

June 16, 2014

DISSERTATION

# THE MAJOR DIFFERENCES BETWEEN THE RULE OF LAW AND RUSSIA'S DICTATORSHIP OF LAW



The Hague University of Applied Sciences

Academy of European Studies and Communication Management

Manon Bart – 10015450

Supervisor: Ms. Grebner

## Executive Summary

---

Nowadays, the Rule of Law is seen as more and more important for international relations. The concept of the Rule of Law means that ordinary citizens and those who govern should obey the law. It means that the society is ruled by law and not by men. Several main principles are identified, namely government powers should be defined by law, the law should be applied equally, law and order should be established, justice should be efficient and predictable, and finally, human rights should be protected. General threats to the Rule of Law are corruption, politicisation and selective enforcement of law and the non-implementation of judicial decisions. On the basis of these principles and threats, it is possible to compare the Rule of Law with Russia's Dictatorship of Law. The main question dealt with in this research paper is 'What are the major differences between the concept of the Rule of Law and the 'Dictatorship of Law' which exists in Russia?'

In Russia, there is a weak Rule of Law, which is caused by several obstacles in the Russian political and judicial system. Examples of these obstacles are bureaucratic rule making, the legal reforms as a result from terrorist attacks and the improvement of national security, inequality before law, and the presence of corruption. Furthermore, legal nihilism is an issue, the social value of law and general norms and values are denied.

During Putin's electoral campaign of 2000 the concept of the Dictatorship of Law was introduced as a result from the excessive legal nihilism during Yeltsin's era. The Dictatorship of Law heavily contradicts the idea of the Rule of Law. Within the Dictatorship of Law, arbitrary rule dominates; decisions or judgements are not made on a reasonable basis. One of the main characteristics of the Dictatorship of Law is that the law is not equally binding to the state and its citizens, the law may be used in order to punish opponents of the state. It is important that the State's interests are promoted by law. The vertical power, the containment of the power of oligarchs, also belongs to the Dictatorship of Law. The Dictatorship of Law fits into the concept of Sovereign Democracy, which is a managed democracy.

Several main findings answer the main question, various major differences between the Rule of Law and the Dictatorship of Law can be identified. Firstly, within the Rule of Law, government powers should be defined by fundamental law, while within the Dictatorship

of Law government powers are vaguely defined in order to serve the State's interests. Secondly, the equality before law is very important within the Rule of Law. The arbitrary rule within the Dictatorship of Law causes inequality before law. Thirdly, law and order should be established. Within the Rule of Law this means that crime should be effectively controlled and civil conflicts are limited. However, within the Dictatorship of Law, there is a lot of political and judicial interference because of the presence of corruption. Fourthly, within the Rule of Law, justice should be efficient and predictable. However, because of the presence of corruption within the Dictatorship of Law an efficient and predictable justice cannot be guaranteed. Fifthly, within the Rule of Law human rights should be protected. Within the Dictatorship of Law, the State interests are superior to the human rights, and Russia even has exempted itself from the jurisdiction of the European Court of Human Rights (ECHR). If the judgements of the ECHR do not correspond with the Russian Court rulings, they will not be followed and implemented.

## Acknowledgements

---

This thesis would not have been finished, if I was not supported by several parties. A lot of people supported me, however, I would like to thank several people in particular. First of all, I would like to express my gratitude to my supervisor Ms. Grebner. She has taught me a different approach of carrying out a research project, which really was an eye opener for me. I am very thankful for her instructive help, her useful remarks and for her engagement. Furthermore, I would like to thank her for the time she spent with me during our meetings. Moreover, I would like to thank Tinka van Wijngaarden. I really appreciate the peer reviews she has given me. Besides, I would like to express my gratefulness for all the time we have spent together in the library. Finally, I would like to mention my gratitude to my parents and Sander Bos for their mental support.

## Table of Contents

Executive Summary .....	2
Acknowledgements .....	4
Abbreviations.....	6
Introduction .....	7
Chapter 1 - The Rule of Law and its Requirements .....	9
1.1 What is the Rule of Law? .....	9
1.2 Aspects and Principles of the Rule of Law.....	11
1.3 Threats of the Rule of Law and the related challenges.....	13
Chapter 2 - The Application of the Rule of Law in Russia's (judicial) system .....	16
2.1 Challenges and obstacles of the Rule of Law in Russia.....	17
2.2 Analysis of the Main Problems Concerning Corruption in Russia.....	19
2.3 The existence of Telephone Justice.....	21
Chapter 3 - The Dictatorship of Law as an Alternative to the Rule of Law and the Sovereign Democracy.....	23
3.1 Explanation of Putin's Way of Ruling: Dictatorship of Law and the Vertical Executive Power.....	23
3.2 Vladislav Surkov: "Sovereign Democracy" .....	25
3.3 Basic Elements of a Sovereign or Managed Democracy .....	26
Chapter 4 - The influence of the Dictatorship of Law on the development of a (strong) Rule of Law.....	30
4.1 The Dictatorship of Law compared to the Rule of Law .....	30
Conclusion .....	35
References .....	38
Appendix I - Indicators of WJP in order to measure the development of the Rule of Law.....	46
Appendix II - Freedom of Press 2014.....	49

## Abbreviations

---

IBA	International Bar Association
ECHR	European Court of Human Rights
LBTG	Lesbian, Gay, Bisexual, Transgender
MP	Member of Parliament
NGO	Non-Governmental Organisation
OCHCR	Office of the High Commissioner for Human Rights
RoLAG	Rule of Law Action Group – part of International Bar Association
UN	United Nations
UDHR	Universal Declaration of Human Rights
UNCAC	United Nations Convention Against Corruption
UNODC	United Nations Office on Drugs and Crime
WJP	World Justice Project

## Introduction

---

Nowadays, the Rule of Law is a global emerging concept. It states that no one should be above the law, including the government. It helps enhancing education, improving public health care (systems), reducing corruption, fostering economic development and political participation and increasing people's welfare (WJP, n.d. *Our opportunity*, para. 1-2). Governments, organisations and the people should support the (political) system, otherwise a strong Rule of Law cannot be established (Janse, 2012, p. 6). As a result of the globalization trend, the concept is seen as a "fundamental component in international relations" (Janse, 2012, p. 6).

There are several principles and indicators to measure whether the Rule of Law in a particular country can be seen as a strong Rule of Law. In Russia, a weak Rule of Law exists. During the last decade, an alternative to the Rule of Law emerged, namely the 'Dictatorship of Law'. The concept of the Dictatorship of Law states that the law can be used in order to promote particular interests of the state or government. Because of the existing Dictatorship of Law, the law is used against opponents of the state, arbitrary rule is superior.

## Methodology

The aim of this research report is analysing the major differences between the concepts of the Rule of Law and the Dictatorship of Law. Furthermore, it will analyse whether the Dictatorship of Law undermines the development of a strong Rule of Law in Russia.

This research paper will provide an answer to the main question:

What are the major differences between the concept of the Rule of Law and the 'Dictatorship of Law' which exists in Russia?

The sub-questions which will be used in this paper are:

1. What is the Rule of Law and what are its main principles and requirements?
2. How is the Rule of Law applied in the Russian (judicial) system in Russia?
3. What is the 'Dictatorship of Law' and how is this concept implemented in the Russian political system?
4. How does the Dictatorship of Law influence the development of the Rule of Law?

This thesis is written on the basis of qualitative desk research, using secondary sources. Several organisations, such as Human Rights Watch, Freedom House, Amnesty International and World Justice Project, write annual reports about the Rule of Law and the related principles and aspects. These reports are also used for writing this thesis. Moreover, several journalistic and academic articles are used. The used articles are written by trustful organisations and, otherwise, by academics who are professors in the field of Russian studies, Post-Communist studies or political studies. The advantage of using secondary sources is that the used data can put the extent to which the Rule of Law and the Dictatorship of Law exist in Russia into a broader perspective.

The first chapter of this thesis, the Rule of Law and its principles and requirements, will elaborate on the concept of the Rule of Law itself. It will discuss several definitions of the Rule of Law, which are used by different organisations, the World Justice Project, the International Bar Organisation and the United Nations. These different definitions all point out another focus point of the concept. Furthermore, the five key principles, indicated by Belton, will be discussed. Besides, the general threats and challenges of the Rule of Law will be discussed.

The second chapter of this thesis, the Rule of Law in the Russian (political) system, will discuss the weak Rule of Law of Russia and its main threats. In addition, the obstacles and challenges will be covered.

The third chapter will discuss the Dictatorship of Law, which is the Russian 'alternative' to the Rule of Law. In contrast to the Rule of Law, in which no one is above the law, the Dictatorship of Law allows the State to safeguard and to promote its own interests. This chapter will provide an explanation of the Dictatorship of Law and its implementation. Furthermore, the concept of a sovereign democracy and its characteristics will be explained.

The fourth chapter will deal with the question whether the concept of the Dictatorship of Law undermines the development of a strong Rule of Law. Both concepts will be compared with each other. The different approaches of both concepts will be covered. The analyse of the main differences between the Rule of Law and the Dictatorship of Law will give a better understanding and insight of the current Russian (political) system en the extent to which Russia really is a democracy.



## Chapter 1 - The Rule of Law and its Requirements

---

### 1.1 What is the Rule of Law?

---

There is not a single agreed definition of the Rule of Law. Geoffrey Walker<sup>1</sup> has established a core definition, which is almost universally accepted. He argues that there are two main aspects of the Rule of Law. Firstly, people, including the government, should be ruled by the law and obey it. Secondly, the law should be such that people will be able to be guided by it (Walker, 1988).

The concept of the Rule of Law means that citizens and those who govern the citizens should obey the law (Janse, 2012, p. 7). It means that a society is ruled by the law, and not by men. Shortly said, the Rule of Law is the supremacy of law. The Rule of Law is a system in which no one, including the government, is above the law; where laws protect fundamental rights; and where justice is accessible to all.

It is important to understand the difference between Rule of Law and Rule by Law. Rule by Law means that a powerful elite concentrating on political power uses law to protect its prerogatives. Rule of Law means that power is sufficiently dispersed among groups and organizations in society to prevent any one group from monopolizing access to the law (Remington, 2012, p. 219).

However, the kind of definition provided, determines the meaning of the concept of the Rule of Law. Below, three definitions of three different organisations (United Nations, International Bar Association, and World Justice Project) will be elaborated, in order to show how definitions can differ among each other. The three definitions all give a different meaning to the concept of the Rule of Law, different aspects are highlighted.

The definition which is provided by the United Nations is:

A principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before

---

<sup>1</sup> Geoffrey de Q. Walker is Emeritus Professor of Law at the University of Queensland.

the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency (United Nations Security Council, 2004, p. 4).

Another definition is provided by the International Bar Association (IBA). Within the International Bar Association, a special Rule of Law Action Group (RoLAG) was created in 2007. The definition provided by RoLAG is similar to the one which is provided by the Security Council of the United Nations (UN), but is also promoting somewhat different principles:

An independent, impartial judiciary; the presumption of innocence; the right to a fair and public trial without undue delay; a rational and proportionate approach to punishment; a strong and independent legal profession; strict protection of confidential communications between lawyer and client; equality of all before the law; these are all fundamental principles of the Rule of Law. Accordingly, arbitrary arrests; secret trials; indefinite detention without trial; cruel or degrading treatment or punishment; intimidation or corruption in the electoral process; are all unacceptable (International Bar Association, 2005, p. 1).

The definition of IBA and RoLAG lacks the most important aspect of the Rule of Law, that is, the law should govern. Nevertheless, another very important concept is covered in this definition. In contrast to the definition of the Security Council of the UN, it focuses on the legal apparatus, which should ensure that the law is applied effectively and fairly.

Finally, another definition of the Rule of Law is provided by the organisation of World Justice Project (WJP). This organisation is an independent, multidisciplinary organization working to advance the Rule of Law around the world.

The Government and officials must be accountable to the laws; the laws must be clear, publicized, stable, fair, and protect fundamental rights, including the security of persons and property; the process by which the laws are enacted, administered, and enforced [must be] accessible, fair, and efficient; and access to justice must be provided by competent, independent, and ethical adjudicators, attorneys or representatives, and judicial officers who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve (WJP, n.d., *What is the Rule of Law*).

In addition to the key principles, which are also represented in the definition of the UN Security Council and IBA, additional principles are presented.

Several bodies, elements and components are essential for a well functioning Rule of Law, namely legislation, executive agencies, courts, legal statutes and codes, and independent Non-Governmental Organisations (NGOs) (such as Bar Associations and Civic Associations). Internal security institutions comprise the justice system, the police and military (Jones, Wilson, Rathmell & Riley, 2005, p. 3).

## 1.2 Aspects and Principles of the Rule of Law

---

Scholar Rachel Kleinfeld Belton<sup>2</sup> has identified five common principles of the Rule of Law. The first common principle identified by Belton is that the government of a particular country should be bound and ruled by the law (Democracy Web: Comparative Studies in Freedom, n.d., para. 8). This is also supported by WJP, which states that the government, along with its agents and officials, is accountable under the law. In contrast to Belton, WJP distinguishes seven different sub-factors within this principle.

First, the powers of the government should be defined in the fundamental law. Second, powers of the government should be limited by legislature. Third, judiciary should effectively limit government powers. Fourth, independent auditing and reviews should effectively limit government powers. Fifth, when government powers misconduct, officials should be sanctioned. Sixth, non-governmental checks should be carried out. Seventh, and lastly, the law subjects transitions of power (World Justice Project, n.d., *Constraints on Government Powers*, para. 2) .

There second common principle is the presence of equality before the law (Democracy Web: Comparative Studies in Freedom, n.d., para. 8), which is fundamental to a just and democratic society. All people in a country or sovereign region, regardless to their personal and individual circumstances, should be entitled to equal protection before the law.

Equality before law is also described in article 7 of the Universal Declaration of Human Rights (1948) (UDHR):

---

<sup>2</sup> Rachel Kleinfeld Belton is a senior associate in the Democracy and Rule of Law Program at the Carnegie Endowment for International Peace and focuses on issues of security and governance in post-conflict countries, fragile states, and countries transitioning to democracy.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination (article 7, UDHR).

The fact that equality before the law is included in the Universal Declaration of Human Rights, shows how important equality before law is. The Universal Declaration of Human Rights is a declaration adopted by the General Assembly of the United Nations (on December 10, 1948), which defines the fundamental and human rights. The Universal Declaration provides moral and legal standards. It is often used for the establishment new international treaties and for writing or adapting national Constitutions. Moreover, the declaration is often the basis for the work of human rights organizations.

The third common principle is the establishment of law and order (Democracy Web: Comparative Studies in Freedom, n.d., para. 8). The establishment of law and order, and coherently security and security institutions is an essential component of the nation-building processes. If the security institutions are well (re)constructed, the result will be a well functioning Rule of Law and stability (Jones, et al., 2005, p. 7). This principle is also stressed by WJP, however, WJP also specifically stresses the importance of security. WJP makes a distinction within this principle, it focuses on an effective control of crime, an effective limitation of civil conflicts and the organisation tries to make clear that "people do not need to resort to violation to redress personal grievances" (WJP, n.d., *order and security*, para. 2).

The fourth common principle states that the application of justice should be efficient and predictable (Democracy Web: Comparative Studies in Freedom, n.d., para. 8). In addition to the fact that citizens are bound by law, rulers are also bound by law. Governments should function in an efficient and predictable manner. Although this is an important element of the Rule of Law, in a lot of countries, especially in post-conflict regions, this is hard to achieve. Often, the institutions, which are established for checking the executive powers (i.e. courts, the parliament, ombudsman, the media and civil society), are weakly developed (Samuels, 2006, p. 11).

The fifth common principle is the protection of human rights (Democracy Web: Comparative Studies in Freedom, n.d., para. 8). Indirectly, the Rule of Law is related to a better protection of fundamental rights, since it is associated with political stability, democracy and economic development. Political stability, democracy and economic transition and development are seen as the key determinants in rights performance (Peerenboom, 2005, p. 3).

In contrast to the common principles identified by Belton, WJP has used four other universal principles, which are derived from internationally accepted standards, in order to carry out its research project for the WJP Rule of Law Index 2014. According to WJP (2014), the most important universal principle of the Rule of Law is that the government, agents and other officials, as well as private entities, are accountable under the law. Moreover, laws should be written clearly, and they should be publicly available (p. 4). The laws should be stable and just (indicator 3: Open Government. See Appendix I). It is important that fundamental rights are protected (indicator 4: Fundamental Rights. See Appendix I). Besides, the process of enactment, administration and enforcement of laws should be accessible, fair and efficient. Finally, WJP (2014) states that “justice is delivered timely by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of communities they serve”.

WJP measures the extent to which the Rule of Law is developed in different countries and regions. In order to make a clear research report, the organisation uses nine indicators (47 sub-indicators in total) for measuring the development of the Rule of Law and to what extent the rule of law is experienced in everyday life. The nine indicators are constraints on government powers, absence of corruption, open government, fundamental rights, order and security, regulatory enforcement, civil justice, criminal justice and informal justice. These indicators, along with its sub-indicators, can be found in appendix I.

### 1.3 Threats of the Rule of Law and the related challenges

---

There are several threats to the (development of) Rule of Law, such as a culture of corruption, politicisation and selective enforcement of law and non-implementation of judicial decisions (White, Sakwa & Hale, *Developments in Russian Politics*, 7<sup>th</sup> edition, pp. 146-149). In the following section, each threat will be explained.

Corruption is one of the threats for the Rule of Law. In fact, there are three types of corruption: public-office-centered corruption, market-centered corruption, and public-interest centered corruption. The World Bank has put forward a simple definition of corruption, which is “the abuse of public power for private gain” (The World Bank Group, n.d., para. 2). Yury Fedotov, Executive Director of the United Nations Office on Drugs and Crime (UNODC), said during the 67<sup>th</sup> meeting of the General Assembly in New York that he is concerned about the fact that “corruption is undermining the Rule by Law by eroding democratic institutions essential for fair and equitable societies” (United Nations Office on Drugs and Crime, 2012,

para. 1). During the meeting, he also expressed that it is of great essence that countries combat corruption, in order to foster democratization and social and economic development.

The reduction of corruption, and therewith the strengthening of the Rule of Law, is one of the most complex modernization challenges for a particular country or region. It comprises of both technical and political problems (Frye, 2008, p. 79). One of the challenges, which is connected to the technical problems, comprises of the creation of incentives for legal officials and bureaucrats. The objective of the establishment of incentives is making sure that these officials and bureaucrats will serve the public, instead of their own private interests (Frye, 2008, p. 79). The political challenge comprises of the production of benefits for "powerful constituencies" within the state and society (Frye, 2008, p. 80). This is because of the fact that corruption and a weak developed Rule of Law inflict huge costs on a society.

Another threat to the Rule of Law is politicisation and selective law enforcement. Brown<sup>3</sup> has defined politicisation as the following:

*"Accusations of "politicisation," generally refer to a dysfunction in which actions or decisions relating to technical or "non-political" matters are influenced by "political" considerations unrelated to the agreed purposes of the organisation"* (Brown, 1992, p.14).

In fact, the political considerations influence the purposes of organisations. This means that politics may have a lot of influence on the way how organisations operate and carry out their work in order to achieve the in advance set objectives. This may be a problem, especially when politics start influencing non-governmental organisations, which should be independent of the state apparatus.

Because of the main principle of the Rule of Law, equal treatment before the law, selective law enforcement forms an important threat to the Rule of Law. Selective law enforcement allows men to apply the law upon selective groups. Sometimes, selective law enforcement happens against particular races, classes of society or even against selective persons. It is a violation of equal treatment and protection.

Besides corruption, politicisation and selective law enforcement, the non-implementation of judicial decisions forms a problem for a strong Rule of Law. The problem of the non-

---

<sup>3</sup> Bartram S. Brown is Professor of Law and Co-Director of the Program in International and Comparative Law.

implementation of judicial decisions can take different forms: it can be delayed, uncompleted and obstructed. Even worse is the implementation failure (White, Gitelman & Sakwa, 2005, p. 143). The main obstacle concerning the implementation of judicial decisions is that these decisions are seldom self-enforcing. Courts must generally rely either on the voluntary compliance of the parties to the dispute or on enforcement measures by other agencies, such as bailiffs or marshals (White, Sakwa & Hale, 2010, p. 148).

## **Chapter 2 - The Application of the Rule of Law in Russia's (judicial) system**

---

Since 2011, WJP carries out a research project on the Rule of Law in practice each year. In 2014, WJP has ranked Russia's Rule of Law on place 80, out of a total of 99 countries. In Eastern Europe and in Central Asia, it is ranked as the worst performing country (WJP, 2014, p. 15). Russia is a big country, in which many differences between the Rule of Law exist. WJP has ranked Russia on the basis of research results in three big cities, namely Moscow, Saint Petersburg and Novosibirsk.

According to WJP, Russia performs relatively well in the area of labour rights, availability of official information and absence of crime, especially if the country is compared to other upper-middle class income countries (WJP, 2014, *Rule of Law Index*, p. 50). Furthermore, especially the indices of constraints on government power and order and security have improved during 2013. Besides, the presence of corruption has decreased (WJP, 2014, *Rule of Law Index*, p. 50). However, still severe problems remain existing, some of which relate to the judicial branch.

Stephen Holmes<sup>4</sup> has stated that Russia's legal reforms will succeed only to the extent that a country as a whole develops in a liberal, pluralistic, and democratic direction (Remington, 2012, p. 219). The very first reforms already started in the 1950s, however, real changes started after the fall of the Soviet Union. During the last decades, civil rights have been expanded substantially compared to the civil rights in the Soviet Union period. The expansion of civil rights is caused by structural and statutory changes that have been made in Russia's legal system. Although the reforms have initiated many changes, it has not ensured the end of the arbitrary use of state power by authorities. Besides, the manipulation of the legal system for political purposes by those in power continued (Remington, 2012, p. 237).

In the previous chapter, 'general' threats to the Rule of Law were discussed. In the following sections, the Rule of Law in Russia will be elaborated more in detail. Major barriers to the Rule of Law in Russia are bureaucratic autonomy and non-transparency, widespread corruption in the legal system and the pattern of the abuse of law by the authorities (Remington, 2012, p. 237). In this section, the obstacles of the development of the democracy and the Rule of Law will be discussed.

---

<sup>4</sup> Stephen Holmes is a Professor of Law at the New York University School of Law. His research focus includes the disappointments of democracy and the liberalization of the economy after the period of Communism. Within this research aspect, he focuses on the development of the Rule of Law.



## 2.1 Challenges and obstacles of the Rule of Law in Russia

---

After the fall of the Soviet Union, the legal system had to be reformed, it either needed to be replaced by a new legal system, or it had to be renovated extensively. This meant the introduction of new (legal) institutions and legal norms (White, Gitelman & Sakwa, 2005, p. 142). One of the major issues which occurred, is the problem concerning the bureaucratic rule making. The bureaucratic rule making suffers from profound inertia. In Russia, the power of state rulers is often thwarted by the tendency of administrative agencies to issue rules, which do not only apply to subordinates in the same agency, but often to other governmental agencies and to ordinary Russian citizens as well (Remington, 2012, p. 238). Components of the sluggish bureaucracy include complex decrees, instructions, regulations, directives, orders and circular letters.

The problem of bureaucracy in contemporary Russia emerged because of the fact that the Constitution of 1993 did not give the parliament an explicit right to oversee the executive branch (Remington, 2012, p. 238). A dual executive power, consisting of a President and a Prime Minister, was created by the Constitution of 1993. The President is determined as the dominant figure and has got a lot of influence on the other branches (Curtis, 1996, para. 3). Nevertheless, the executive branch is crucial in the system of the separation of powers, since it is responsible for the enforcement of laws.

As described in Chapter 1, it is very important that laws are written clearly, that they are publicized openly, and they should be stable and fair. Moreover, the laws should protect fundamental rights. However, in Russia a lot of legislative acts are frequently written vague and general. Thus, this also forms a threat to Russia's Rule of Law.

In addition, there is a persistent problem with the passed legislation in Russia. Once a legislation is passed by the Federal Assembly (the national legislature) and has been signed into law, laws should pass through the "legislative mill", that is, the law should pass in the State Duma (the lower house) and in the Federal Council (the upper house). This is the point in the legislation where problems occur. Controversial points are removed or replaced with bland statements, which give bureaucrats a wide latitude to issue rules "interpreting" law (Remington, 2012, p. 238). Because of this procedure, it is possible that corruption occurs. Bureaucrats have a wide latitude to use state institutions for their own personal benefit. Openness and transparency in their work is minimized (Remington, 2012, p. 238).

Another serious threat to the Rule of Law is terrorism and national security. During the last decades, a lot of terrorist attacks have taken place all around the world. According to the Office of the High Commissioner for Human Rights (OHCHR), the aim of terrorism is destructing human rights, democracies and the Rule of Law. The aspects that belong to these three concepts are attacked (OHCHR, 2008, p. 7). Therefore, it is insurmountable that measures are taken in order to stop these kind of attacks; policies need to be adopted. Sometimes, authorities had to adopt the policies even in such a way that civil liberties were restricted in the interest of fighting radical groups. It happened that rulers used the fight against radical groups and the adoption of policies for suppressing their political opposition. In Russia, the government has expanded its power in order to fight terrorism, and as a result, civil and political liberties have also been restricted (Remington, 2012, p. 240).

Putin has used the threat of terrorism as a justification for other laws and policies, which allow authorities to restrict political rights and liberties. A clear example of Putin's policy is the law tightening rules on the operation of NGOs. NGOs would "secure the Russian political system from interference from outside, as well as the Russian society and citizens from the spread of terrorist ideology" (Remington, 2012, p.240). Furthermore, in 2007, the criminal code was amended. Up from then, anyone who is convicted of politically or ideologically motivated vandalism risks a sentence of three years imprisonment (Remington, 2012, p.240).

The equality before law is one of the most important principles of the Rule of Law. Everyone in a judicial process should get equal protection of the law, without any discrimination. However, this is not the case in Russia. State officials may get another treatment than ordinary citizens. Moreover, the sentences differ as well. In Russia, the law is not applied equally for everyone.

Another problem concerning the judicial branch is that courts are dependent on the executive branch (Kudenko, 2014, para. 6). The exception is, according to Kudenko (2014), the Supreme Arbitration Court. This Court would be praised for its effectiveness, fairness and transparency (para. 6). However, the dependence on the executive branch is one of the major reasons why courts are not respected by the Russian population. Pyotr Filippov<sup>5</sup> suggests that this dependency has got a clear explanation. Most Russian judges come from the police or from the Prosecutor's office. Often, they also come from former court

---

<sup>5</sup> Pyotr Filippov is a Russian politician. He was one of the leaders of the Perestroika movement during the 1980s. During the period of 1990-1993, he was a deputy in the Russian parliament and head of the Social and Economic Policy Analytical Centre in the Presidential Administration (Open Democracy. Free Thinking for the world, n.d., para. 1).

secretaries (Filippov, 2011, para. 18). Chapter 4 will provide more information about the courts in Russia.

## 2.2 Analysis of the Main Problems Concerning Corruption in Russia

---

Moreover, corruption is one of the major threats to Russia's Rule of Law. Corruption is fed by two aspects, both the interests of business in evading legal rules, and by organised crime groups that want to keep the government subservient and influence politics (Remington, 2012, p. 243). In Russia, it is very hard to combat corruption since the corruption in Russia has got different sub-types, some of which are institutionalised (Karklins, 2002, p. 22).

The first sub-type of corruption is Low-Level Administrative Corruption. This type of corruption occurs in everyday life, it includes bribery to bend rules. Bribes are 'offered' in order to influence officials. This happens for instance when a bribe is offered to an inspector who should provide permits to companies; it thus happens to licensing and supervisory powers. Furthermore, it happens in tax-collection services. Officials are bribed with the purpose of letting these officials break rules and regulations. Most of the time, corruption on this level is done on an individual basis (Karklins, 2002, p. 22). Fillipov states that corruption may be in the DNA of Russians. He states that it is impossible to escape daily corruption (Filippov, 2011, para. 13). He argues that is it even inevitable not to pay bribes, since then it would even impossible to get a child into nursery. According to him, bribes are also often paid in higher educational institutions (Filippov, 2011, para. 13).

Low-level administrative corruption becomes especially damaging if the bribe-taking is institutionalized. An example is an employee of a public agency who is extorting bribes. It is especially damaging when this type of takes place in judicial procedures and legal judgements (Karklins, 2002, p. 22).

The second type of corruption includes 'Asset Stripping' by officials. This type of corruption includes self-enrichment of officials by mismanagement and profiteering from public assets and from privatisation (Karklins, 2002, p. 26). Moreover, nepotism, clientelism and the selling of 'positions' belong to this category (Karklins, 2002, p. 27). Nepotism is the favouring of someone's own family, relatives or friends by authorities or by companies (Prokosch, n.d., p.1). Clientelism is the provision of services to (potential) voters by a politician during his political mandate. It especially happens in instable democracies (Vicente & Wantchekon, 2008, p.5).

The third type of corruption is 'State Capture' by corrupt networks. This type of corruption can be seen as the highest level of corruption in Russia. It includes *de facto* takeovers of institutions, the formation of collusive networks, the undermining of elections, the misuse of the legislative power, corruption of judicial justice, misuse of oversight, '*kompromat*' and media corruption (Karklins, 2002, pp. 27-30). In Russia, kompromat is a widely used remedy to extort (political) competitors or to exert pressure on rivals.

Corruption in the business environment is also caused by Crony Capitalism. Crony capitalism is defined by Professor Macey<sup>6</sup> (2014) as an "economic and political environment in which pursuing and obtaining government favours is both part of everyday life and a necessary protocol for succeeding in business" (p. 5). Crony capitalism occurred after the Soviet era, during the transition of the communist system into a democracy. Especially during Yeltsin's administration (1991 – 1999), oligarchs had a lot of influence on politics.

Crony Capitalism highly influences the political environment. In Russia, there is a lack of the supremacy of law partly caused by the existence of Crony Capitalism. The loyalty to the (business) clan is considered to be more important than the supremacy of law. The relationship with friends or clients is considered to be more essential (Filippov, 2011, para. 12).

Despite the fact that Russia has signed (on December 9, 2003) and ratified (on May 6, 2006) the *United Nations Convention against Corruption* (UNCAC), corruption is deeply rooted in the Russian culture and it forms a major problem in the Russian (political) system. The aim of the convention is to "promote and strengthen measures to prevent and combat corruption more efficiently and effectively" (Barry, 2009, p. 387). Moreover, it is to "promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery" (Barry, 2009, p. 387). After the ratification of the Convention, in 2006, Putin declared that the inability of the combat against corruption is one of the greatest governmental failures (Barry, 2009, p. 392).

Although it is very hard to reduce corruption in Russia, Putin puts effort into creating measures in order to reduce the problem. An example is the draft law which Putin submitted in the beginning of 2013. The main goal of the law is fighting corruption, and besides, the aim of the draft law is lobbying and strengthening order and national security (The Voice of Russia, 2013, para.1). The law mainly affects state officials with responsibility of making

---

<sup>6</sup> Jonathan R. Macey is a Professor of Corporate Law, Corporate Finance and Securities Regulation at the Yale Law School.

decisions that may impact the sovereignty of the country. These state officials, for instance government employees and parliament members, are not allowed to have accounts and securities in foreign banks (The Voice of Russia, 2013, para.1-2). This is due to the fact that corruption is often linked with offshore assets (The Voice of Russia, 2013, para. 3). Putin believes that this measure will enhance national security, reduce corruption, and that it will attract more money into Russia's economy (The Voice of Russia, 2013, para. 6).

### 2.3 The existence of Telephone Justice

---

The inequality before law and the dependency of courts on the executive branch are not the only problems which exist in Russia's judicial system. Telephone justice is also an important problem. Telephone justice is a phenomenon which can be explained as the replacement of ordinary Rule of Law into a situation in which a person with high influence calls a judge in order to change the result of a particular case (Chatham House, 2010, p. 5). This is also considered as one of the aspects of corruption and it belongs to political interference in the judicial branch.

The origins of telephone justice lie back in the communist era. During the time of the Soviet Union, there was no independent judiciary. A coherent problem was that judges, except of those on the highest level, had low prestige (Bowring, 2009, para. 1). The role of Courts was seen to be "educational". It was to instruct citizens about the importance of public order and respecting social property. In the Soviet era, there was a lack of procedural formality. In case State or Party interests could be affected, a judge could receive a telephone call with an indication of the result of the case being brought before the court (Bowring, 2009, para.1).

Today, telephone justice still is an issue in the judicial branch of Russia. Ledeneva<sup>7</sup> has even argued that it is such a big issue that "there still is a desire among judges" to get advice or an indication in what way a case should be judged (Chatham House, 2010, p.6). Furthermore, in 2008, she argued:

*"Experts largely agree on the following formula: although it is ridiculous to suggest that every court case in Russia is decided according to directives from above or on the basis of alternative incentives, it is perfectly possible to imagine that a way to influence a particular case can be found if necessary"* (Bowring, 2009, para.2).

---

<sup>7</sup> Alena Ledeneva is Professor of Politics and Society at University College London. She is a professor at the School of Slavonic and East European Studies.

The concept of Legal Nihilism covers almost all above threats and challenges of the Rule of Law in Russia. Legal Nihilism is a phenomenon in the socio-political sphere in which the social value of law and general norms and values are denied (Suhara, n.d., p. 387). Legal Nihilism should be combated in order to develop a strong Rule of Law in Russia. However, Putin declared that Russia should not be ruled by the concept of Rule of Law, but by the concept of Dictatorship of Law. The concept of the Dictatorship of Law will be discussed in Chapter 3.

## Chapter 3 - The Dictatorship of Law as an Alternative to the Rule of Law and the Sovereign Democracy

---

After the destruction of the Soviet Union, a new political system had to be established. It had to transform from a Communist state into a democracy. During Putin's electoral campaign of 2000, the concept of a 'Dictatorship of Law' was established. The question is what the Dictatorship of Law includes. Remington (2012) asked the following question: Does the Dictatorship of Law mean that the law must be supreme over the state or a dictatorship by means of law? (p. 220). This chapter will explain the idea of a Dictatorship of Law and the implementation in the Russian political and judicial system.

The Dictatorship of Law fits into the idea of a Sovereign Democracy, a concept which was invented by Vladislav Surkov in 2006. Surkov, the Deputy Chief of Staff of the Presidential Executive Office and advisor to the President (from 1999 to 2011), played an important role in the development of a new political system. He can be seen as the architect of a 'Sovereign Democracy', which is a controlled and managed democracy. The elements of the sovereign democracy and its influence on the Rule of Law will be discussed.

### 3.1 Explanation of Putin's Way of Ruling: Dictatorship of Law and the Vertical Executive Power

---

The "Dictatorship of Law" was introduced in Putin's electoral campaign in 2000 (Gelman, 2000, p. 1). The establishment of the Dictatorship of Law was a reaction to the existing legal nihilism during Yeltsin's era in Russia. However, it contradicts the idea of the Rule of Law. This is because of the "blind" application of laws, which is also quite suppressive (Skrylnikow, 2011, para. 10). Putin's aim of establishing the Dictatorship of Law was restoring federal authority over Russia's regions. This includes, for instance, the restoration and strengthening of the vertical executive power (Kahn, 2004, p. 2).

In Russia, the absence of a strong Rule of Law has caused the domination of informal institutions which are based on "particularistic rules and norms". These rules and norms

include clientelism (explained in Chapter 2) and corruption (Gelman, 2000, p. 2). Vladimir Gelman<sup>8</sup> (2000) has concluded the following:

*"In opposition to the Rule of Law is the principle of arbitrary rule, where formal institutions either serve as a "facade" for informal dominance, or simply do not matter at all" (p. 2).*

The principle of arbitrary rule means that decisions or judgements are not based on laws and regulations; they are not made on a reasonable basis. In contrast, they are based on random choices or personal influence.

In contemporary Russia, Putin has asserted that the law will be like a 'dictator'. The law, as a principle, would not be binding equally to the state and its citizens. The law would be used as a device "by means of which the state promotes its own interests" (Pipes, 2000, para. 5). Putin's regime uses the legal system in order to punish its opponents (Partlett, 2012, para. 7). In contrary to the Rule of Law, which means that no one is above the law, the Dictatorship of law is in between the sphere of the government and citizens. When Putin took office, he tried to strengthen the Rule of Law. However, he tried to strengthen the Rule of Law as an instrument of *authoritarian rule*. This is called by Putin the 'vertical power' (Hoskin, 2005, p. 44). The vertical power approach of Putin meant the establishment of a '*vertical chain of hierarchical authority*', the society needed to be strongly ruled from the top (Monaghan, 2011, p. 8). Nevertheless, this was not a practice of strengthening the Rule of Law; it can be better seen as a strengthening of the Dictatorship of Law.

Putin's political practice of the vertical power can be explained by his relation with the oligarchs. During Yeltsin's era, oligarchs had a lot of influence on politics. In Putin's opinion, the power of oligarchs had to be limited. Oligarchs who were supporting opposition parties or who were financing educational and cultural charities that could have political effects had to be prosecuted. By the vertical power approach, Putin tried to build a system with increasingly centralised control, which should manage the government (The Moscow Times, 2013, para. 1).

---

<sup>8</sup> Vladimir Gelman is a Professor at the Department of Political Science and Sociology at the European University in St. Petersburg. His main research field is contemporary Russian politics and post-Soviet politics.



A clear example of Putin's vertical power approach is the 'story' of Mikhail Khodorkovsky. Khodorkovsky was a Russian business man and a former oligarch. During the Soviet era, he worked for the Communist apparatus. After the Soviet era, he earned his money in the oil sector, he was the Head of the Yukos company. He was also politically engaged, since he fought against corruption, he encouraged foreign investments and he promoted civil society. In 2003, Khodorkovsky was arrested, being accused of tax fraud (Khodorkovsky Website, n.d., *Cases in Russia*, para. 10-11). By the arrest, Khodorkovsky's political influence was taken away.

Putin has introduced other reforms as well, which meant a decrease of democratisation and the weakening of the Rule of Law. An example is that Provincial Governors were not longer elected by the population, but they were to be appointed by Putin himself. Another example is that media, which are annoying the government, are being closed down by a particular decree (Hoskin, 2005, p. 45).

You would think that the population would think that these measures are bad for the democracy. However, this is not the case. Many Russians have the opinion that a democracy and the Rule of Law would cause an insecure and troubled existence. They think that it would cause poverty, disease and unemployment. They would rather see a political system which is comparable with the social system of the past, which gives them more certainties. This is the reason why the population supports Putin's way of ruling and the Dictatorship of Law, rather than the Rule of Law (Hoskin, 2005, p. 45).

### 3.2 Vladislav Surkov: "Sovereign Democracy"

---

Vladislav Surkov has established the concept of Sovereign Democracy in 2006. It is a kind of democracy which supports the idea of the Dictatorship of Law. The concept of Sovereign Democracy is hard to describe, since it is quite a vague term. Nevertheless, there are two key aspects of the Sovereign Democracy. The first aspect is the idea of sovereignty (Centre for European Policy Studies, 2006, p. 1). Sovereignty can be defined in two ways. Firstly, there is a supreme public power, which has got the right and capacity of imposing its authority (Benoist, n.d., p. 99). This definition particularly refers to independence and a collective entity which is ruling. Secondly, the holder of legitimate power is recognized to have authority (Benoist, n.d., p. 99).

The second aspect is the idea that Russia has set its own set of values (Centre for European Policy Studies, 2006, p. 1). Although these principles are principles of a democracy, they differ somewhat from the Western perspectives. This is because of Russia's history. Russia's perspective of a democracy differs from the Western perspective of democracy. Therefore, the Russian democracy does not correspond with the Western standards.

The existence of a managed democracy in Russia means that the government pretends to be democratic, yet that it is not accountable to (civil) society. Moreover, the government is avoiding to be controlled by society (Petrov, 2005, p. 182). According to Surkov, a sovereign democracy "makes claims to express the might and self-respect of the Russian nation, which is sought through the development of the mechanism of civil society, a reliable state, competitive economy and an efficient impact on the world processes" (Janeliunas, 2006, p. 121). This means that the concept of sovereign democracy can be seen as an ideology which is consolidating ideas of nationalism in Russia. Surkov argues that by a sovereign democracy global dictatorships and monopolies can be resisted (Janeliunas, 2006, p. 121). Furthermore, he argued that a "sovereign democracy means a democratic and socially oriented state where the highest power (*sovereignty*) of a state and its institutions belongs to the Russian nation" (Puleikyte, 2007, para. 2). Surkov's mainspring for establishing a sovereign democracy was that after the eras of tsarism, socialism and oligarchy, it should be time to go back to the interests of the nation (Janeliunas, 2006, p. 121).

### 3.3 Basic Elements of a Sovereign or Managed Democracy

Several basic elements of a Managed Democracy can be distinguished. Firstly, institutions are weakened, because of the fact that there is a strong presidential system which is managing the state. Weak institutions include the lower and upper houses of parliament, the judiciary and courts, business organisations and regional elites (Petrov, 2005, p. 182). In a sovereign democracy, the Rule of Law does not form a part of the political system (Centre for European Policy Studies, 2006, p.1). Weakened institutions do not control the government, but they are being replaced by substitutes without independent legitimacy and which are controlled by the President (Petrov, 2006, p. 182).

Secondly, media is controlled by the state. This is done in order to manipulate, shape and control public opinion (Petrov, 2005, p. 182). The media is used as a propaganda tool. The Freedom House, a NGO which carries out research projects to support the development of democracies, political freedom and human rights, carried out a research project on free press. In a conclusion of the research of the freedom of press of 2013, Russia has obtained the press status "not free". Despite the fact that Russia's Constitution of 1993 is providing freedom of speech and freedom of media, independent journalists are harassed. If those independent journalists criticise the abuses by authorities, officials use their country's politicised and corrupt courts in order to penalise these journalists (Freedom House, 2013, para. 2). In addition, television and news papers are controlled. The government is aware of the fact that the internet becomes more and more popular. The government already started with the establishment of state friendly online news papers. At this moment, the medium of internet is still freer than other media. However, this may change in the future as well.



Figure 1 : Performance of Russia's press Freedom (Freedom House, 2013)

Besides, information concerning the government, (governmental) institutions and the judiciary is extremely hard to find. This is also against the principle of the Rule of Law, which states that this kind of information should be publicly available. The chart, shown on the right top, shows the ranking of Russia's media freedom. In each category, the country scores badly. In Appendix II, an additional overview is provided. It is an overview of freedom of press all around the world. It shows that Russia, along with many other Eastern countries, performs badly when it comes to press freedom.

Thirdly, elections are controlled (Petrov, 2005, p. 182). Because of the controlled elections, the society is not controlling the government anymore, the control of government shifted to the legitimisation of decisions made by elites (Petrov, 2005, p. 182). The control partly takes place via media, which is used as a propaganda medium.

Fourthly, a political opposition lacks, the system is characterised by anti-pluralism. In this sense, Russia can be seen as an 'electoral authoritarian state'. Putin has used three measures to obtain stricter control over the competitive parties. First, he introduced several amendments to the electoral legislation. Second, the 'party of power', United Russia, was created. Third, he has used electoral manipulation and fraud in order to ensure that he would be re-elected (Petrone, 2011, p. 169). In an electoral authoritarian state, an illusion of a multi-party democratic system is created. However, the efficacy of elections is stripped (Tlemcani, 2007, para. 2). This means that an electoral authoritarian regime is a form of a hybrid regime, which is a regime with both authoritarian features and democratic features (Shkel & Shakirova, 2014, p. 1). In Russia, the party list system forms the basis for parliamentary elections. Because of the use of the party list system, small parties are excluded from participating in the parliament (Travin, 2014, para. 8).

Interestingly, in Russia there are two types of opposition parties: the 'system opposition' and the 'non-system opposition'. The 'system opposition' comprises of official political parties, which are entitled to participate in elections. This is because of the fact that these parties have met all requirements for the official registration of a party, that is, their organisational structure, their programme and their financial accountability regulations meet the registration requirements (Golosov, 2011, para. 1). In contrast to the 'system opposition', the 'non-system opposition' comprises of political parties which are not recognised by the government, and therefore, they are not allowed to participate in elections. The parties which belong to the non-system opposition did not succeed in the registration of their party; they did not fulfil all requirements (Golosov, 2011, para. 10). The category of non-system opposition parties in Russia contains more political parties than the system opposition category. Nonetheless, it is very important that official opposition, so 'system opposition', exists, otherwise the parliament cannot imitate the sovereign democracy. However, it is essential that these parties are not dominant in the ruling proceedings (Travin, 2014, para. 9).

Another aspect of a Sovereign Democracy is that the work of NGOs is limited, caused by a measure which was taken by Putin and the parliament. NGOs that work against the Kremlin may not exist. Maybe even worse, especially in the Western perspective, is the establishment of state-friendly NGOs. An example is 'Nashi', which is a pro-Kremlin youth-organisation. Surkov had given Nashi a special task, it had to build a "following of loyal, patriotic young people for Putin's government and that would defuse any youthful resistance" (Lee, 2013, p. 32).

Vladimir Ryzhkov, a Russian liberal Member of Parliament (MP), has expressed a view which makes clear the difference between a liberal democracy and a sovereign democracy. He stated that "the constitutional principle of the people as sovereign is being replaced by the unconstitutional notion of sovereign democracy" (Centre for European Policy Studies, 2006, p.2). This means that the extent of the democracy is limited. The ruling party or ruling elites try to limit political competition, and coherently political opposition, in order to preserve its own power.

In a sovereign democracy, the Rule of Law does not form a part of the political system (Centre for European Policy Studies, 2006, p.1). This is because of the fact that the main principles of the Rule of Law do not correspond with the main principles of the sovereign democracy. Some of the differences between the Rule of Law and the Dictatorship of Law are already highlighted in this chapter. The next chapter will discuss the extent to which the Dictatorship of Law influences the development of the Rule of Law.

## Chapter 4 - The influence of the Dictatorship of Law on the development of a (strong) Rule of Law

---

In the previous chapters, both the concept of the Rule of Law and the Dictatorship of law are explained. In the following section, the common principles of the Rule of Law will be compared with the situation which results of the existence of the concept of the Dictatorship of Law. It will discuss in which manner the Dictatorship of Law undermines the development of a strong Rule of Law.

### 4.1 The Dictatorship of Law compared to the Rule of Law

---

As described in the first chapter, the first common principle is that the powers of the government should be defined in fundamental law. No one is above the law, including the government. In the Dictatorship of Law, the interests of the State are promoted. The regime uses its powers and the law in order to punish opponents, which means that the government is not effectively limited by the legislature.

Furthermore, officials of the state may get lower punishments compared to ordinary citizens. The WJP has researched the extent to which the government is bound by law. One of the research questions of the Rule of Law Index 2014 was about the expectation of punishment of high-ranked government officers. The question was whether these high-ranked governmental officers would be prosecuted and punished when (s)he takes money for personal benefit. Only 36% percent of the respondents have answered that they think those officials will be punished. Compared to other countries, Russia is performing badly when it comes to government constraints. The country is ranked on place 89 out of 99 countries in total (WJP, 2014).

Both concepts, the Rule of Law and the Dictatorship of Law, have another perception of the application of law. The few government constraints in Russia and the extent to which the government is bound by law can also be found in figure 2, shown on page 32. As can be seen, the government in Yeltsin's era was much more bound by law, in comparison with Putin's era. This has to do with the Sovereign Democracy and the development of the Dictatorship of Law. Within the Dictatorship of Law, arbitrary rule is used. It may be the case that state officials are not accountable for the law and are treated in another way than

ordinary citizens. As long as the arbitrary rule is superior to the Rule of Law, the latter cannot develop in such a way that it becomes a strong Rule of Law.

The second common principle of the Rule of Law is that the law should be applied equally. Article 19 of the Russian Constitution of 1993 is about equality before law. It states:

1. All people shall be equal before the law and court.
2. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned.
3. Man and woman shall enjoy equal rights and freedoms and have equal possibilities to exercise them (Russian Constitution 1993, Chapter 2: Rights and Freedoms of Man and Citizen, article 19)

The inequality before law is a great problem in Russia. In Russia, many Federal statutes and laws are deliberately vaguely written. The vague laws allow government authorities and Courts to discriminate against particular groups. It may also be the case that those groups are deprived from certain rights. An example of discrimination before law is the provision of less severe sentences for those who serve the state compared to ordinary citizens. The Rule of Law is severely undermined. This means that the first and second principle can be linked to each other in Russia's case. In the Court's view, it is needed that laws are written clearly and unambiguously, in order to apply the law in a consistent and uniform way. If laws are written more clearly and precise, it will avoid violations of equal treatment before the law (Trochev, 2010, p. 177).

However, Putin has tried to reform the judiciary in order to improve the equality before law, and therewith, the Rule of Law. The Supreme Court and the Supreme Commercial Court merged in 2013. According to Putin, the merger will foster a greater equality before law within the justice system. He argues that the Court's merger will ensure that the judicial practice is carried out in one direction, and that the Constitutional principle of equality before law can be better guaranteed (Russian Legal Information Agency, 2013, para. 1-2). Putin said the following during an annual meeting with the Federal Assembly:

*"I believe the unification of the courts will turn the court practice onto one track and therefore will strengthen the guarantees of enforcing the crucial constitutional principle of everyone's equality before the law"* (Radio The Voice of Russia, 2013, para. 2).

Nevertheless, Gray<sup>9</sup> (2014) states that only a fourth of the Russians expect that the equality before law will actually improve. The trust in Courts and the judicial system is very low, given to the corruption within the system (para. 4).

The third common principle is the establishment of law and order. The three sub-indicators which belong to this principle are, according to WJP, the effective control of crime, the effective limitation of conflict and the restoration of people to redress personal grievances (WJP, 2014). In Russia's case, this principle can be linked to the first principle. If the government is using the law in order to punish its adversaries, order is not effectively established.

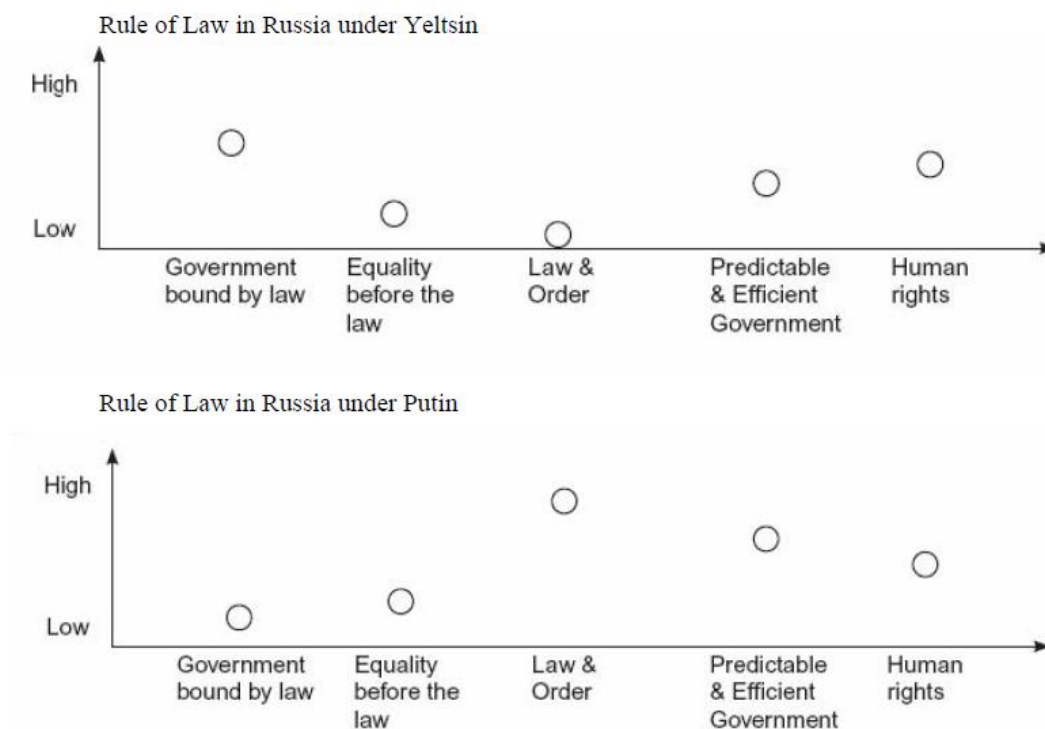


Figure 2: The Rule of Law under Yeltsin and Putin (Samuels, 2006, p.4)

<sup>9</sup> Nathan Gray is a journalist of The Moscow News, an online independent newspaper.



Nevertheless, in contrast to Yeltsin's regime, Putin has improved law and order in recent years. This can also be seen in figure 2. The law and order aspect has clearly developed, yet, it still does not meet the requirements which belong to a strong Rule of Law. Law and order has been improved, for example by the change from a horizontal power arrangement to the power vertical arrangement. Furthermore, the Criminal Code is much more followed by Putin than by Yeltsin, the extent to which Criminal Justice is applied has improved.

When Putin took office in 2012, he had initiated several law amendments. Examples are amendments to the Federal Law on Subsoil Resources (June, 2012), amendments to laws on the police force, on bailiffs and on the legal status of foreign nationals in Russia (June, 2012), amendments to some articles in the Administrative Offences Code (July, 2012), amendments to certain legislative acts aimed at protecting children (April, 2013), amendments to legislation for use of foul language in mass media (April, 2013), amendments to legislation on piracy protection (July, 2013), law aimed at preventing hooliganism at official sports events (July, 2013), amendments to legislation aimed at preventing unlawful extraction and circulation of archaeological artefacts (July, 2013), legal amendments to increase penalties for violating immigration law (July, 2013), and amendments to the Criminal Code (October, 2013) (President of Russia, n.d., *Fight against Crime*).

The main question is whether criminal investigation will be done effectively and fairly in case there is a suspicion that the laws are violated. If criminal investigation is not done effectively, without any delay and discrimination, the Rule of Law cannot be optimally developed.

The fourth common principle states that the application of justice should be efficient and predictable. There are two kinds of justice, civil justice and criminal justice. Within criminal justice, a person is punished by the State because (s)he violated rules which were set by the law. Within civil justice, it is about a dispute between individuals or between organisations. These disputes may occur because of rights and duties that were not followed (LaMance, 2013, para. 1-2). For both types of justice, it is important that there is no discrimination and, furthermore, it should be free of corruption (WJP, 2014). Although Russia's justice system is relatively efficient and accessible, there is a lot of corruption and political interference, due to the fact of the existence of the Dictatorship of Law, which influences the Courts (WJP, 2014, p.50). A clear example of political interference is telephone justice (see chapter 2, page 21).

The fifth common principle is the protection of human rights. The WJP has included fundamental rights in its research project, such as equal treatment, absence of

discrimination, freedom of speech, freedom of religion, etcetera. In the research project, Russia is ranked on place 79, out of 99 countries (WJP, 2014, p. 25).

Within the principle of the protection of human rights, the domination of the Dictatorship of Law is again apparent. The Chief Justice of the Russian Constitutional Court, Valerii Zorkin, has decided to restrictedly implement International Court rulings (Roudik, 2010, para.1). He stated that "Russia may exempt itself from the jurisdiction of the European Court of Human Rights (ECHR)" (Roudik, 2010, para. 2). He does not agree with the judgements of the ECHR, especially when these judgements do not correspond with the Russian Court rulings (Roudik, 2010, para. 3). He argued:

*"Direct implementation of judgments of supra-national courts in Russia without their special adaptation to Russian cultural, moral, and religious traditions is an act of giving up the national interest, national institutions, and national sovereignty, which need to be defended.... the Constitutional Court of Russia will serve as an institution that will defend the nation from European judgments if they are considered by Russian constitutional justices to be 'doubtful'"* (Roudik, 2010, para. 3).

This suggests that the interests of the state are more important than the protection of human rights. Although human rights are included in the Russian Constitution of 1993 (articles 17 – 64), the Dictatorship of Law within the Russian system seems to be superior.

Human rights are not well protected in Russia. For instance, discrimination is a substantial problem. Discrimination on the basis of race, gender, religion, ethnicity and political affiliation is often widespread. Especially during the last year, the discrimination against the Lesbian, Gay, Bisexual and Transgender groups (LGBT) often took place. People who belong to this group often face a lot of personal attacks. The problem is that most of these attacks are not effectively investigated by the authorities (Amnesty International , 2013, para. 12-13).

Nevertheless, other problems exist as well. When Putin was re-elected in 2012, a lot of protests occurred. However, these protests were repressed, and new laws were implemented. Several rights were limited, for example the freedom of expression, freedom of assembly and freedom of association. People who were arrested during the protests became victims of ill-treatments, for instance of torture, and they did not get a fair trial. Many arrestees were judged on the basis of political motivations (Amnesty International, 2013, para. 1).

## Conclusion

---

The question dealt with in this dissertation is: What are the major differences between the concept of the Rule of Law and the 'Dictatorship of Law' which exists in Russia? Firstly, it can be concluded that one of the most important differences between both concepts is the application of law. Within the Rule of Law no one is above the law, individuals and the government officials should obey the law. The law should govern, a society should not be ruled by men.

There are several main principles of the Rule of Law: government powers should be defined by law, the law should be applied equally, law and order should be established, justice should be efficient and predictable, and finally, human rights should be protected. It seems like a strong Rule of Law is only applicable to the Western perspective of a liberal democracy.

In contrast to the Rule of Law, the law within the Dictatorship of Law may be used for the suppression of opponents. The law, as a principle, would not be binding equally applied to both the state and its citizens. This means that arbitrary rule is used, a decision or judgement is not reasonable made. A state official may get another judgement than an ordinary citizen. The Dictatorship of Law causes that the law is used as an instrument to achieve objectives of the ruling people. Furthermore, in the Russian political system, with the existence of the Dictatorship of Law, clientelism and corruption are problems. This is unlike the Rule of Law, in which the absence of corruption is one of the important elements.

Nevertheless, Putin has tried during his presidencies to improve the judicial system. However, he did not use the law in such a way that it corresponds with the main principles of a strong Rule of Law. He strengthened the law as an instrument of authoritarian law. For instance, he initiated the vertical power, in order to limit the oligarchic power. This can be seen as a negative aspect of Putin's ruling on the development of the Rule of Law. On the other hand, other reforms have taken places which are considered to be more positive. An example is the attempt to improve equality before law, by the merger of Courts.

Moreover, despite the fact that Putin has implemented a lot of new laws and existing laws were adopted, legal nihilism remains a problem. The social value of law and general norms and values are denied. Because of the legal nihilism, a strong Rule of Law cannot be established. The Dictatorship of Law dominates in Russia's judicial and political system. However, legal nihilism is not the only cause of inequality before law, it is also caused by the fact that Russian laws are frequently written vague, which provokes a 'free interpretation' of law. This is also a difference with the Rule of Law, in which laws should be written clear and precise. In addition, there is another problem concerning Russian laws. Within the Rule of Law, laws should be publicised and accessible. In Russia, it is hard to access laws and governmental information.

Another difference of the Rule of Law and the Dictatorship of Law is way how the government copes with the protection of human rights. In the Rule of Law, human rights should be protected. This means that there should be an absence of discrimination, life and security of a person is guaranteed, freedom of opinion, belief and assembly is guaranteed and, finally, fundamental labour rights are guaranteed. Within the Dictatorship of Law in Russia, human rights are violated because of discrimination (for instance against LBTG groups) and because of the restrictions on freedoms. The Dictatorship of Law even justifies the exemption from ECHR jurisdiction.

Not only legal nihilism undermines the establishment of a strong Rule of Law. The concept of the Dictatorship of Law fits into the concept of the sovereign democracy. Because of the existing sovereign democracy, with as its main elements weak institutions, controlled media, controlled elections, a lacking opposition and the oppression and restriction of the work of NGOs, it would not be possible to establish a strong Rule of Law. However, the Dictatorship of Law seems not to be a good alternative to the Rule of Law. It takes away several rights, freedoms and liberties, which are recorded in international conventions.

Russia needs to implement a lot of reforms in order to transform into a liberal democracy with a strong Rule of Law. However, it should not be forgotten that Russia's democracy is still very young. It is almost inevitable that the system still contains characteristics of the Soviet era, which for instance included repression. Russia needs to transform into a

liberal democracy in order to get rid of the concept of the Dictatorship of Law and to strengthen the Rule of Law.

## References

---

- Amnesty International (2013) *Annual Report 2013. The State of the World's Human Rights. The Russian Federation*. Retrieved May 21, 2014, from Amnesty International Website, URL: <http://www.amnesty.org/en/region/russia/report-2013>
- Angelis, T. J., & Harrison, J. H. (2003). *History and Importance of Rule of Law*. Retrieved January 28, 2014, from World Justice Project Website, URL: <http://worldjusticeproject.org/publication/working-papers/history-and-importance-rule-law>
- Barry, M.P. (Autumn, 2009) *Corruption in Russia: A Model Exploring its Economic Costs*. *Caucasian Review of International Affairs*, Volume 3, Number 4. Retrieved April 1, 2014, from Caucasian Review of International Affairs Website, URL: [http://cria-online.org/Journal/9/Done\\_Corruption%20in%20Russia\\_A%20Model%20exploring%20its%20Economic%20Costs\\_Michael\\_Barry\\_CRIA%20Autumn%202009.pdf](http://cria-online.org/Journal/9/Done_Corruption%20in%20Russia_A%20Model%20exploring%20its%20Economic%20Costs_Michael_Barry_CRIA%20Autumn%202009.pdf)
- Benoist, A., de (n.d.) *What is Sovereignty?* Translated by J. Kostova from "Qu'est-ce que la souveraineté? November 1999, Éléments, no. 96, pp. 24-25. Translation retrieved May 14, 2014, from Alain de Benoist Website, URL: [http://www.alaindebenoist.com/pdf/what\\_is\\_sovereignty.pdf](http://www.alaindebenoist.com/pdf/what_is_sovereignty.pdf)
- Bowring, B. (July 7, 2009) *Legal Nihilism in Russia*. Retrieved April 18, 2014, from Open Democracy, Russia and Beyond Website, URL: <http://www.opendemocracy.net/article/email/legal-nihilism-in-russia>
- Brown, B.S. (1992) *The United States and the Politicization of the World Bank: Issues of International Law and Policy*. New York: Routledge
- Centre for European Policy Studies (October, 2006) *Russia's Soft Power Ambitions*. CEPS Policy Brief, no. 115. Retrieved May 6, 2014, from Archive of European Integration (AEI) Website, URL: <http://aei.pitt.edu/11715/1/1388.pdf>

- Chatham House. The Royal Institute of International Affairs (May 13, 2010) *Meeting Summary. Russian Perspectives on International and National Law. Summary of the International Law Discussion Group Meeting Held at Chatham House*. Retrieved April 30, 2014, from Chatham Website, URL: <https://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/il130510.pdf>
- Curtis, G.E. (1996) *Russia: A Country Study. The Constitution and Government Structure. The Executive Branch*. Washington: GPO for the Library of Congress. Retrieved May 22, 2014, from Country Studies Website, URL: <http://countrystudies.us/russia/69.htm#The Executive Branch>
- Democracy Web: Comparative Studies in Freedom (n.d.) *Rule of Law: Essential Principles*. Retrieved April 18, 2014, from Democracy Web: Comparative Studies in Freedom Website, URL: <http://www.democracyweb.org/rule/principles.php>
- Filippov, P. (November, 16, 2011) *Is Corruption in Russia's DNA?* Retrieved May 8, 2014, from Open Democracy Russia and Beyond Website, URL: <http://www.opendemocracy.net/od-russia/pyotr-filippov/is-corruption-in-russias-dna>
- Freedom House (2013) *Russia. Freedom of the Press 2013*. Retrieved May 1, 2014, from Freedom House Website, URL: [http://www.freedomhouse.org/report/freedom-press/2013/russia#.U3SafPI\\_uSo](http://www.freedomhouse.org/report/freedom-press/2013/russia#.U3SafPI_uSo)
- Freedom House (2014) *Freedom of the Press 2014*. Retrieved May 14, 2014, from Freedom House Website, URL: [http://www.freedomhouse.org/report/freedom-press/freedom-press-2014#.U4Slzfl\\_uSp](http://www.freedomhouse.org/report/freedom-press/freedom-press-2014#.U4Slzfl_uSp)
- Frye, T. (2008) *Corruption and the Rule of Law*. Retrieved March 12, 2014, from Peterson Institute for International Economics Website, URL: [http://www.piie.com/publications/chapters\\_preview/4976/04iie4976.pdf](http://www.piie.com/publications/chapters_preview/4976/04iie4976.pdf)
- Gelman, V. (October, 2000) *The Dictatorship of Law in Russia: Neither Dictatorship, Nor Rule of Law*. Ponars Policy Memo no. 146. European University at St. Petersburg. Retrieved March 14, 2014, from Ponar Eurasia Website, URL: [http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/pm\\_0146.pdf](http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/pm_0146.pdf)

- Golosov, G. (September 1, 2011) *Russian Opposition: Inside or Outside the System?*  
Retrieved April 28, 2014, from Open Democracy Russia and Beyond Website, URL:  
<http://www.opendemocracy.net/od-russia/grigorii-golosov/russian-opposition-inside-or-outside-system>
- Gray, N. (February 14, 2014) *Court Merger Set to Shake up Russia's Judiciary*. Retrieved  
May 19, 2014, from The Moscow News Website, URL:  
<http://themoscownews.com/politics/20140214/192229032/Court-merger-set-to-shake-up-Russias-judiciary.html>
- Hoskin, G. (2005) *Dictatorship of the Law*. Index on Censorship number 4.
- International Bar Association (2005) *Rule of Law Resolution*. Retrieved April 15, 2014, from  
IBA Resolutions Website, URL:  
[http://www.ibanet.org/About\\_the\\_IBA/IBA\\_resolutions.aspx](http://www.ibanet.org/About_the_IBA/IBA_resolutions.aspx)
- Janeliunas, T. (2006) *Sovereign Democracy – Yet Another Attempt to Define Russia's Regime*. Lithuanian Foreign Policy Review, issue 18, pp. 117-132
- Janse, R. (2012) *The Rule of Law. A Guide for Politicians*. Retrieved March 16, 2014, from  
The Raoul Wallenberg Institute of Human Rights and Humanitarian Law Website,  
URL: <http://rwi.lu.se/wp-content/uploads/2012/09/Rule-of-Law-a-guide-for-politicians.pdf>
- Jones, S.G. , J. M. Wilson, A. Rathmell, and K. J. Riley (2005) *Establishing Law and Order After Conflict*. Retrieved March 10, 2014, from RAND Corporation Website, URL:  
[http://www.rand.org/content/dam/rand/pubs/monographs/2005/RAND\\_MG374.pdf](http://www.rand.org/content/dam/rand/pubs/monographs/2005/RAND_MG374.pdf)
- Kahn, J. D. (2004) *Russia's "Dictatorship of Law" and the European Court of Human Rights*.  
Review of Central and East European Law, Volume 29, Number 1, pp. 1-14
- Karklins, R. (July / August, 2002) *Typology of Post-Communist Corruption*. Problems of Post-Communism, Volume 49, Issue 4, pp. 22-32
- Khodorkovsky Website (n.d.) *Cases in Russia*. Retrieved May 10, 2014, from Khodorkovsky Website, URL: <http://www.khodorkovsky.com/legal/cases-in-russia/>



- Kudenko, A. (February 6, 2014) *Putin Signs Contentious Courts Merger into Law*. Retrieved May 22, 2014, from Ria Novosti Website, URL:  
<http://en.ria.ru/russia/20140206/187261994/Putin-Signs-Contentious-Courts-Merger-Into-Law.html>
- LaMance, K. (August 16, 2013) Differences Between the Criminal and Civil Justice Systems. Retrieved May 20, 2014, from Legal Match Website, URL:  
<http://www.legalmatch.com/law-library/article/differences-between-the-criminal-and-civil-justice-systems.html>
- Lee, A. (May, 2013) *Putin's Youth: Nashi and the Pro-Regime Youth Movement in Russia, 2000-2012*. Honors Thesis Collection. Paper no. 101. Retrieved May 22, 2014, from Wellesley College Digital Scholarship and Archive Website, URL:  
<http://repository.wellesley.edu/cgi/viewcontent.cgi?article=1173&context=thesiscollection>
- Macey, J.R. (January, 2014) *Crony Capitalism: Right Here, Right Now*. Harvard Journal of Law & Public Policy. Volume 37, Issue 1, pp. 5-9
- Monaghan, A. (June, 2011) *The Russian Vertikal: the Tandem, Power and the Elections*. Russia and Eurasia Programme Paper REP 2011/01. Retrieved May 13, 2014, from Chatham House Website, URL:  
[http://www.chathamhouse.org/sites/default/files/19412\\_0511ppmonaghan.pdf](http://www.chathamhouse.org/sites/default/files/19412_0511ppmonaghan.pdf)
- OHCHR (July, 2008) Human Rights, Terrorism and Counter-terrorism. Factsheet no. 32. Retrieved May 22, 2014, from OHCHR Website, URL:  
<http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf>
- Open Democracy. Free Thinking for the world (n.d.) *About Pyotr Filippov*. Retrieved May 8, 2014, from Open Democracy Website, URL:  
<http://www.opendemocracy.net/author/pyotr-filippov>
- Partlett, W. (February 28, 2012) *Vladimir Putin and the Law*. Retrieved May 14, 2014, from Brookings Education Website, URL:  
<http://www.brookings.edu/research/opinions/2012/02/28-putin-law-partlett>

- Peerenboom, R. (2005) *Human Rights and Rule of Law: What's the Relationship?*  
Georgetown Journal of International Law, Volume. 36, Research Paper Number 05-31
- Petrone, L. (May 20, 2011) *Institutionalizing Pluralism in Russia: A New Authoritarianism?*  
Journal of Communist Studies and Transition Politics, Volume 27, Issue 2, pp. 166 - 194
- Petrov, N. (December, 2005) *From Managed Democracy to Sovereign Democracy. Putin's Regime Evolution in 2005*. Centre for Political-Geographic Research. Ponars Policy Memo no. 396. Retrieved April 24, 2014, from Centre for Strategic and International Studies Website, URL: [http://csis.org/files/media/csis/pubs/pm\\_0396.pdf](http://csis.org/files/media/csis/pubs/pm_0396.pdf)
- Pipes, R. (May 31, 2000) *Putin's Dictatorship of Law Begins Lawlessly*. Retrieved May 16, 2014, from Project Syndicate Website, URL: <http://www.project-syndicate.org/commentary/putin-s-dictatorship-of-law-begins-lawlessly>
- President of Russia (n.d.) *Fight Against Crime. Publications by Topic*. Retrieved from President of Russia Website, URL: <http://eng.kremlin.ru/by-keyword/6?page=2>
- Prokorsch, R. (n.d.) *Nepotism*. Retrieved April 23, 2014, from Legacy Human Capital Group website, URL: <http://www.legacyhumancapital.com/pdf/Nepotism.pdf>
- Puleikyte, K. (April 27, 2007) *Sovereign Democracy: Democracy or Sovereignty?* Retrieved May 4, 2014, from Geopolitika Website, URL: <http://www.geopolitika.lt/index.php/www.brill.nl/www.brill.nl/news.php?artc=677>
- Radio The Voice of Russia (December 12, 2013) *Unification of Supreme Court, Higher Arbitration Court should help ensure equality before Law – Putin*. Retrieved May 19, 2014, from Radio The Voice of Russia Website, URL: [http://voiceofrussia.com/news/2013\\_12\\_12/Unification-of-Supreme-Court-Higher-Arbitration-Court-should-help-ensure-equality-before-law-Putin-8681/](http://voiceofrussia.com/news/2013_12_12/Unification-of-Supreme-Court-Higher-Arbitration-Court-should-help-ensure-equality-before-law-Putin-8681/)
- Remington, T. (2012). *Politics in Russia*. 7<sup>th</sup> edition. Pearson Education.
- Roudik, P. (December 8, 2010) *Russia: Chief Justice Insists on Limited Application of International Court Rulings*. Retrieved May 20, 2014, from Library of Congress Website, URL: [http://www.loc.gov/lawweb/servlet/lloc\\_news?disp3\\_l205402410\\_text](http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205402410_text)

Russian Legal Information Agency (December 12, 2013) *Putin: Supreme Court Merger will Foster Greater Equality Before the Law*. Retrieved May 19, 2014, from Russian Legal Information Agency Website, URL:

<http://rapsinews.com/news/20131212/270078049.html>

Samuels, K. (October 2006) *Rule of Law Reform in Post-Conflict Countries. Operational Initiatives and Lessons Learnt*. Social Development Papers. Paper No. 37. Retrieved April 16, 2014, from World Bank Website, URL:

[http://siteresources.worldbank.org/INTCPR/Resources/WP37\\_web.pdf](http://siteresources.worldbank.org/INTCPR/Resources/WP37_web.pdf)

Sean's Russia Blog (June 30, 2006) Surkov's "Sovereign" and "Managed" Democracy. Retrieved May 12, 2014, from Sean's Russia Blog Website, URL:

<http://seansrussiablog.org/2006/06/30/surkovs-sovereign-and-managed-democracy/>

Shkel, S. & E. Shakirova (January 7, 2014) *Political Opposition in the Hybrid Regime: the Post-Soviet Russia Experience*. Retrieved May 1, 2014, from Social Science Research Network Website, URL:

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2375731](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2375731)

Skrylnikow, I. (June 30, 2011) *Pravovoe Gosudarstvo: the Rule of Law in Russia*. Retrieved May 19, 2014, from Universität Berlin, URL: [http://wikis.fu-](http://wikis.fu-berlin.de/display/SBprojectrol/Russia)

[berlin.de/display/SBprojectrol/Russia](http://wikis.fu-berlin.de/display/SBprojectrol/Russia)

Stanovaya, T. (January 10, 2013) *Moral Deterioration of Putin's "Power Vertical": Outcomes of 2012*. Retrieved May 14, 2014, from Institute of Modern Russia Website, URL:

<http://imrussia.org/politics/364-moral-deterioration-of-putins-power-vertical-outcomes-of-2012>

Suhara, M. (n.d.) *Corruption in Russia: A Historical Perspective*. Retrieved April 30, 2014, from Hokkaido University of Slavic and Eurasian Research Centre. Japan's National Center for Slavic and Eurasian Studies Website, URL:

[http://srch.slav.hokudai.ac.jp/sympo/03september/pdf/M\\_Suhara.pdf](http://srch.slav.hokudai.ac.jp/sympo/03september/pdf/M_Suhara.pdf)

The Moscow Times (May 22, 2013) *Putin Strengthening Power Vertical, Report Says*.

Retrieved May 13, 2014, from The Moscow Times Website, URL:

<http://www.themoscowtimes.com/news/article/putin-strengthening-power-vertical-report-says/480363.html>

The Voice of Russia (February 12, 2013) *Putin Seeks tough Anti-Corruption Law*. Retrieved March 15, 2014, from Radio The Voice of Russia Website, URL:

[http://voiceofrussia.com/2013\\_02\\_12/Putin-seeks-tough-anti-corruption-law/](http://voiceofrussia.com/2013_02_12/Putin-seeks-tough-anti-corruption-law/)

The World Bank Group (n.d.) *Helping Countries Combat Corruption: The Role of the World Bank. Corruption and Economic Development*. Retrieved April 14, 2014, from The World Bank Group Website, URL:

<http://www1.worldbank.org/publicsector/anticorrupt/corruptn/cor02.htm>

Tlemcani, R. (May 29, 2007) *Electoral Authoritarianism*. Retrieved May 1, 2014, from Carnegie Endowment for International Peace Website, URL:

<http://carnegieendowment.org/2007/05/29/electoral-authoritarianism/25wc>

Travin, D. (March 14, 2014) *The three ages of Putinism*. Retrieved May 18, 2014, from Open Democracy Russia and Beyond Website, URL : <http://www.opendemocracy.net/od-russia/dmitry-travin/What-is-putinism-three-ages-of-putinism-Surkov-Sovereign-Democracy-Volodin>

Trochev, A. (2010) *Judging Russia*. Cambridge: Cambridge University Press

United Nations Office on Drugs and Crime (September 24, 2012) *Where Corruption flourishes, Development & the Rule of Law fail, says UNODC Chief* [Press Release]. Retrieved April 22, 2014, from UNODC Website, URL:

<https://www.unodc.org/unodc/en/press/releases/2012/September/where-corruption-flourishes-development-and-the-rule-of-law-fail-says-unodc-chief.html>

United Nations Security Council (August 23, 2004) *United Nations and the Rule of Law*. Retrieved April 14, 2014, from United Nations and the Rule of Law Website, URL:

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N04/395/29/PDF/N0439529.pdf?OpenElement>

Vicente, P.C. & Wantchekon, L. (November 2008) *Clientelism and Vote Buying. Lessons from Field Experiments in West Africa*. Retrieved April 23, 2014, from NYU Development Research Institute Website, URL: <http://www.nyudri.org/wp-content/uploads/2011/10/clientelism.pdf>

Walker, G. Q., de (1988) *The Rule of Law: Foundation of Constitutional Democracy*. 1<sup>st</sup> Edition. Melbourne University Press.

White, S., Gitelman, Z., & Richard, S. (2005). *Developments in Russian Politics. 6th Edition.* New York: Palgrave MacMillan.

White, S., Sakwa, R., & Hale, H. E. (2010). *Developments in Russian Politics. 7th Edition.* New York: Palgrave MacMillan.

World Justice Project (2014) *WJP Rule of Law Index 2014*. Retrieved April 21, 2014, from World Justice Project Website, URL:  
[http://worldjusticeproject.org/sites/default/files/files/wjp\\_rule\\_of\\_law\\_index\\_2014\\_report.pdf](http://worldjusticeproject.org/sites/default/files/files/wjp_rule_of_law_index_2014_report.pdf)

World Justice Project (n.d.) *Order and Security*. Retrieved March 2, 2014, from World Justice Project Website, URL: <http://worldjusticeproject.org/factors/order-and-security>

World Justice Project (n.d.) *What is the Rule of Law?* Retrieved January 28, 2014, from World Justice Project Website, URL: <http://worldjusticeproject.org/what-rule-law>

World Justice Project (n.d.) *Constraints on Government Powers*. Retrieved January 28, 2014, from World Justice Project Website, URL:  
<http://worldjusticeproject.org/factors/constraints-government-powers>

World Justice Project (n.d.) *Our Opportunity*. Retrieved March 17, 2014, from World Justice Project Website, URL: <http://worldjusticeproject.org/what-we-do-0>

## Appendix I - Indicators of WJP in order to measure the development of the Rule of Law

---

<b>Indicator 1</b> Constraints on Government Powers	<b>Sub-indicators</b> 1.1 Government powers are defined in the fundamental law 1.2 Government powers are effectively limited by the legislature 1.3 Government powers are effectively limited by the judiciary 1.4 Government powers are effectively limited by independent auditing and review 1.5 Government officials are sanctioned for misconduct 1.6 Government powers are subject to non-governmental checks 1.7 Transition of power is subject to the law
<b>Indicator 2</b> Absence of Corruption	<b>Sub-indicators</b> 2.1 Government officials in the Executive Branch do not use public office for private gain 2.2 Government officials in the judicial branch do not use public office for private gain 2.3 Government officials in the police and the military do not use public office for private gain 2.4 Government officials in the legislative branch do not use public office for private gain
<b>Indicator 3</b> Open Government	<b>Sub-indicators</b> 3.1 The laws are publicized and accessible 3.2 The laws are stable 3.3 Right to petition the government and public participation 3.4 Official information is available on request

<b>Indicator 4</b> Fundamental Rights	<b>Sub-indicators</b> 4.1 Equal treatment and absence of discrimination 4.2 The right to life and security of the person is effectively guaranteed 4.3 Due process of law and rights of the accused 4.4 Freedom of opinion and expression is effectively guaranteed 4.5 Freedom of belief and religion is effectively guaranteed 4.6 Freedom from arbitrary interference with privacy is effectively guaranteed 4.7 Freedom of assembly and association is effectively guaranteed 4.8 Fundamental labour rights are effectively guaranteed
<b>Indicator 5</b> Order and Security	<b>Sub-indicators</b> 5.1 Crime is effectively controlled 5.2 Civil conflict is effectively limited 5.3 People do not resort to violence to redress personal grievances
<b>Indicator 6</b> Regulatory Enforcement	<b>Sub-indicators</b> 6.1 Government regulations are effectively enforced 6.2 Government regulations are applied and enforced without improper influence 6.3 Administrative proceedings are conducted without unreasonable delay 6.4 Due process is respected in administrative proceedings 6.5 The Government does not expropriate without adequate compensation
<b>Indicator 7</b> Civil Justice	<b>Sub-indicators</b> 7.1 People can access and afford civil justice 7.2 Civil justice is free of discrimination 7.3 Civil justice is free of corruption 7.4 Civil justice is free of improper government influence 7.5 Civil justice is not subject to unreasonable delays 7.6 Civil justice is effectively enforced 7.7 ADRs are accessible, impartial, and effective

<b>Indicator 8</b> Criminal Justice	<b>Sub-indicators</b> 8.1 Criminal investigation system is effective 8.2 Criminal adjudication system is timely and effective 8.3 Correctional system is effective in reducing criminal behaviour 8.4 Criminal justice system is impartial 8.5 Criminal justice system is free of corruption 8.6 Criminal justice system is free of improper government influence 8.7 Due process of law and rights of the accused
<b>Indicator 9</b> Informal Justice	9.1 Informal justice is timely and effective 9.2 Informal justice is impartial and free of improper influence 9.3 Informal justice respects and protects fundamental rights

*WJP's indicators and sub-indicators for measuring the extent to which the Rule of Law is developed (WJP, 2014).*



# Press Freedom at the Lowest Level in a Decade

Hover over a country below to view its press freedom score.\*

Green = Free  
Yellow = Partly Free  
Purple = Not Free

\* Score out of 100. The lower the score, the better the press freedom status.

A world map where countries are colored based on their press freedom status. Green indicates 'Free' status, yellow indicates 'Partly Free', and purple indicates 'Not Free'. North America (USA, Canada), Australia, New Zealand, and several European countries are green. Most of South America, Africa, Asia, and Russia are purple. Many countries across all continents are yellow.

Key

31 61

49