiences. Therefore, with the use of legal consciousness approach, which allowed me to treat people's individual experiences in courts as units of analysis, I was able to identify and group the common themes and ideas that English and Russian court users attach to legal institutions. Moving from the individual to the collective allowed me to extrapolate from the individual interviews and observations towards more generalisable ways of thinking about legal institutions.

While this conceptual link is my main analytical tool, I firmly believe that in order to conduct a well-rounded and thorough analysis of people's experiences in courts, they have to be examined in a larger socio-cultural context. For this purpose I placed my analysis of people's individual experiences into the context of larger images of courts in Russian and English societies. This wider context included themes that shape people's preconceptions about legal institutions, as well as help us understand differences in people's perceptions of their experiences. These themes came from my analysis of general attitudes towards courts in public discourse, historical differences between the Russian and English legal traditions, and prevalent physical images of courts and legal space in Russia and England.

The last stage in my investigation was to analyse my data collected in the English and Russian lower courts in light of the larger socio-cultural background with the goal of identifying ideas and narratives that characterise people's attitudes to legal institutions in

[551] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.

general. While people themselves may not know why they think or behave in certain ways, the differences between their experiences in Russian and English courts offer a variety of possible explanations. These differences will be discussed in the following section.

2. Conclusions

For the purposes of clarity, I shall divide my conclusions into three sections: conclusions related to the images of law and courts in Russia and England overall, conclusions with regards to the administrative and procedural models of the lower courts in Russia and England, and conclusions arising from my analysis of people's personal experiences in lower courts.

a. Sources of Law

Before going into the detailed discussion of experience-based elements of people's perceptions in lower courts, it is necessary to set the context of the larger ideas and images about law and courts that characterise Russian and English legal cultures. First, I would like to discuss how people's perceptions of sources of law and resulting roles of the judges within the English and Russian legal traditions affect their attitudes towards legal institutions. The analysis of my data brought me to the conclusion that the way people perceive the source of law in their legal culture affects the way they see the role and place of legal institutions in their lives. While ordinary citizens are largely not aware of the specifics of their legal traditions, my findings suggest that people have a cumulative idea of where and how law is made. Sources of these ideas and perceptions may lie in a broader historical and social knowledge shared by people, such as whether laws are made by the state or come from independent institutions that keep a check on the state.

I suggest that Russian people associate law with something passed down to them from the top, something that is decided by the state officials, and may not capture the true or natural justice accurately. As such, Russian courts are seen as enforcing laws that are already perceived as artificially created by state officials. Herein may lay the discrepancy between the fact that people want justice, but do not trust that they will receive it in courts, because courts are seen as flawed human institutions serving the interest of the state. The conclusion that follows goes to the core of my discussion: while Russian people use legal institution as a part of their daily reality, they approach them with a high degree of scepticism due to the controlling and imposing power embodied by these institutions. Therefore, this deeply rooted distrust towards law and legal institutions in Russia is linked to the state being the source of law.

I believe that comparing Russia to another civil law country would help us understand a possible connection between the source of law and people's attitudes towards legal institutions better. This question calls for further research. However, the uniqueness of the Russian case is in the combination of the state being the source of law and the state being distrusted due its historical abuse of legal institutions in order to enforce state interests.

Looking at the perceptions of sources of law in English courts, I came away with a different set of conclusions. In contrast to their Russian counterparts, English court users seem to be aware of the fact that law in their system of justice is made by the judges and is applicable to all members of society, including governmental agencies and officials. English court users show strong awareness of the law-creating role of the judges and recognise their central roles in the legal process. This elevated role of the judge, linked to the way people see how the law and justice historically unfold in the courtrooms, creates the image of English judges as specialised legal professionals, rather than state officials. This image of the judge in the English legal tradition contributes to creating an overall image of courts as

professional and independent institutions charged with discovering the law according to the principles of reasonableness and common sense.

A disclaimer needs to be made regarding the nature of claims brought to English lower courts, since most of them involve matters usually resolved according to the existing rules of civil and criminal law, most of which are codified, rather than decided by the judges on a day-to-day basis. Nevertheless, my research shows that English people without previous experience in courts are likely to rely on the traditional image of a judge-centred courtroom, with the judge being the final arbiter in a particular case, as well as a law-maker.

Having established that one of the ideas associated with English courts is the independence of law from the state, I would like to summarise how English court users perceive their relationship with the state. My research shows that English court users perceive the state largely responsible for the provision of court services. Courts are seen as one of the services that the state has to provide to its citizens, because courts are seen as means of solving problems and restoring public order. This belief in the usefulness of courts and their position in the system of social values and services is one of the main distinguishing features of English courts.

I would now like to focus on the underlying set of ideas that make it possible for people to perceive courts as providers of services to which people feel a certain degree of entitlement. As complex as the perceived relationship between the people and the state can be, it could be said that English court users tend to rely on the state and perceive it as a care-taker. The number of services provided by the state creates certain expectations of how public services are provided. While English courts are not seen as ideal institutions, the public generally perceives them as helpful and necessary, albeit requiring public funding and suffering from efficiency problems. An interesting observation that can be made from my

analysis of the larger social image of courts is that, in addition to being generally associated with peace and public order, they are also seen as a check on the system of power, the media, and the banking sector. This image of courts of independent justice agencies reinforces people's attitude of trust towards them.

Therefore, my findings suggest that one of the principal differences between people's perceptions of legal institutions in England and Russia is people's conceptualization of their entitlements to the protections and services of the state. While English people are accustomed to the state providing justice services through legal institutions, Russian citizens do not perceive the Russian state as an agency that is capable and interested in protecting people's rights and interests. Thus, the principal area of interest emerging from my discussion is people's perception of their relationship with the state, and how this relationship manifests in the daily operation of state institutions.

b. Administrative Models

As I illustrated in the first part of my dissertation, the existing preconceptions and traditional images of legal institutions shared by people in their socio-cultural contexts shape the ideas and expectations that people bring with them to courts. I have argued that the images of legal institutions are shaped by a variety of factors, including the historical images and symbols attached to these institutions. Looking at the traditional perceptions of English and Russian courts in combination with the prevalent images of courts in the media, I argue that the core messages of these traditional images tell us about the reasons behind people's attitudes towards legal institutions, as well as reinforce the already existing expectations that people bring with them to courts.

My main finding in relation to the larger images of courts in the Russian socio-cultural context tells us about a strong association of legal institutions with the power of the Russian

state, and its explicit use of legal institutions for its political purposes. Russian people see courts at all levels as parts of the state apparatus, which has been traditionally seen as a highly centralized agency serving primarily the interests of the state. This association reinforces the traditional attitudes and modes of behaviour towards the state: ordinary people are used to facing the formality of official procedure, and circumventing it by creating personal connections with state officials. These connections are ways to establish certainty in people's relationships with state officials, who are seen as capricious and using their positions of power for personal benefits. Russian state officials overall are associated with arbitrariness, abuses of power, and wide-spread corruption, which creates a perceived and self-perpetuating need to deal with Russian formal institutions in informal ways.

My findings suggest that Russian court users come to lower courts with heightened anxiety and lowered expectations due to the lack of certainty I described above. Russian court users feel the need to use their personal skills and knowledge of the informal rules of personal contact with state officials. This approach is seen as the most effective way of dealing with state institutions. As a result, the official rules of court procedure are not perceived as rules that ought to be respected at all times. My data prompt me to go as far as to suggest that the official formalities of legal process are generally respected as a means of creating an illusion during the hearings. The formality of Russian hearings seems to be used to maintain the façade of operating in accordance with the official legal standards. This observation is very important in comparison with the perceptions of procedural standards in the English lower courts, where procedural standards of impartiality and equality are seen as the integral parts of the justice process: they are perceived as prerequisites for courts reaching just decisions, and as such are enforced by court administration.

This brings me to my conclusions regarding the impact of court administration models on shaping people's attitude towards institutions of justice. As I have argued earlier,

people's ability to see if courts deliver justice is directly based on the impartiality, equality, and transparency of the totality of the legal process. This has to include the work of intermediary agencies which organise people's interaction with courts from the first contact to the final day in court. Whether this interaction unfolds in a way that respects the principles of justice determines how trustworthy and reliable these institutions are seen. In this respect, I must stress the role of English court administration in shaping people's experiences and perceptions of lower courts.

Court administration in England is assigned a well-defined intermediary role between the court users and the judges: court administration communicates with court users, manages case files and all relevant paperwork, organises the daily work of the courts, and networks with related agencies. The sheer volume of visible activity of court administration in English lower courts makes it inseparable from the images of courts themselves. While this close association can contribute to creating an overly bureaucratic image of courts, the importance of this observation for my research is that English court administration serves a trust-affirming purpose: it is seen as a barrier that enforces bias-free and transparent administration of justice. This presence of an intermediary administrative agency between the court users and the judges is seen as a trust-forming and reinforcing factor in the totality of people's perceptions of courts.

In contrast to the role of administration in English lower courts, Russian court administration cannot be described as a well-defined institutionalised element of the justice process. While the organisational needs of the Russian lower courts are similar to their English counterparts, they are met with the efforts of limited court staff and to a large extent the judges themselves. These needs include clear and respectful communication with court users, procedural and legal guidance, when appropriate, and ensuring that people can use courts in a comprehensible and effective way. The result of these limited administrative

services in the Russian lower courts is that a large proportion of these duties fall on the Justices of the Peace. This gives Russian judges a unique set of responsibilities and powers, which, on one hand, allows the courts to operate smoothly, but on the other hand, jeopardises the very principles on which their operation should be based. The broad range of duties assigned to the Russian Justices of the Peace, most of which are not checked or transparent to the court users, contribute to creating a corrupt and flawed image of the judges and the justice of process overall. These images are closely associated with perceptions of pervasive corruption and favouritism among state officials in Russia, which have long-standing historical roots and, therefore, are not easy to eradicate.

The overarching argument of my dissertation is that the lack of trust in the Russian legal institutions is directly linked to the Russian people's attitudes of distrust towards the state. This direct association of all public institutions, regardless of their level, with state authority makes lower courts seem inseparable from the larger apparatus of the Russian state. Lower courts are seen to be serving the interests and goals dictated from above rather than the interests of the people.

c. Experience-based factors

i. Interaction and information

I would like to summarise the role of individual factors that shape people's perceptions of courts through their experiences. Previously identified factors that found support in my research can be largely subdivided in two groups: factors related to people's interaction with legal institutions, and factors revolving around the degree of control court users have over their cases.

The former group refers to how court users make sense of the their experiences in courts; how they evaluate information and legal advice received in courts; and whether

communication with courts helps them deal with their cases in the way that allows them to see courts as trustworthy and reliable institutions. I approach 'communication' as exchange of information on the basis of need on the part of court users and ability and willingness to provide it on the part of legal institutions. In order for this communication to be effective, information has to be clear and comprehensible, and is has to be received in a way that does not alienate court users. This approach to communication between court users and legal institutions highlights multiple functions that need to be performed by the legal institutions in order to meet the needs of court users. My research shows that the degree to which these communication needs are met shapes people's overall attitudes towards legal institutions.

The analysis of my findings related to the this group of factors suggests that the images of English courts benefit from the presence of the intermediary agency of court administration, which performs the duties of communication with and guidance of court users. The very existence of a well-defined institution of court administration suggests that the English system of justice recognizes the need of effective communication with court users in addition to the administrative support required by the decision makers. Even if the information provided to court users is not completely understood, its availability and professionalism with which is it provided can be said to have positive impact on the overall image of legal institutions in England.

My analysis of the interaction between the Russian courts of Justices of the Peace and the court users supports my observation that provision of clear and comprehensible information can affect people's attitudes towards legal institutions. While this need was clearly expressed by my Russian respondents, it was not recognized as an important element of their court experiences and was not seen as a responsibility of the courts themselves. As a result, the demand for information has to be met by the limited court staff and by the judges, who are already constrained by large case-loads. While this observation sheds light on the

drawbacks of the institutional organisation of Russian Courts of Justices of the Peace, it also offers possible explanation for the perceptions of detachment, alienation, and disrespect, expressed by the court users of the Russian lower courts.

What is more interesting is that this lack of helpful information and customer-orientation in the Russian lower courts is balanced out by people's direct access to the judges in pre-trial sessions. This stage of direct and informal communication with the judges provides court users with the information and guidance they seek. However, it does so in a way that promotes people's perceptions of corruption and favouritism among the judges and reinforces a general attitude of distrust towards the institutions of justice.

Therefore, my analysis of people's experiences in Russian and English lower courts agrees with previous research and brings me to the conclusion that the existence of channels of clear information accessible to all court users equally creates perceptions of equal and fair treatment of court users, which is linked to most stable attitudes of trust towards legal institutions.[552]

ii. A day in court?

Having identified the main differences in communication and provision of helpful information between the English and Russian lower courts, and their effect on the images of legal institutions in people's perceptions, I shall now turn to the analysis of the second group of experience-related factors, or perceptions of people's control over their claims in small claims courts. This group refers to people's perceptions of their ability to participate in the legal process; 'participation' in this case refers to the litigants' ability to consciously shape

[552] J. Greenberg, 'Using Diaries to Promote Procedural Justice in Performance Appraisals', S*ocial Justice Research*, vol. 1, no. 2 (1987), pp. 219-234; J. Baldwin, *Small Claims in the County Courts in England and Wales: The Bargain Basement of Civil Justice?* (Clarendon Press: Oxford, 1997).

the trajectory of the claim (during both pre-trial and hearing stages), and to their ability to express grievances and to be heard in court.[553]

My main conclusion suggests that these control-related factors are activated at different stages in the experiences of Russian and English court users. The Russian procedural model allows court users direct involvement in their cases from the very first step of their interaction with the lower courts by giving them unlimited access to the judges during the pre-trial sessions. The informality and relaxed procedural standards of these sessions allow Russian court users to voice their grievances, to obtain legal and procedural advice, and to understand how their cases develop. Therefore, the Russian procedural model allows court users a unique degree of control over the trajectory of their cases, with the emphasis being on the pre-trial sessions, rather than on the public appearances in court.

Therefore, as it was illustrated in my discussion, most cases in the Russian lower courts are decided during this pre-trial phase. As a result, Russian court users approach this case preparation stage as the most significant in the whole process of justice, because it gives them opportunities to become involved and actively shape the outcomes of their cases. The final public hearings in the Russian lower courts are seen largely as formal stages during which all required formalities are double-checked and the final decision is announced. These hearings are heavily controlled by the judges, who give the litigants the bare minimum of time and opportunity to express themselves.

Therefore, the effect of people's direct access to the judges during the pre-trial sessions creates the image of Russian lower courts as the institutions that reach decisions behind the scenes rather than during the public hearings. This characteristic of the Russian

[553] E.A., Lind, et al., 'In the Eye of the Beholder: Tort Litigants' Evaluations of Their Experiences in the Civil Justice System' *Law and Society Review*, vol. 24, no. 4 (1990), p. 953.

process of justice, which is largely linked to the Russian legal tradition, reinforces the image of courts as bureaucratic agencies of the state that operate by well-known informal rules. These procedural arrangements are deeply-rooted in the Russian culture of legality and are closely linked with the duality of the Russian legal system.[554]

In comparison with the Russian lower courts, people's ability to control their cases during the preparation stage in the English lower courts extends to their ability to collect and submit the documentation requested by the court. The complete inaccessibility of the judge for private consultations during the pre-trial phase puts the main procedural emphasis on the hearings. The hearings in the English lower courts are significant stages in the overall process of justice, as they offer court users an opportunity to express themselves and present their arguments. Voicing their grievances and defending their positions are at the core of the process of justice in the perceptions of English court users. The procedural standards that came to be associated with the public appearances in court are essential elements of the overall image of the English process of justice and the images of legal institutions.

This leads me to conclude that the emphasis on the hearings in the English system of justice, together with the inaccessibility of the judges, and the intermediary role of the court administration in case preparation and file management reinforce the traditional image of English courts as reliable and trustworthy institutions. As this emphasis is put on the performance in the public setting, the image of courts is more transparent and unbiased. This is in direct contrast to the image of the Russian courts of Justices of the Peace, which have no barriers between the court users and the judges at the level of lower courts, which reinforces the drawbacks of 'behind the scene' justice, as it is seen to take shape during the pre-trial sessions.

[554] K. Hendley, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.

d. Legal Assistance

As it can be seen from my discussion above, the images of legal institutions in people's perceptions are closely linked to the court users' interaction with the legal professionals they encounter in lower courts. In this section I shall discuss the role of legal counsel in shaping people's perceptions of legal institutions in England and Russia. These legal professionals perform a number of roles that shape people's understanding of their experiences in courts.

My research shows that the litigants in both countries found the use of lower courts without legal assistance challenging. My respondents expressed their lack of confidence and feelings of inadequacy in dealing with the lower courts in Russia and England. Despite the official view that claims that fall within the jurisdiction of lower courts do not require legal assistance, my findings suggest that the very nature of interaction with legal institutions is seen as challenging and stressful for lay people both in England and Russia. The availability of helpful information, as I stated above, could help people deal with the uncertainty and stress of their legal experiences. Therefore, access to professional legal advice can give court users the confidence and awareness necessary for dealing with the uncertainty of court environment and, therefore, can improve the overall perceptions of legal institutions.

The availability of legal assistance in civil cases in lower courts emerged as a factor that allows us to distinguish between people's perceptions of legal institutions in England and Russia. English lower courts assume the responsibility of providing legal assistance to people in need: free legal aid and immediate legal advice were available in courts and were organized by court administration. Although free legal aid was not available to all court users, there was a general understanding that in cases where it was essential to safeguard the

rights of the litigants, it would be provided. This created an impression that the court system accepted the responsibility of taking care of the court users.

In contrast to the availability of legal aid and its importance in the process of justice in the English lower courts, legal assistance was not seen essential in the operation of the Russian lower courts. While the use of independent legal professionals in Russia is on the rise, they are seen as additional means of securing successful outcomes in lower courts, rather than as a necessity. They are not seen as prerequisites for people's participation in the legal process. This once again results in the lack of recognition of people's need for legal clarification and procedural guidance in the Russian lower courts. Faced with this lack of legal services and guidance via official means of court administration, Russian court users rely on the pre-trial sessions with the judges as means of securing necessary legal and procedural guidance. Whereas the resulting image of English courts emphasises people's ability to rely on them for the totality of legal services, the image of Russian lower courts stresses the importance of pre-trial sessions and informal communication with the judges in the totality of people's experiences in courts.

The image of courts as care-takers is an important distinction between the perceptions of Russian and English lower court users. While the everyday operation of Russian lower courts allows court users to obtain relevant information through the informal channels of communication, people do not perceive courts as paternal institutions and do not expect assistance, or feel entitled to it. My research shows that Russian court users see themselves in opposition to courts as state institutions. This opposition to and lack of reliance on courts can explain the general trend among Russian court users to double-check the information they receive from the court officials, and to make sure that their understanding is confirmed

by the judges themselves during the pre-trial sessions. This suggests that Russian court users are more likely to trust the judges personally than rely on the institution of justice overall.[555]

e. Outcome Perceptions

A final note should be made in relation to the role of individual outcome evaluations in shaping people's perceptions of institutions of justice in England and Russia. As I showed in my discussion, the analysis of how people construct their perceptions of individual outcomes is a useful tool for understanding the process of attitude formation. People's perceptions of individual outcomes need to be approached as products of a dynamic interaction between people's expectations of outcomes and their evaluations of the actual court decisions.

My discussion suggests that preconceived expectations of outcomes and the main factors responsible for the evaluations of fairness of these outcomes are key sets of ideas that shed light on the differences between people's perceptions of legal institutions in England and Russia. Court users in England generally believe that their expected outcomes will be reached to an extent. Being realistic and facing the challenges of legal procedure and substantive law involved in their claims, English court users approach the lower courts with an assumption that, if all steps and rules are followed, justice will be reached in the courtroom. This reliance on the court's ability to reach impartial and fair decisions is reinforced by the neutral evaluations of the English judges.

The examination of expectations of possible outcomes and evaluations of actual outcomes among the users of Russian lower courts led me to a different set of conclusions. Russian court users share a sceptical attitude towards the courts' ability to reach fair and

[555] J.M. Conley and W.M. O'Barr *Rules Versus Relationships: The Ethnography of Legal Discourse,* (Chicago: University of Chicago Press, 1987).

unbiased decisions. In their perceptions, successful outcomes were linked to the people's efforts in securing them, rather than to the ability of the courts to deliver them. This observation echoes my previous suggestion that Russian court users prefer to rely on their own ability to navigate through the intricacies of courts, which is usually based on establishing favourable relationships with the court staff and decision makers. This results in a widespread belief that courts are corrupt and easily influenced by the social status of the litigants, as well as informal exchanges of favours. I must stress that this self-perpetuating notion of perceived corruption is not a reliable indicator of the actual level of corruption. Yet, it is important to recognise that this high level of perceived corruption has a negative effect on the images of courts overall.[556] This reflects people's general lack of belief that their system of justice can operate in a just and reliable way. The core idea underlying this attitude is closely linked to the way Russian people perceive the role of state institutions in their everyday lives.

f. Trust at the Lowest Level of Justice

These conclusions bring me back to my main discussion of trust towards legal institutions in different legal cultures. My conclusions are directly relevant in the existing discussion of particularized and generalized trust in different societies, with specific reference to the research conducted by Eric Uslaner.[557] My analysis suggests that Russian court users have a set of beliefs about the general allocation of roles in society according to which they can rely only on a narrow circle of people, while the society in general and the state in particular are perceived as hostile and disinterested in the protection of individual. This set of beliefs can explain the way Russian court users interact with legal institutions: the close association of legal institutions with the state makes them seem part of the self-

[556] M. L. Smith, 'Perceived Corruption, Distributive Justice, and the Legitimacy of the System of Social Stratification in the Czech Republic', *Communist and Post-Communist Studies*, vol. 43 (2010), p. 439.
[557] E. M. Uslaner, *The Moral Foundations of Trust* (Cambridge: Cambridge University Press, 2002).

serving mechanism, which needs to be used carefully and selectively. This observation points at the underlying notion of the opposition of citizen's interests to state's interests, largely due to the long-standing tradition of instrumentality of state institutions and ideologically created trust in Russia.[558] This may be one of the core elements of the attitude of distrust towards the state and its institutions among Russian citizens.

Looking at the attitude of trust among English court users, one could describe it as close to the notion of generalized trust, or a set of beliefs in the operation of society that allows people to trust a larger number of people, and to expect the society to be generally benevolent. This is not an absolute evaluation, but in this relative form it generally characterises how English court users perceive the role of courts. English courts are seen as one of the services provided by the state; and the state is seen to have the duty of care towards its citizens. In this respect I agree with Kurkchiyan's suggestion that English state is seen as a 'nanny state'.[559] As the state does provide a variety of services, English people come to rely on and expect the state to hold their interests as guiding principles. In comparison with my findings in the Russian lower courts, English court users do not show a strong belief that the state has interests contrary to the interests of its citizens. In the absence of this opposition, I would argue that people are more likely to share a certain degree of stable trust towards state institutions.

What can my research say about the process of formation of generalised trust on a theoretical level? I would like to point out a number of important conclusions. Firstly, the traditional images of legal institutions in people's perceptions are shaped not so much by the reality of their everyday interaction with legal institutions, but by a set ideas and attitudes that people attach to the role of legal institutions in their societies and the power that stands

[558] Ibid.
[559] M. Kurkchiyan, 'Comparing Legal Cultures: Three Models of Court for Small Civil Cases', *Journal of Comparative Law,* vol. 5 (2010).

behind them. The perceived relationships between the legal institutions and the state and between the state and its citizens have emerged as core factors that shape people's attitudes towards legal institutions. The close association between the courts and the state and a consistent assertion by state of its domination over the system of justice at the expense of its citizens have a strong effect on people's distrust in legal institutions. The independence of courts and the existence of administrative checks on the transparency and equality of the legal process are more likely to promote stable attitudes of trust in and reliability of courts. Therefore, while the traditional perceptions of the state may be deeply-rooted and resistant to change in the short term, I would argue that certain changes in the administrative and procedural organisation of courts can lead to the formation of attitudes of trust in and reliability of legal institutions in the long term.

3. Research Implications and Concluding Remarks

My examination of the link between people's individual perceptions of experiences in lower courts and their overall attitudes towards legal institutions in different legal cultures revealed the complex nature of mechanisms and relationships that characterise legal cultures overall. My main argument is that the traditional ideas and images attached to the institutions of justice and their roles in different societies are essential for our understanding of the inner working of legal cultures. How people see their institutions of justice determines to a great extent how people approach their legal problems on a daily basis.

People's experiences in courts unfold in ways that tend to reinforce people's existing preconceptions about the process of justice in their countries. Therefore, one of my goals was to capture people's expectations of Russian and English courts, and understand how they are linked to the respective legal traditions and cultures. The need to understand the context that shapes people's overall images of courts and their expectations of the justice

process made me trace the differences in the sources of law and the procedural organisation of the lower courts in England and Russia. The conclusions of my discussion highlight the main difference between the roles of courts within the English and Russian societies: English courts are seen as providers of public services, whereas Russian courts are seen as bureaucratic branches of the Russian state.

The differences in the administration of the institutions of justice brought to light the importance of the intermediary position of court administration for promoting a user-oriented, transparent, and unbiased image of courts. My comparison of the procedural models of Russian and English lower courts revealed the crucial importance of the pre-trial sessions in the overall process of justice in Russia. The informal pre-trial sessions with Justices of the Peace offer court users a degree of involvement and control over their cases, while at the same time compromise the overall image of courts by promoting ideas of corruption and favouritism. What is considered 'a day in court' in the English system of justice, as imperfect and confusing as it may be, came in contrast with the Russian process of justice comprised of multiple private meetings with the judges, and culminating in a formal reading of the decision.

While it is difficult to clearly draw the lines of causation between people's preconceptions, experiences, and larger attitudes towards legal institutions, the resulting combination of factors that shape people's relationships with courts tell us about the importance of institutional organisation of courts, as well as of the institutional mechanisms that safeguard the independence of courts from the state.

The implications of my research are manifold. My findings in relation to the development of stable attitudes to legal institutions add to the current research in legal cultures by drawing a number of linkages that bring the analysis of local and national, as

well as global, legal cultures into a new light. My discussion of the interplay between the external and internal legal cultures challenges the existing theoretical frameworks by showing how different levels of legal cultures construct each other in the process of justice. My goal was to illustrate the complexity and the multi-dimensional nature of the most trivial experiences in legal institutions by bringing to light the multitude of links and interdependencies between the individual perceptions and the most stable ideas that define people's views of their society, their state, and their views of the world in general.

By comparing these perceptions and attitudes in Russia and England, I was able to contribute to the current research in the Russian and English legal cultures, as well as to illustrate the potential of this comparative approach in producing findings that could be overlooked in a single-country study. My findings in Russia and England complimented each other in identifying the factors that were not visible if either of these countries was approached on its own.

Finally, I believe that my research adds a valuable contribution to the current understanding of the process of formation of trust towards institutions of justice. I do not claim that my findings are fully representative of the Russian and English patterns of court use and perceptions of legal institutions due to the limited nature of my sample and the in-depth method of my inquiry. However, my conclusions with reference to the underlying logic of the process of formation of attitudes of trust in countries with different legal traditions, procedural models, and administrative approaches add a valuable contribution to the analysis of these elements within the current research on democratic development. My research also contributes to the discussion of perceptions of justice in legal institutions in the organizational behaviour research, the development and evaluation of institutional trust from a comparative perspective, as well as current research in the administration of justice and public policy.

This dissertation has raised a variety of issues that merit further investigation. First and foremost, the interplay between different levels of formality and the dualism within the Russian and English legal cultures deserve more detailed examination. In addition, the analysis of the English and Russian legal cultures needs to be expanded to incorporate other legal institutions in order to understand how perceptions of legal institutions depend on the level and the context of justice. There is also a need for a better understanding of people's perceptions of other state institutions, which could be useful in the investigation of people's perceptions of their relationship with the state and their feelings of entitlement to justice. Moreover, placing England and Russia within a larger comparative network of legal cultures would be an extremely valuable exploration of the effect that different legal traditions, procedural and administrative models, as well as historical images of courts have on people's expectations of courts and their attitudes towards them.

Bibliography

'Access to Justice', Final Report, National Archives, accessed 26 November 2016, at http://webarchive.nationalarchives.gov.uk/+/http://www.dca.gov.uk/civil/final/intro.htm

'A Step-By-Step Guide to Legal Aid: Help with Paying for Civil Cases', Legal Services Commission, http://www.gov.uk/legal-aid, accessed 28 November 2016.

'Administrative Court', Her Majesty Courts and Tribunals Judiciary, accessed 10 November 2016, at https://www.judiciary.gov.uk/you-and-the-judiciary/going-to-court/high-court/queens-bench-division/courts-of-the-queens-bench-division/administrative-court/.

Ajzen, I. and Fishbein, M., *Understanding Attitudes and Predicting Social Behavior* (Englewood Cliffs, New Jersey: Prentice-Hall, 1980).

Ambrose M.L., and Schminke, M., 'Organization Structure as a Moderator of the Relationship between Procedural Justice, Interactional Justice, POS, and Supervisory Trust,' *Journal of Applied Psychology,* vol. 88 (2003), pp. 295-305.

Ambrose, M., Hess, R. L., and Ganesan, S., The Relationship between Justice and Attitudes: An Examination of Justice Effects on Event and System-related Attitudes', *Organizational Behavior and Human Decision Processes,* vol. 103, no. 1 (2007), pp. 21-36.

'Analyz Ekspertniykh Otsenok Sudebnoy Vlasti v Rossii i Transitnih Stranakh', Fond INDEM, Analytical Report, accessed 15 November 2016, at http://www.indem.ru/Proj/SudRef/AnExpOcOsDokl.pdf

Angle H., at al., 'Witness Satisfaction: Findings from the Witness Satisfaction Survey 2002', (London: Home Office Online Report, 19/03).

Arutiunian, M., at al., *Obraz i Opit Prava: Pravovaya Socialzatsiya v Izmenyayuscheysya Rossii* (Moscow: Ves' Mir, 2008).

Asimov, M., ed., *Lawyers in Your Living Room! Law on Television* (Chicago: American Bar Association, 2009).

Asimov, Michael, ed., *Lawyers in Your Living Room! Law on Television*, (Chicago: American Bar Association, 2009).

Atkinson, J. M., and P. Drew, *Order in Court: The Organisation of Verbal Interaction in Judicial Settings* (London: The Miacmillan Press, 1979).

Attwood, C., at al., '2001 Home Office Citizenship Survey: People, Families, and Communities', London: Home Office Research Study 270, 2001.

Baird, V.A., 'Building Institutional Legitimacy: The Role of Procedural Justice', *Political Research Quarterly,* vol. 54, no. 2 (2001), p. 333.

Baldwin, J., *Small Claims in the County Courts in England and Wales: The Bargain Basement of Civil Justice?* (Clarendon Press: Oxford, 1997).

Barber, B., *The Logic and Limits of Trust* (New Brunswick: Rutgers University Press, 1983).

Barzilai, G., 'Between the Rule of Law and the Laws of the Ruler: The Supreme Court in Israeli Legal Culture', *International Social Science Journal*, vol. 49, no. 2 (1997), pp. 143-50.

'Becoming a Magistrate,' Courts and Tribunals Judiciary, accessed 24 November 2016, at http://www.judiciary.gov.uk/about-the-judiciary/judges-magistrates-and-tribunal-judges/judges-career-paths/becoming-a-magistrate

Beier, S., et al., 'Influence of Judge's Behaviours on Perceived Procedural Justice', *Journal of Applied Social Psychology*, vol. 44 (2014), p. 46.

Berman, H.J., *Justice in the U.S.S.R.: an Interpretation of Soviet Law* (Harvard University Press, 1963).

Bierbrauer, G. 'Toward an Understandings of Legal Culture: Variations in Individualism and Collectivism between Kurds, Lebanese, and Germans', *Law and Society Review*, vol. 28, no. 2 (1994), pp. 243-64.

Bies R.J. and Moag J.S, 'Interactional Justice: Communication Criteria for Fairness,' in Sheppard B., *Research on Negotiation in Organizations*, Vol. 1, (JAI Press: Greenwich, CT: JAI Press), pp. 43-55.

Bindman, Geoffrey, 'On Becoming a Silk: Ritual, Restriction, and Royal Allegiance,' *Open Democracy*, 22 May, 2011, accessed 24 November 2016, at http://www.opendemocracy.net/print/59618.

Blackshield, T., et al., *The Oxford Companion to the High Court of Australia* (Oxford University Press, 1996).

Blader, S.L. and Tyler, T.R., 'What Constitutes Fairness in Work Settings? A Four-component Model of Procedural Justice', *Human Resource Management Review*, vol. 13 (2003), p. 107.

Blankenburg, E. and F. Bruinsma, *Dutch Legal Culture* (London: Kluwer Law International, 1994).

Blind, P. K., 'Building Trust in Government in the Twenty-first Century: Review of Literature and Emerging Issues', paper presented at the 7th Global Forum on Reinventing Government, 26-29 June, Vienna, Austria, accessed 25 November 2016, at http://unpan1.un.org/intradoc/groups/public/documents/un/unpan025062.pdf

'BME Communities' Expectations of Fair Treatment by the Criminal Justice System – Victims and Witnesses of Crime', Ipsos-MORI, Criminal Justice System, Audit Commission (2003), accessed 25 November 2016, at https://www.ipsos-mori.com/Assets/Docs/Archive/Polls/cjs-report.pdf.

Bode, V., 'Vlast' i Narod: Nedoveriye i Neveriye', *Radio Programme*, 26.02.2010, accessed 28 November 2016, at http://www.svobodanews.ru/articleprintview/1969560.html.

Bogdanova, E., Ezhova E., Olympyeva, *Chto Nuzhno Znat o Mirovih Sudyah* (St. Petersburg: Aleteiia, 2008).

Bond, R.A., and Lemon, N.F., 'Training, Experience, and Magistrates' Sentencing Philosophies: A Longitudinal Study', *Law and Human Behavior,* vol. 3, no.2 (1981), p. 123

Buckland W.W., and McNair, A.D., *Roman Law and Common Law: A Comparison in Outline,* (2nd Ed. Revised, Cambridge University Press, 1952).

Buckland, W. W., and A.D. McNair, *Roman Law and Common Law: A Comparison in Outline*, 2nd Ed. Revised, (Cambridge University Press, 1952), p. 399.

Buckler, K., et al., 'Citizen Assessment of Local Criminal Courts: Does Fairness Matter?' *Journal of Criminal Justice,* vol. 35 (2007), p. 524.

Burbank, J., *Russian Peasants Go to Court: Legal Culture in the Countryside, 1905-1907,* (Bloomington: Indiana University Press, 2004).

Burke, K. and Leben, S., 'Procedural Fairness: A Key Ingredient in Public Satisfaction', A White Paper of the American Judges Association, *The Voice of Judiciary*, September 26, 2007.

Caldeira, G.A., 'Neither the Purse nor the Sword: Dynamics of Public Confidence in the Supreme Court', *American Political Science Review,* vol. 80, no. 4 (1986), p. 1209.

CEPEJ, *European Judicial Systems: Efficiency and Quality of Justice*, Council of Europe Publishing, 2008, 2010, 2013.

Chapman, B., C. Mirrlees-Black, C. Brawn, 'Improving Public Attitudes in the Criminal Justice System: The Impact of Information', Home Office Research Study 245, (2002), accessed 25 November 2016, at https://www.prisonlegalnews.org/news/publications/home-office-research-study-245-improving-public-attitudes-on-the-criminal-justice-system-2002/.

Chapman, B., et al., 'Improving Public Attitudes to the Criminal Justice System: The Impact of Information', Home Office Research Study 245, 2002.

Chase D.J., and Fulton Hora, P., 'The Implications of Therapeutic Jurisprudence for Judicial Satisfaction', *Court Review,* Spring 2000, p. 12

Chechina, N.A., 'Miroviye Sudy v Rossiyskoy Federatsii Sudebnaya reforma i novoye zamonodatelstvo)' *Pravovedeniye*, no. 4 (1999), pp. 229-237.

Cohn, E.S, White, S.O., and Sanders, J., 'Distributive and Procedural Justice in Seven Nations', *Law and Human Behavior,* vol. 24, no. 5 (2000), pp. 553-579.

Coleman, J. S., *Foundations of Social Theory* (Cambridge, MA: Harvard University Press, 1990).

Colquitt, J.A., et al., ‘Justice at the Millennium: A Meta-Analytic Review of 25 Years of Organizational Justice Research’’ *Journal of Applied Psychology*, vol. 86, no. 3 (2001), p. 425.

Confino, M., ‘Russian Customary Law and the Study of Peasant Mentalities’, *The Russian Review*, vol. 44, no.1 (1985), pp. 35-43.

Conley J.M. and O’Barr W.M., *Rules Versus Relationships: The Ethnography of Legal Discourse,* (Chicago: University of Chicago Press, 1987).

Conlon, B., ‘Dostoyevsky V. the Judicial Reforms of 1864: How and Why One of Nineteenth-Century Russia’s Greatest Writers Criticized the Nation’s Most Successful Reform’, *Russian Law Journal*, vol. 2, no. 4, (2014).

Cowan, D., ‘Legal Consciousness: Some Observations’, *The Modern Law Review*, vol. 67, no. 6 (2005), p. 928.

Curtis, D., Resnik, J., ‘Images of Justice’, *The Yale Law Journal*, vol. 96, (1987), p. 1771.

Czap, P. Jr., ‘Peasant-Class Courts and Peasant Customary Justice in Russia, 1861-1912’, *Journal of Social History, Journal of Social History*, vol. 1, no. 2 (1967), p. 149-78.

David, R., and Brierley, J. E. C., *Major Legal Systems in the World Today*, 3rd Ed. (Stevens & Sons, London, 1985).

David, R., *Traité élémentaire de droit civil comparé : introduction à l'étude des droits étrangers et à la méthode comparative* (Paris : R. Pichon : R. Durand-Auzias, 1950).

Delhey, J., and K. Newton, ‘Predicting Cross-National Levels of Social Trust. Global Pattern in Nordic Exceptionalism?’ *European Sociological Review*, vol. 21, no. 4 (2005), pp. 311-27

Douglas, M., ‘Introduction to Group-Grid Analysis’ in M Douglas (ed.), *Essays in the Sociology of Perception,* (Routledge and Kegan Paul, 1982), p. 2.

‘Doveriye k Sudam’, Radio Pragramme, *Echo Moskvi*, 15.02.2010, accessed 16 November 2016, at http://www.supcourt.ru/print_page.php?id=6624.

Drew, N. M., et al., ‘Justice and Local Community Change: Towards a Substantive Theory of Justice’, *Journal of Community Psychology*, vol. 30, no. 6 (2002), p. 623.

Ewick P. and Silbey S.S., *The Common Place of Law: Stories From Everyday Life* (Chicago: University of Chicago Press, 1998).

Feeley, M.M., ‘Three Voices of Socio-Legal Studies’, *Israel Law Review*, vol. 1, no. 1 (2001), p. 174.

Fenn, P., N. Rickman, and D. Vencappa, ‘The Impact of Woolf Reforms on Costs and Delay,’ *Centre for Risk and Insurance Studies Discussion Paper Series*, 2009.1, accessed 26 November 2016, at

https://www.nottingham.ac.uk/business/businesscentres/crbfs/documents/cris-reports/cris-paper-2009-1.pdf.

Fizz, O.M., 'The Bureaucratization of the Judiciary', *Yale Law Journal,* vol. 92 (1983), p. 1442.

Flanagan, T.J., et al., 'Public Perceptions of the Criminal Courts: The Role of Democratic and Related Attitudinal Variables', *Journal of Research in Crime and Delinquency*, vol. 22, no. 1 (1985), p. 66.

Folger, R., 'Distributive and Procedural Justice in the Workplace', *Social Justice Research*, vol. 1, no. 2 (1987), p. 143.

Forsey, M.G., 'Ethnography as Participant Listening', *Ethnography*, vol. 11, no. 4 (2010), p. 558.

Foucault M., *Discipline and Punish: The Birth of the Prison* (New York: Vintage, 1977).

Frank, J., *Courts on Trial: Myth and Reality in American Justice* (Princeton University Press (1949).

Frazer, M.S., 'The Impact of the Community Court Model in Defendant Perceptions of Fairness: A Case Study at the Red Hook Community Centre', 2006, available at http://courtinnovation.org/_uploads/documents/Procedural_Fairness.pdf.

Friedman, L. M., 'The Day Before Trials Vanished', *Journal of Empirical Legal Studies*, vol. 1, no. 3 (2004), pp. 689-703.

---, 'The Concept of Legal Culture: A Reply', in D. Nelken, (ed.), *Comparing Legal Cultures*, (Aldershot, Dartmouth, 1997), p. 34.

---, *The Republic of Choice: Law, Authority, and Legal Culture* (Cambridge, MA: Harvard University Press, 1990), p. 213.

---, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), p. 15.

Frier, B.W., *The Rise of the Roman Jurists: Studies in Cocero's Pro Caecina* (Princeton: Princeton University Press, 1985).

Frierson, C. A., 'Rural Justice in Public Opinion: The Volost' Court Debate 1861-1912', *The Slavonic and East European Review*, vol. 64, no. 4 (1986), pp. 526-545

Friske, S.T., Gilbert, D.T., Lindzey, G., *Handbook on Social Psychology*, vol. 2 (5th Ed., John Wiley & Sons, Hoboken: New Jersey, 2010).

Fukuyama, F. F., *Trust: Human Nature and the Reconstitution of Social Order* (New York: Free Press, 1996).

Gaidyté, T., 'Trust in Mature and Post-Communist Democracies', *Sociopedia.isa, ISA*, (2013), p. 2, accessed 25 November 2016, at http://www.sagepub.net/isa/resources/pdf/Trust.pdf

Gailmard, S. and Patty, J.W., 'Formal Models of Bureaucracy', *Annual Review of Political Science,* vol. 15 (2012), p. 353.

Galanter, M., 'Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law', *Journal of Legal Pluralism,* vol. 19 (1981), p. 1.

Galanter, M., 'The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts', *Journal of Empirical Legal Studies*, vol. 1, no. 3 (2004), pp. 459-570.

Galligan, D.J. and Kurkchiyan, M., (Eds.), *Law and Informal Practices: The Post-Communist Experience* (Oxford: Oxford University Press, 2003).

Galligan, D.J., *Due Process and Fair Procedures: A Study of Administrative Procedures*, (Oxford University Press, 1997).

Geertz, Clifford, *Local Knowledge: Further Essays in Interpretative Anthropology* (New York: Basic Books, 1983).

Genn, H., *Paths to Justice: What People Think and Do About Going to Law* (Oxford and Portland, OR: Hart Publishing, 1999).

Genzuk, M., 'A Synthesis of Ethnographic Research', *Occasional Paper Series, Centre for Multilingual, Multicultural Research,* Centre for Multilingual, Multicultural Research, Rossier School of Education, University of Southern California, Los Angeles, (2003), accessed 25 November 2016, at http://www.bcf.usc.edu/~genzuk/Ethographic_Research.html.

Gibson, J.L., 'Measuring Attitudes toward the United States Supreme Court', *American Journal of Political Science*, vol. 47, no. 2 (2003), p. 354.

---, 'Russian Attitudes towards the Rule of Law: An Analysis of Survey Data', in Denis Galligan and Marina Kurkchiyan, *Law and Informal Practices: The Post-communist Experience,* (Oxford: Oxford University Press, 2003).

Glendon, M.A., et al., *Comparative Legal Traditions: Test, Materials, and Cases on Western Law* (3rd Ed., West, American Casebook Series, 2008).

Glenn, H. P., *Legal Traditions of the World: Sustainable Diversity in Law*, 4th Ed., (Oxford University Press, 2010).

Gosling, R., *Survey of Litigants' Experiences and Satisfaction with Small Claims Process*, London: Department for Constitutional Affairs Research Series, 9/06, 2006.

Gray, G.C. and Salole, A.T., 'The Local Culture of Punishment: An Ethnography of Criminal Justice Worker Discourse', *British Journal of Criminology*, vol. 46 (2006), p. 661.

Greenberg, J., 'Organizational Justice: Yesterday, Today, and Tomorrow', *Journal of Management*, vol. 16, no. 2 (1990), p. 399.

---, 'Using Diaries to Promote Procedural Justice in Performance Appraisals', S*ocial Justice Research*, vol. 1, no. 2 (1987), pp. 219-234.

Grodeland, A.B., and Aasland, A., 'Civil Society in Post-Communist Europe: Perceptions and Use of Contacts', *Journal of Civil Society*, vol. 7, no. 2 (2011), p. 129.

Guchet, Y., *Le Pensée Politique*, (Paris: Armand Colin, 1992).

Gudkov, L., 'Rossiyskoye Obschestvo: Pravovaya i Politicheskaya Kultura', *Vestnik Obschestvennogo Mneniya*, vol. 4, no. 106 (2010), p. 7.

Gustafsson, P., 'The Emergence of the Rule of Law in Russia', *Global Crime*, vol. 14, no. 1 (2013), p. 82.

Habermas, J., *Between Facts and Norms* (MIT Press: Cambridge, 1998).

Halliday, S. and B. Morgan, 'I Fought the Law and the Law Won? Legal Consciousness and the Critical Imagination', *Current Legal Problems*, vol. 65, no. 1 (2013), pp. 1-32

Halliday, S., et al., 'Shadow Writing and Participant Observation: A Study of Criminal Justice Social Work around Sentencing', *Journal of Law and Society*, vol. 35, no. 2 (2008), p. 189.

Halliday, T. C. and G. Shaffer, *Translational Legal Orders* (CUP, 2015).

Hardin, R. T*rust and Trustworthiness* (New York: Russell Sage Foundation, 2002), p. 13

Hardin, R. *Trust*, (Cambridge: Polity Press, 2006).

Harris, D.A., 'The Appearance of Justice: Court TV, Conventional Television, and Public Understanding of the Criminal Justice System,' *Arizona Law Review*, vol. 35 (1993), p. 794.

Hausknecht, J.P., et al, 'Justice as a Dynamic Construct: Effects of Individual Trajectories on Distal Work Outcomes', *Journal of Applied Psychology*, vol. 96, no. 4 (2011), pp. 872-880.

Hawley K., *Trust: A Very Short Introduction* (Oxford: Oxford University Press, 2012).

Heger Boyle, E., 'Is Law the Rule? Using Political Frames to Explain Cross-National Variation in Legal Activity,' *Social Forces*, vol. 78, no. 4 (2000), p. 1195.

Henderson, J., 'Formalism, Expectations, and Trust in Russian Legal Culture', in *Constructing Legal Culture through Institutional Reforms: The Russian Experience*, Report and Analysis of a Workshop Held at Wolfson College, Oxford 28 September 2011, 13.

Hendley, K., and Murrell, P., 'Revisiting the Emergence of the Rule of Law in Russia', *Global Crime*, (2014).

---, 'Assessing the Role of the Justice-of-the-Peace Courts in the Russian Judicial System', *Review of Central and East European Law*, vol. 37 (2012a), pp. 377-393.

---, 'Who Are the Legal Nihilists in Russia?' Univ. of Wisconsin Legal Studies Research Paper No. 1187, *Post-Soviet Affairs*, vol. 28, no. 2 (2012b), pp. 149-186.

---, 'Resolving Problems Among Neighbors in Post-Soviet Russia: Uncovering the Law of the Pod"ezd', *Law and Social Inquiry*, vol. 36, no. 2 (2011), pp. 388-418.

---, 'Varieties of Legal Dualism: Making Sense of the Role of Law in Contemporary Russia,' *Wisconsin International Law Journal*, vol. 29, no. 2 (2011), pp.233-62.

---, 'A Reflection on Russian Courts', in *Constructing Legal Culture through Institutional Reforms: The Russian Experience*, Report and Analysis of a Workshop Held at Wolfson College, Oxford 28 September 2011, 16.

---, 'Mobilizing Law in Contemporary Russia: The evolution of Disputes over Home Repair Projects', *American Journal of Comparative Law*, vol. 58 (2010), p. 631.

---, '"Telephone Law" and the "Rule of Law": The Russian Case,' *Hague Journal on the Rule of Law*, vol. 1 (2009), p. 241.

---, 'Are Russian Judges Still Soviet?' *Post-Soviet Affairs*, vol. 23, no. 3 (2007), p. 240.

---, 'Business Litigation in the Transition: A Portrait of Debt Collection in Russia', *Law and Society Review*, vol. 38 no. 2 (2004), p. 305.

---, *Trying to Make Law Matter: Legal Reform and Labour Law in the Soviet Union*, (Ann Arbor: University of Michigan Press, 1996).

Hertogh, M., "A 'European' Conception of Legal Consciousness: Rediscovering Eugen Ehrlich", *Journal of Law and Society*, vol. 31, no. 4 (2004), p. 457.

Heuer, L.B and Stroessner, S.J., 'The Multi-Value Basis of Procedural Justice', *Journal of Experimental Social Psychology*, vol. 47 (2011), p. 541.

---, and Penrod, S., 'Procedural Fairness as a Functions of Conflict Intensity,' *Journal of Personality and Social Psychology*, vol. 51 (1986), pp. 700-710.

Heywood, M. P. and C. Wood, 'Culture versus Institutions: Social Capital, Trust, and Corruption', in E. Jones, et. al., (eds.), *Developments in European Politics*, (Basingstoke: Palgrave Macmillan, 2011), pp. 138-54.

Higgins., G.E., at al., 'Race, Ethnicity, and Experience: Modeling the Public's Perceptions of Justice, Satisfaction, and Attitude Towards the Courts,' *Journal of Ethnicity and Criminal Justice*, vol. 7 (2009), pp. 293-310.

‘History of the Judiciary’, Courts and tribunals Judiciary, accessed 24 November 2016, at https://www.judiciary.gov.uk/about-the-judiciary/history-of-the-judiciary/

Holz, B.C. and Harold C.M., ‘Fair Today, Fair Tomorrow? A Longitudinal Investigation of Overall Justice Perceptions’, *Journal of Applied Psychology*, vol. 94, no. 5 (2009), p. 1185.

Hough, M., ‘Researching Trust in the Police and Trust in Justice: A UK Perspective’, *Policing and Society*, vol. 22, no. 3 (2012), p. 332.

---, and Roberts J., *Attitudes to Punishment: Findings from the British Crime Survey*, Home Office Research Study No. 179, (London: Home Office, 1998).

Hull, E., ‘The Cultural Power of Law and the Cultural Enactment of Legality: The Case of Same-Sex Marriage’, *Law and Social Inquiry*, vol. 28, no. 3 (2003), p. 629.

Hume, D., 1739, *A Treatise of Human Nature*, L. Selby-Bigge, ed., (2nd edition by P. H. Nidditch, Oxford: Clarendon Press, 1975).

‘In Putin’s Russia, Law is Only a Tool’, *Khodorkovsky Institute of Modern Russia*, accessed 25 November 2016, at http://imrussia.org/en/events/343-in-putins-russia-law-is-only-a-tool.

Jackson, J., et al., ‘Why Do People Comply with the Law? Legitimacy and the Influence of Legal Institutions’, *British Journal of Criminology*, vol. 52 (2012), p. 1051.

Javeline, D., and Baird, V., ‘Who Sues Government? Evidence from the Moscow Theatre Hostage Case’, *Comparative Political Studies*, vol. 40, no. 7 (2007), p. 858.

‘Judiciary of England and Wales’, accessed 25 November 2016, at http://www.judiciary.gov.uk/about-the-judiciary/introduction-to-justice-system/history-of-the-judiciary#headingAnchor8.

‘Justice Out of Reach: a case for small claims courts: a Consumer Council study’, *Consumer Council*, London, HMSO, (1970).

Kee, W. H. and R.E. Knox, ‘Conceptual and Methodological Considerations in the Study of Trust and Suspicion’, *Journal of Conflict Resolution*, vol. 14 (1970), pp. 357-66

Kelley, H.H, and Thibaut, J.W., *Interpersonal Relations: A Theory of Interdependence* (Wiley: New York, 1979).

Kerr, N.L., and Bray, R.M., eds., The Psychology of the Courtroom, (New York: Academic Press, 1982).

Kiddler, R. L. and J.A. Hostetler, ‘Managing Ideologies: Harmony as Ideology in Amish and Japanese Societies’, *Law and Society Review*, vol. 28 (1990), pp. 895-922.

Kluchevsky, V.O., Hogarth, C.J., A History of Russia, Vol. I. (London: J.M. Dent & Sons, 1911).

Kollock, P., 'The Emergence of Exchange Structures: An Experimental Study of Uncertainty, Commitment, and Trust', *The American Journal of Sociology*, vol. 100, no. 2 (1994), pp. 313-45

Konovsky, M.A., 'Understanding Procedural Justice and Its Impact on Business Organizations,' *Journal of Management*, vol. 26, no. 3 (2000), p. 489.

Kozuch B. and Z. Dobrowolski, *Creating Public Trust: An Organization Perspective* PL Academic Research (Frankfurt am Main: Internationaler Verlag der Wissenschaften, 2014), p. 13.

Kritzer, H.M. and Zemans, F.K., 'Local Legal Culture and the Control of Litigation', *Law and Society Review*, vol. 27, no. 3 (1993), p. 535.

Kritzer, H.M., 'Examining The Real Demand for Legal Services', *Fordham Urban Law Journal*, vol. 37 (2010), p. 256.

Kry-, 'The Fall of European Communism: 20 Years After', *The Hague Journal on the Rule of Law*, vol. 1 (2009), p. 195.

Krygier, M., 'Law as Tradition', *Law and Philosophy*, vol. 5 (1986), p. 237.

Kryuchkov, S. A., and M. U. Shevyakov, 'Otnosheniye Grazhdan k Deyatelnosti Mirovih Sudov', *USAID, Rule of Law Initiative*, Moscow, (2010), pp. 80-81.

Kryuchkov, S.A. and Shevyakov, M.U., 'Otnosheniye Grazhdan k Deyatelnosti Mirovih Sudov,' *USAID, Rule of Law Initiative, Moscow*, 2010.

Kurkchiyan, M., 'Justice through Bureaucracy: the Ukrainian Model,' *Social and Legal Studies*, vol. 22, no. 4 (2013), pp. 515-533.

---, 'Perceptions of Law and Social Order: a cross-national comparison of collective legal consciousness,*' Wisconsin International Law Journal*, vol. 29, no. 2 (2012), p. 366-393.

---, et al., *Legal Cultures in Transition – The Impact of European Integration*, sponsored by the Research Council of Norway, 2007-2012 (182628/v10).

---, 'What to Expect from Institutional Transplants? An Experience of Setting up Media Self-Regulation in Russia and Bosnia,' *International Journal of Law in Context*, vol. 8, no.1 (2012), pp. 115-131.

---, 'Russian Legal Culture: An Analysis of Adaptive Response to an Institutional Transplant', *Law and Social Inquiry*, vol. 34, no. 2 (2009), p. 344.

---, 'Disputes and Their Resolutions in Russia and China: A Comparative Perspective,' (Oxford: Foundation for Law, Justice, and Society, 2008).

---, 'The Impact of the Transition on the Role of Law in Russia', In *Explorations in Legal Cultures*, edited by Fred Bruinsma and David Nelken. (Brussels: A special issue of *Recht der Werkelijkheid* [*Law in Action*], 2007), pp.75-94.

Landis, J.M. and Goodstein, L., 'When Is Justice Fair? An Integrated Approach to the Outcome Versus Procedure Debate', *American Bar Foundation research Journal*, vol. 11, no. 4 (1986), p. 675

Latour, B., 'On Actor-network Theory. A Few Clarifications Plus More Than a Few Complications', *Soziale Welt*, vol. 47 (1996), pp. 369-381.

Ledeneva, A., *Russia's Economy of Favours: Blat, Networking and Informal Exchange* (Cambridge: Cambridge University Press, 1998).

Leftly, M., 'Court closures spark fears of 'justice deserts' in rural areas', *The Independent*, 20 April 2014, accessed 26 November 2016, at http://www.independent.co.uk/news/uk/home-news/court-closures-spark-fears-of-justice-deserts-in-rural-areas-9271504.html?origin=internalSearch.

Leroy-BeauLieu, A., *The Empire of the Tsars and the Russians*, translated from the 3d French ed., with annotations, by Zenaide A. Ragozin, (New York: G. P. Putnam's Sons, 1893-1896).

Leventhal, G. S., 'What should be done with equity theory? New approaches to the study of fairness in social relationship', in K. J. Gergen, M. S. Greenberg, & R. H. Willis (Eds.), *Social exchange: Advances in theory and research*, (New York: Plenum, 1980), p. 27.

---, G. S., 'The Distribution of Rewards and Resources in Groups and Organizations', in L. Berkowitz & W. Walster, (Eds.), *Advances in Experimental Social Psychology*, Vol. 9, (New York: Academic Press, 1976), p. 91.

Lind E.A., et al., 'In the Eye of the Beholder: Tort Litigants' Evaluations of Their Experiences in the Civil Justice System' *Law and Society Review*, vol. 24, no. 4 (1990), p. 953.

---, G. S., J. Karuza, and W. R. Fry, 'Beyond Fairness: A theory of Allocation Preferences,' in G. Mikula, (ed.), *Justice and Social Interaction* (New York: Springer, 1980), pp. 167-218.

---, et al., 'Reactions to Procedural Models for Adjudicative Conflict Resolution: A Cross-National Study.' *Journal of Conflict Resolution,* vol. 22 (1978), pp. 318-341.

---, *The Perception of Justice: Tort Litigants' Views of Trial, Court-Annexed Arbitration, and Judicial Settlement Conference*, RAND Report R-3708-ICJ, 1989.

---, and T. R. Tyler, *The Social Psychology of Procedural Justice* (Springer, 1988).

---, at al., 'Discovery and Presentation of Evidence in Adversary and Non-adversary Proceedings', *Michigan Law Review*, vol. 71 (1973), pp. 1129-1144.

---, et. al., 'Procedure and Outcome Effects on Reactions to Adjudicated Resolution of Conflicts of Interest,' *Journal of Personality and Social Psychology*, vol. 39 (1980), pp. 643-653.

Llewellyn, S., S. Brooks, A. Mahon, *Trust and Confidence in Government and Public Services* (New York: Routledge, 2013), p. 19.

Luhmann, N., *Trust and Power* (New York: Wiley, 1979).

Machura, S., 'Fairness, Justice, and Legitimacy: Experiences of People's Judges in South Russia', *Law and Policy*, vol. 25, no. 2 (2003), p. 123.

Markus, H.R.,and Kitayama, S., 'Culture and the Self: Implications for Cognition, Emotion, and Motivation', *Psychological Review*, vol. 98, no. 2 (1991), p. 224.

Marshall, A., 'Injustice Frames, Legality, and the Everyday Construction of Sexual Harassment', *Law and Social Inquiry,* vol. 28, no. 3 (2003), p. 659.

Mashaw, J.L., *Bureaucratic Justice* (New Haven, CT: Yale University Press, 1983).

McBarnet, M., *Conviction: The Law, the State, and the Construction of Justice* (Pelgrave Macmillan, 1981).

Medushevsky, A.N., 'Law and Justice in Post-Soviet Russia: Strategies of Constitutional Modernization', *Journal of Eurasian Studies*, vol. 3 (2012), p. 116.

Menkel-Meadow, C., 'For and Against Settlement: Users and Abusers of the Mandatory Settlement Conference,' *UCLA Law Review*, vol. 33 (1985), pp. 485-514.

Merry, S. E. 'Resistance and the Cultural Power of Law', *Law and Society Review*, vol. 29 (1995), pp. 11-27

---, 'Concepts of Law and Justice among Working-Class Americans', *Legal Studies Forum*, vol. 9, no. 59 (1985), p. 59.

---, 'Rights Talk and the Experiences of Law: Implementing Women's Human Rights to Protection from Violence,' *Human Rights Quarterly*, vol. 25, no. 2 (2003), p. 351.

---, *Getting Justice and Getting Even: Legal Consciousness among Working Class Americans* (Chicago: University of Chicago Press, 1990).

---, 'Popular Justice and the Ideology of Social Transformation', *Social and Legal Studies*, vol. 1 (1992), pp. 161-76.

Merryman, J.H., *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* (2nd Ed., Stanford, CA: Stanford University Press, 1985).

Metzger, E., 'Roman Judges, Case Law, and Principles of Procedure', *Law and History Review*, vol. 22, no. 2 (2004), pp. 243-275.

'Ministry of Justice Statistics Bulletin, Civil Justice Statistics Quarterly: January to March 2015', accessed on 10 October 2016, at https://www.gov.uk/government/statistics/civil-

Mirlees-Black, C., *Confidence in the Criminal Justice System: Findings from the 2000 British Crime Survey,* Home Office Research Findings No. 137, (London: Home Office, 2001).

Mishler, W. and Rose, R., 'Trust, Distrust, and Skepticism: Popular Evaluations of Civil and Political Institutions in Post-Communist Societies', *The Journal of Politics*, vol. 59, no. 2 (1997), p. 418.

Möllering, G., 'The Nature of Trust: From Georg Simmel to a Theory of Expectation, Interpretation, and Suspension', *Sociology*, vol. 35, no. 2 (2001), pp. 403-20.

Monaghan, L.F., 'Doorwork and Legal Risk: Observations from an Embodied Ethnography', *Social and Legal Studies,* vol. 13, no. 4 (2004), p. 453.

Mondak, J.J., 'Institutional Legitimacy and Procedural Justice: Reexamining the Question of Ceusality', *Law and Society Review*, vol. 27, no. 3 (1993), p. 599.

Moorhead R., at al., 'Just Satisfaction? What Drives Public and Participant Satisfaction with Courts and Tribunals', *Ministry of Justice Research Series 5/08*, March 2008.

MORI (2005), BME Communities' Expectations of Fair Treatment by the Criminal Justice System – Victims and Witnesses of Crime, Audit Commission (2003).

Mulcahy, L., *Legal Architecture: Justice, Due Process, and the Place of Law* (Routledge, 2010).

Myrstol, B.A., Lepage, C.R., 'Public Perceptions of Judicial Fairness', *Alaska Justice Forum*, University of Alaska Anchorage, vol. 29, no. 2 (1992), pp. 9-11.

Nelken, D. 'Three Problems in Employing the Concept of Legal Culture', in *Explorations in Legal Cultures*, F. Bruinsma and D. Nelken, (eds.), *Recht der Werkelijkheid* (Reed Business, 2007), p. 15.

---, 'Using the Concept of Legal Culture', *Australian Journal of Legal Philosophy*, vol.29 (2004).

---, 'Comparative Sociology of Law' in R. Benakar and M. Travers, (eds.), *Introduction to Law and Social Theory* (Oxford: Hart, 2002), pp. 329-344.

---, (ed.) *Comparing Legal Cultures* (Dartmouth: Aldershot, 1997).

---, 'Disclosing / Invoking Legal Culture', *Social and Legal Studies*, vol. 4 (1995), pp. 435-452.

---, 'Whom Can You Trust?', in D. Nelken, (ed.), *The Futures of Criminology* (London: Sage, 1994), pp. 220-42.

Nielsen, L.B., 'Situating Legal Consciousness: Experience and Attitudes of Ordinary Citizens about Law and Street Harassment', *Law and Society Review*, vol. 34, no. 4 (2000), pp. 1055-1090.

Novikova, A., 'Voprosi Pravosoznaniya, Pravovoy Kulturi, i Pravovogo Provedeniya Grazhdan Rossii', Demos Centre, Moscow, 2010, available at http://www. demos-centre.ru/projects/52FB039/52FBA2A9/1112012371.

'Ob obespechenii dostupa k informatsii o deyatelnosti sudov v Rossiyskoy Federatsii,' Verhovniy Sud Rossiyskoy Federatsii, accessed 14 November 2016, at http://www.supcourt.ru/print_page.php?id=6351.

'O Mirovikh Sudah v Rossiyskoy Federatsii', Sobraniye Zakonodatelstva RF (17.12.1998), No. 188-FZ. Accessed 10 November 2016, at http://pravo.gov.ru/proxy/ips/?docbody=&nd=102057094.

O'Barr, W.M. and Conley. J.M., 'Law Expectations of the Civil Justice System', *Law and Society Review*, vol. 22, no. 1 (1988), p. 137.

'Obespecheniye Prav Grazhdan na Dostup k Informatsii o Deyatelnosti Sudov,' Radio Programme 'Na Chto Zhaluyemsya?' Echo Moskvi, 19.07.2010, available at hhttp://www.supcourt.ru/print_page.php?id=6623

'Obshaya Harakteristika Sovetskogo Pravosudiya', available at http://www.indem.ru/Proj/SudRef/prav/ObsHarSovPravosu.htm, accessed 23 November 2016.

Oldfather, C. M., 'Judges as Humans', in Lawrence Baum, ed., *Judges and Their Audiences: A Perspective on Judicial Behaviour* (Princeton: Princeton University Press, 2006), p. 219.

Orttung, R.W., 'Russia: Executive Summary', (Freedom House, 2013).

Ostrom, E., 'A Behavioural Approach to the Rational Choice theory of Collective Action: Presidential Address, American Political Science Association', *The American Political Science Review*, vol. 92, no. 1 (1998), pp. 1-22.

Parmentier, S., et al., *Public Opinion and the Administration of Justice: Popular Perceptions and Their Implications for Policy-Making in Western Countries* (Brussels: Politeia, 2005).

Partington, M., *Introduction to the English Legal System* (2nd Ed., Oxford University Press: Oxford, 2003).

Partlett, W., 'Re-Classifiying Russian Law: Mechanisms, Outcomes, and Solutions, for an Overly Politicized Field', *Columbia Journal of East European Law*, vol. 2, no.1 (2008), p. 1.

Pashin, S., 'Sudebniya Systema i Pravovays Kultura: Problemi i Perspektivi Sudebnoy reformi v Rossii', *Vestnik Obshestvennogo Mneniya*, vol. 1 (2011), p. 107.

Pastukhov, V., 'Sometimes It Is Easier to Build Institutions in the Desert: Legal Nihilism and Legal Institutions in Russia', in *Constructing Legal Culture through Institutional Reforms: The Russian Experience*, Report and Analysis of a Workshop Held at Wolfson College, Oxford 28 September 2011, p. 18.

Pehlivanova, P., 'The Decline of Trust in Post-Communist Societies: The Case of Bulgaria and Russia', *Contemporary Issues,* vol. 2, no. 1 (2009), p. 32.

Perceptions of the US Justice System', American Bar Association Division for Media Relations and Public Affairs, 1999, accessed 15 November 2016, at http://www.wisbar.org/AM/Template.cfm?Section=Research_and_Reports&Template=/CM/ContentDisplay.cfm&ContentID=38736

Pikalov, I.A., *Criminal Procedure of the Russian Federation (Short Course): Study Guide* (Moscow: 2005).

Plucknett, T.F., *A Concise History of the Common Law*, (Butterworth & Co, 1956).

Popov, S., 'Mirovoy Sudya: Zachem on Nuzhen?', interview with Radio Mayak, 23 June 2004; available at http://www.yabloko.ru/Publ/2004/2004_07/040706_maik_popov.html, accessed on 24/10/2008.

Potapenko S., 'Osnovniye Napravleniya Deyatelnosti Mirovih Sudey', interview with RIA Novosti, 14/03/2007, available at http://www.rian.ru/online/20070314/62012671.html, accessed on 21/11/2008.

Putnam, R. D., *Democracies in Flux: The Evolution of Social Capital in Society* (Oxford: Oxford University Press, 2002).

---, *Bowling Alone: The Collapse and Revival of American Community*, (New York: Simon and Schuster, 2000).

---, *Making Democracy Work: Civic traditions in Northern Italy* (Princeton, NJ: Princeton University Press, 1993).

Radchnko, V., 'Mneniye o Nizkom Reitinge Nashih Sudov ne Vpolne Spravedlivo', interview available at hhtp://www.supcourt.ru/print_page.php?id=4883.

Radio 'Echo Moscvi', interview with Aleksey Dmitriev, deputy head of MosGorSud, and Pavel Odintsov, head of press service of Supreme Court of the Russian Federation, 19.07.2010, available at http://www.supcourt.ru/print_page.php?id=6623.

Radio 'Echo Moskvi,' Doveriye k Sudam, ('Trust toward Courts'), 15.02.2010.

Rasinski, K.A., at al., 'Exploring Dimensions of Legitimacy: The Mediating Effect of Personal and Non-personal Legitimacy on Leadership Endorsement and Systems Support,' *Journal of Personality and Social Psychology*, vol. 49 (1985), p. 386-394.

Rawls, J., *A Theory of Justice*, (Harvard University Press: Cambridge, 1971).

---, J. and Curtis, D., 'Representing Justice: From Renaissance Iconography to Twenty-First Century Courthouses,' vol. 151 (2007), p. 139.

---, J., 'Courts: In and Out of Sight, Site, and Cite,' The Norman Shachoy Lecture, *Villanova Law Review,* vol. 53 (2008), p. 772.

---, J., ‘Managerial Judges’, *Harvard Law Review*, vol. 96 (1982), p. 376.

Reza, B., and C. Magill, ‘Race and the Criminal Justice System: An Overview of the Complete Statistics 2004-2005’, London: Criminal Justice Unit (2006), accessed 15 November 2016, at http://webarchive.nationalarchives.gov.uk/20110218135832/http:/rds.homeoffice.gov.uk/rds/pdfs06/s95overview0405.pdf

Rhode, D.L., *Access to Justice* (Oxford, New York: Oxford University Press, 2004).

RIA Novosti, ‘Fair Trial Not Likely for Average Person, Russians Say – Poll’, 27.1.2014, available at …

RIA Novosti, ‘Russia’s Courts, Judges Struggle to Win Public Trust – Poll’, 13.08.2013, available at http://en.ria.ru/russia/20130813/182744297.html

Rimskiy, V. L., ‘Obzor Sotciologicheskih Issledovaniy Sudebnoy Sistemi Rossii, Vipolnennyh v Period s Kontsa 1991 Goda po Nastoyashiy Moment,’ Fond INDEM, Moscow 2009, 16.

Ripa, C., *Baroque and Rococo Pictorial Imagery: The 1758–1760 Hertel Edition of Ripa's Iconologia with 200 Engraved Illustrations* (E. Maser ed., 1971), p. 120.

Rivlin, G., *Understanding the Law* (Oxford, 2004); T. F. T. Plucknett, *A Concise History of the Common Law* (Butterworth & Co, 1956).

Rivlin, G., *Understanding the Law*, (5th ed., Oxford: Oxford University Press, 2009).

Roberts, J. V., and M.J. Hough, ‘Confidence in Justice: An International Review’, *Research, Development and Statistics Directorate*, Findings 243 (2004), accessed 25 November 2016, at http://webarchive.nationalarchives.gov.uk/20110218135832/http:/rds.homeoffice.gov.uk/rds/pdfs04/r243.pdf.

---, at al., ‘Public Opinion towards the Lay Magistracy and the Sentencing Council Guidelines: The Effect of Information on Attitudes’, *British Journal of Criminology*, vol. 52 (2012), p. 1072.

---, ‘Sentencing Guidelines and Judicial Discretion: Evolution of the Duty of Courts to Comply in England and Wales’, *British Journal of Criminology*, vol. 51 (2011), pp. 997-1013.Roberts, J. V., and M.J. Hough, *Understanding Public Attitudes to Criminal Justice* (Buckingham: Open University Press, 2005).

Rothstein, B., *Social Traps and the Problem of Trust* (Cambridge: Cambridge University Press, 2005).

Rotter, J. B., ‘Interpersonal Trust, Trustworthiness, and Gullibility’, *American Psychologist*, vol. 35, no. 1 (1980), pp. 1-7.

Rottman, D.B., et al., "Perceptions of the Courts in Your Community: The Influence of Experience, Race and Ethnicity," Final Report, *National Center for State Courts*, 2003.

---, *Public Perceptions of the State Courts: A Primer* (National Center for State Courts, 2003).

---, 'On Public Trust and Confidence: Does Experience with the Courts Promote or Diminish It?' *Court Review*, Winter 1998, p. 14.

Sanders, J., et al., 'The Institutionalization of Sanctions for Wrongdoing inside Organizations: Public Judgments in Japan, Russia, and the United States', *Law and Society Review*, vol. 32, no. 4 (1998), p. 871.

Sarat A., ed., *Imagining Legality: Where Law Meets Popular* Culture (Tuscaloosa, A.L.: The University of Alabama Press, 2011).

---, at al., eds., *Law on Screen*, (Stanford University Press, 2005).

---, 'Access to Justice: Citizen Participation and the American Legal Order', in L. Lipson and S. Wheeler, eds., *Law and Social Sciences* (New York: Russell Sage Foundation, 1986), pp. 519-580.

Scheffer, T., 'Creating Comparability Differently: Disassembling Ethnographic Comparison in Law-in-Action', *Comparative Sociology*, vol. 7 (2008), p. 286.

---, 'Materialities of Legal Proceedings', *International Journal for the Semiotics of Law*, vol. 17 (2004), pp. 370-71.

Scheingold, S. A., The Politics of Rights: Lawyers, Public Policy, and Political Change (New Haven, CT: Yale University Press, 1974).

Sewell, W. H. 'A Theory of Structure: Duality, Agency, and Transformation', *American Journal of Sociology*, vol. 98 (1992), pp. 1-29.

Shaposhnikov, V., "Miroviye Sudy Rabotayut v 'Shagovoy' Dostupnosti ot Moskvichey", interview to Moskovskiy Komsomolets, 04.08.2006, available at http://www.edinros.ru/news.html?id=114671, accessed on 13 November 2016.

Sherwin, K. R., *When Law Goes Pop: The Vanishing Line between Law and Popular Culture* (Chicago: University of Chicago Press, 2000)

Sherwin, K., Richard, *When Law Goes Pop: The Vanishing Line between Law and Popular Culture* (Chicago: University of Chicago Press, 2000);

Silbey, J., 'Truth Tales and Trial Films,' *Loyola of Los Angeles Law Review*, vol. 40 (2007), p. 551.

Silbey, S.S., 'Legal Culture and Cultures of Legality', in *Handbook on Cultural Sociology*, eds. John R. Hall, Laura Grindstaff, and Ming-Chang Lo, (London and New York: Routledge, 2010), 470.

---, ‘After Legal Consciousness’, *Annual Review of Law and Social Science*, vol. 1 (2005), p. 332.

---, ‘Ideology, Justice, and Power’, in B. Garth and A. Sarat, (eds.), *Justice and Power in Law and Society Research*, (Evanston, IL: Northwestern University Press, 1998), pp. 272-308.

---, ‘Making Sense of the Lower Courts’, *Justice System Journal*, vol. 6, no. 1 (1981), p. 13.

Skapska, G., ‘The Rule of Law for the East Central European Perspective’, *Law and Social Inquiry*, vol. 15 (1990), p. 700.

Smith, G. B., *Reforming the Russian Legal System* (New York: Cambridge University Press, 2006), p. 132

Smith, M. L., ‘Perceived Corruption, Distributive Justice, and the Legitimacy of the System of Social Stratification in the Czech Republic’, *Communist and Post-Communist Studies*, vol. 43 (2010), p. 439.

Sokolov, A.K., ‘Konstitutsionno-Pravoviye Osnovi Obshestva i Istoriko-Kulturnoe Naslediye Sovetskogo Proshlogo v Sovremennoy Rossii’, *The Soviet and Post-Soviet Review*, vol. 37 (2010), p. 1.

Solomon, P. H. Jr., ‘The Unsung Heroes of the Russian Judicial System: The Justice-of-the-Peace Courts’, *Journal of Eurasian Law*, vol. 5, no. 3 (2013), p. 337.

---, ‘Assessing the Courts in Russia: Parameters of Progress under Putin’, *International Journal for Court Administration*, vol. 1, no. 3 (2008), pp. 26-32.

---, ‘Courts and Judges in Authoritarian Regimes’, Review Article, *World Politics*, vol. 60 (2007), p. 122.

---, ‘Judicial Power in Russia: Through the Prism of Administrative Justice’, *Law and Society Review*, vol. 38 (2004), p. 549.

---, ‘The New Justices of the Peace in the Russian Federation: A Cornerstone of Judicial Reform?’, *Demokratizatsiya*, The New Justices of the Peace in the Russian Federation: A Cornerstone of Judicial Reform?’, *Demokratizatsiya*, vol 11, no. 3 (2003), p. 381.

---, ‘Putin’s Judicial Reform’, *East European Constitutional Review*, vol. 11 (2002), p. 117.

---, and Fogelsong, T.S., *Courts and Transition in Russia: The Challenge of Judicial Reform* (Boulder, CO: Westview Press, 2000).

---, *Reforming Justice in Russia, 1864-1996: Power, Culture, and the Limits of Legal Order*, (Armonk and London: M.E. Sharpe, 1997), p. 374.

Solum, L.B., ‘Procedural Justice,’ Research Paper No. 04-02, *Public Law and Legal Theory Research Paper Series*, University of San Diego School of Law, San Diego, 2004.

Starnes, B. J., S.A. Truhon, V. McCarthy, *Organizational Trust: Employee-Employer Relationships*, The Human Development and Leadership Division, accessed 25 November 2016, at http://asqhdandl.org/uploads/3/4/6/3/34636479/trust.pdf

Sztompka, P., *Trust: A Sociological Theory* (Cambridge: Cambridge University Press, 1999).

Tamanaha, B.Z., 'The Primacy of Society and the Failure of Law and Development', Legal Studies Research Paper Series, Paper #09-0172, June 2009, available at http://ssrn.com/abstract=1406999, accessed 13 November 2016.

Tapp, J. L. and L. Kohlberg, 'Developing Senses of Law and Legal Justice', *Journal of Social Issues*, vol. 27, no. 2 (1971).

Thibaut J., Walker, L., 'Procedural Justice and the Courts,' *Court Review*, vol. 44, no. 1/2 (2007), p. 26-31.

---, *Procedural Justice: A Psychological Analysis* (New York: Erlbaum, Halstead, 1975).

Thibaut, J., at al., 'Procedural Justice as Fairness,' *Stanford Law Review*, vol. 26 (1974), pp. 1271-1289.

---, Walker, L., Lind, E.A.,'Adversary Presentation and Biases in Legal Decision-making', *Harvard Law Review*, vol. 86 (1972), pp. 386-401

Triandis, H.C., et al., 'Individualism and Collectivism: Cross-Cultural Perspectives on Self-Ingroup Relationships', *Journal of Personality and Social Psychology*, vol. 54, no. 2, (1988), p. 323.

Tverdova, Y.V., 'See No Evil: Heterogeneity in Public Perceptions of Corruption', *Canadian Journal of Political Science*, vol. 44, no. 1 (2011), p. 1.

Tyler, T.R., 'Procedural Justice, Identity, and Deference to the Law: What Shapes Rule-following in a Period of Transition?' *Australian Journal of Psychology*, vol. 61, no. 1 (2009), p. 32.

---, *Why People Obey the Law* (Princeton University Press, 2006).

---, 'Psychological Perspectives on Legitimacy and Legitimation', *Annual Review of Psychology*, vol. 57 (2006), pp. 375-400.

---, 'Viewing CSI and the Threshold of Guilt: Managing Truth and Justice in Reality and Fiction,' *Yale Law Journal*, vol. 115 (2006), p. 1050.

---, 'Why Do People Rely on Others? Social Identity and the Social Aspects of Trust', in K. S. Cook, (ed.), *Trust in Society* (New York: Russell Sage, 2001), pp. 285-306.

---, 'Psychological Models of Justice Motive: Antecedents of Distributive and Procedural Justice', *Journal of Personality of Social Psychology*, vol. 67, no. 5 (1994), p. 850.

---, ‘Citizen Discontent with Legal Procedures: A Social Service Perspective on Civil Procedure Reform’, *American Journal of Comparative Law*, vol. 45 (1997), p. 887.

---, ‘Procedural Fairness and Compliance with the Law’, *Swiss Journal of Economics and Statistics*, vol. 133 (1997), p. 219.

---, and Folger, R., ‘Distributional and Procedural Aspects of Satisfaction with Citizens-Police Encounters,’ *Basic and Applied Social Psychology*, vol. 1 (1980), pp. 281-292.

---, ‘Justice and Power in Civil Dispute Processing’, in A. Sarat and B. Garth, (eds.), *Sociolegal Studies* (Evanston, Illinois: Northwestern University Press, 1997), pp. 309-346.

---, Rasinski, and Spodik, ‘The Influence of Voice on Satisfaction with Leaders: Exploring the Meaning of Process Control,’ *Journal of Personality and Social Psychology*, vol. 48, no. 1 (1985), pp. 72-81.

---, at al., ‘The Influence of Perceived Injustice on Support for Political Authorities,’ *Journal of Applied Social Psychology*, vol. 15 (1985), pp.700-725.

USAID, ‘Russian Citizens and Their Rights: Priorities, Attitudes, and Experiences (Nizhniy Novgorod, Novosibirsk, Perm, and Voronezh regions of Russia)’, *Baseline Survey Report,* January 29, 2010.

Uslaner, E.M., *The Moral Foundation of Trust* (New York: Cambridge University Press, 2002).

Vakhnina, L., and Rimskiy, V., ‘Svyazi Korrupcii s Narusheniyami Prav i Svobod Grazhdan v Silovikh Sferah Sovremennoy Rossii’, *Analytical Report, INDEM*, 2013, available at…

Van De Meene, I. and Van Rooij, B., ‘Access to Justice and Legal Empowerment: Making the Poor Central in Legal Development Co-operation’, *Law, Governance and Development Research and Policy Notes*, Leiden University Press, 2008.

Van de Walle, S., ‘Trust in the Justice System: A Comparative View across Europe’, *Prison Service Journal*, vol. 183 (2008), pp. 22-26

---, ‘Confidence in the Criminal Justice System: Does Experience Count?’ *British Journal of Criminology*, vol. 49 (2009), p. 384

---, S. Van Roosbroek, and G. Bouckaert, ‘Trust in the Public Sector: Is There Any Evidence for a Long-Term Decline?’ *International Review of Administrative Sciences*, vol. 74 (2008), pp. 45-62.

---, S. and Raine, J.W., ‘Explaining Attitudes towards the Justice System in the UK and Europe’, *Ministry of Justice Research Series 9/08*, June 2008, available at http://www.justice.gov.uk/publications/research.htm.

Van Hoecke, M., and Warrington, M., 'Legal Cultures, Legal Paradigms, and Legal Doctrine: Towards a New Model for Comparative Law', *International and Comparative Law Quarterly*, vol. 47 (1998), p. 495.

Walker, L., E. A. Lind, and J. Thibaut, 'The Relationship between Procedural and Distributive Justice', *Virginia Law Review*, vol. 68, no. 8 (1979), pp. 1401-1420.

Warren, R.K., 'Public Trust and Procedural Justice', *Court Review*, Fall 2000, p. 12.

Weyrauch, W.O., 'Law as Mask – Legal Ritual and Relevance', *California Law Review*, vol. 66, no. 4 (1978), p. 699.

Whitman, J. Q., 'The Comparative Study of Criminal Punishment', *Annual Review of Law and Social Science*, vol. 1 (2005), pp. 17-34.

'Wigs off as Britain Ends Courtroom Tradition,' Thompson Reuters, 2007, available at http://www.reuters.com/assets/print ?aid=USL1287872820070713, accessed 14 November 2016.

Wissler, R.L., 'Mediation and Adjudication in Small Claims Court: The Effect of Process and Case Characteristics', *Law and Society Review*, vol. 29, no. 2 (1995) p. 323.

Wolff, K., *The Sociology of Georg Simmel* (New York: Free Press, 1950).

Wolff, R. P. 'Beyond Tolerance', in R. P. Wolff, B. Moore Jr. and H. Marcuse, *A Critique of Pure Tolerance,* (Boston: Beacon Press, 1969), p. 5.

Woo, M.Y.K. and Wang, Y., 'Civil Justice in China: An Empirical Study of Courts in Three Provinces', *American Journal of Comparative Law*, vol. 53, no. 4 (2005), p. 911.

Yamagishi, T., 'Trust as a Form of Social Intelligence', in K. S. Cook, (ed.), *Trust in Society* (New York: Russell Sage Foundation, 2001), pp. 121-147.

Yiannopoulos, A. N., *Louisiana Civil Law System Coursebook*, Part 1, (Claitor's Publishing Division, Baton Rouge, LA, 1977), pp. 9-10.

Yngvesson, B., 'Contextualizing the Court: Comments on the Cultural Study of Litigation', *Law and Society Review*, vol. 24, no. 2 (1990), p. 467-476.

---, 'Inventing Law in Local Settings: Rethinking Popular Legal Culture', *The Yale Law Journal*, vol. 98 (1989), p. 1689-1709.

Young, A., *The Scene of Violence: Cinema, Crime, Affect* (London: Routledge, 2009).

Legislation

Federalniy Zakon Rossiyskoy Federatsii, 21 November, 2011, N324 – FZ, 'O besplatnoy juridicheskoy pomoschi v Rossiyskoy Federatsii', full text available at http://www.rg.ru/2011/11/23/yurpomosh-dok.html, accessed 23 November 2016.

Federal'niy Zakon RF, 'O Mirovykh Sud'iakh v Rossiiskoi Federatsii', 17 dekabria 1998, Rossiiskaya Gazeta, 22 December 1998.

Federalniy Zakon Rossiyskoy Federatsii ot 1 December 2007 'O Vnesenii Izmeneniy v Statyu 4 Federalnogo Zakona "O Mirovih Sud'iah v Rossiyskoy Federatsii",' available at http://usd.krs.sudrf.ru/modules.php?name=stat&id=3.

'Zakon g. Mosckvi ot 31 Maya 2000 g. N. 15: O Mirovih Sudyah v Gorode Moskve', available at Fond Sistemnogo Analiza i Sotsialno-Ekonomicheskogo Proektirovaniya, http://www.SytemFond.ru/law.phtml?p=96.

The Code of the Russian Federation for Civil Procedure, 14 Nov. 2002, N. 138-F3.

The Code of the Russian Federation for Administrative Violations, 30 Dec. 2001, N. 195-F3.

The Code of the Russian Federation for Criminal Procedure, 18 Dec. 2001, N. 174-F3.