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The Russian Anti-Corruption Campaign: Public Relations, Politics or Substantive Change?

Ethan S. Burger
Georgetown University Law Center, esb34@law.georgetown.edu

Rosalia Gitau
New York University School of Law

Prepared as a discussion paper in connection with a presentation given on March 4, 2010 at Columbia University’s Harriman Institute, 420 West 118th Street, New York, NY 10027, http://www.harrimaninstitute.org/. The authors wish to thank Timothy Frye for providing a forum to discuss the ideas contained in this paper with the Columbia community.

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Ethan S. Burger
Adjunct Professor of Law
Georgetown University Law Center
esb34@law.georgetown.edu

Rosalia Gitau
J.D. New York University School of Law
rosaliagitau@nyu.edu

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Table of Contents

Introduction
I. Reading the Chai [Tea] Leaves of the Russian Political Transition………..6
   A. Mr. Putin’s Rise to Power…………………………………………………………8
   B. “Combating Corruption” and Planning the Not-Quite Post-Putin Era….9
   C. A View of the Political Evolution of Dmitrii Medvedev……………….11
II. An Analytical Framework for Thinking about Corruption……………….17
III. How Extensive is Corruption in Russia?………………………………….20
   A. The Patronage System – Crony Capitalist………………………………….20
   B. Room for improvement?……………………………………………………….22
IV. Does Medvedev Really Want to Create a “Rule of Law” State?……….25
V. Can Anti-Corruption Efforts in Russia Succeed?………………………..27
VI. Do the Skeptics Tend to be Right?…………………………………………34
VII. Medvedev’s Approach to Combating Corruption……………………..36
VIII. Conclusion………………………………………………………………….44
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by

Ethan S. Burger¹ & Rosalia Gitau²

Corruption is a foreign word, but its very manifestation has acquired veritably Russian magnitudes. The corrosive effect of bribery not only undermines the state mechanism, it kills the faith of citizens in the fairness of state power.

Aleksandr I. Bastrykin³

Introduction

Throughout Russian history, there have been times when members of the country’s economic and political elite hoped that the state could evolve into a polity based on the rule of law; each instance such optimism was either quashed by the authorities or not realized due to the failure to build-up a coalition of supporters strong enough to bring about change.

Perhaps today, economic and political conditions are such that one can no longer exclude the possibility that Russia could evolve into a modern, economically vibrant, law-based state, where the leadership is politically accountable to public.⁴ Admittedly, the evidence on this topic is inconsistent and seems to reflect internal conflict both between the government and the governed, as well as within the economic and governmental elite.

Many observers of the Russian scene are debating if a dynamic and non-controllable process is underway. This process could ultimately lead to fundamental legal and political changes in Russia, resulting in a system that protects not only the human rights and property rights of Russian citizens but also where long-term economic, political and social stability can be realized. The basic question is this: does Russian President Dmitrii Medvedev genuinely seek to modernize the Russian state?⁵ It is within this context that

¹Adjunct Professor Georgetown University Law Center, Washington, D.C. and Fellow, the Centre for Transnational Crime Prevention, University of Wollongong, Wollongong, Australia.
²Contributing Editor, Transparency International Anti-Corruption Research Network and J.D., New York University School of Law, New York, New York.
³First Deputy of the Procurator General of the Russian Federation Chairman of the Investigative Committee under the Auspices of the Procuracy of the Russian Federation State Advisor of Justice 1st Class.
⁴Granted, not everyone shares this view. Russian sociologist Olga Kryshtanovskaya believes that President Medvedev - while supporting limited reform - is "careful not to break the spine of the machine" that is Putin's leading supporters within the bureaucracy. Owen Matthews and Anna Nemtsova, Moscow's Phony Liberal, Newsweek, February 26, 2010, at http://www.newsweek.com.
we examine President Dmitrii Medvedev’s campaign against corruption – a key element of his modernization and legal reform programs.

The Russian citizenry has long regarded publicly-orchestrated, anti-corruption campaigns with considerable skepticism and low expectations. In the early 1980s, General Secretary of the Communist Party of the Soviet Union Yuri Andropov initiated a short-lived crackdown against corruption. Former Russian Presidents Boris Yeltsin and Vladimir Putin proclaimed that combating corruption was a priority of their presidencies. Nonetheless, the corruption situation under their respective leaderships did not result in notable improvements; in fact, just the opposite occurred.

During his confirmation hearing, Mr. Putin’s last Prime Minister, Victor Zubkov described “corruption” as “posing as existential threat” which was capable of “sinking” Russia. Mr. Zubkov seemed to appreciate that corruption permeated all levels of Russian society but he lacked the desire to change the situation. The impact of corruption in Russia has far-reaching economic, political and sociological consequences.

In 2009, Russian President Medvedev seemed to have begun a break with the past, though the extent of his willingness to bring about change remains uncertain. Apparently, he seems to have come to appreciate that corruption is a formidable obstacle to the modernization of the Russian economic, legal and political systems and thus needs to be brought within manageable limits. Indeed, the country’s very future might be in jeopardy if he fails to achieve his purported goal.

Perhaps, Mr. Medvedev has unleashed forces that he cannot control. To date, his most dramatic effort has been to fire 18 senior officials within the Russian Ministry for Internal Affairs (MVD). It is premature to assess the long-term effect of this “purge” of some senior MVD officials. In some cases, the persons who lost their positions have been

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implicated in corruption scandals whereas others are being replaced in response to their ineffectiveness.\(^{10}\)

Many long-standing observers of Russian governmental actions remain skeptical about Mr. Medvedev’s anti-corruption efforts. They see the creation of state-sponsored non-governmental organizations (NGOs) as evidence of the Russian government’s effort to keep the campaign within “acceptable limits” and prevent the emergence of entities not beholden to or co-optable by state power.\(^{11}\) By so doing, state officials will prevent “true reform” and they will continue being held accountable to the public in any formal manner.\(^{12}\)

In February 2010, President Medvedev fired Deputy MVD Ministers Nikolai Ovchinnikov and Arkady Edelev.\(^{13}\) Despite feeling that taking this action was necessary, President Medvedev has praised MVD Minister Rashid Nurgaliev as if to suggest that he is satisfied with Mr. Nurgaliev’s efforts to combat corruption. One can only speculate, if Mr. Medvedev indeed has been satisfied with the Mr. Nurgaliev’s performance or if he intends on replacing him at some propitious time in the future. Audit Chamber Head as well as former Prime and MVD Minister Sergei Stepashin is sometimes identified as Mr. Nurgaliev’s likely successor. President Medvedev’s numerous important anti-corruption campaign assignments seem supportive of this view.\(^{14}\)

While eliminating some Putin-era senior MVD officials, President Medvedev simultaneously issued an edict reorganizing the MVD’s structure (e.g. shrinking the staff assigned to MVD Headquarters from nearly 20,000 to 10,000 individuals) and several of its functions. Mr. Medvedev also appointed two new MVD Deputy Ministers Sergei Gerasimov and Sergei Bulavin. Mr. Gerasimov had served as Deputy Procurator General before joining the Presidential Administration. Mr. Bulavin had served as a MVD General. Both individuals have legal educations.\(^{15}\) Mr. Bulavin’s selection may be due to in part to his ties to Mr. Stepashin.\(^{16}\)

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\(^{10}\) The effect that such firings have on Russia’s corruption problem may be mis-leading; Russian Prosecutor-General Yury Chaika has said that Russian law enforcement has only managed to approach petty bribery whilst large-scale corruption remains thriving. BBC Monitoring, Russian Prosecutor says only Petty Bribery Being Tackled, Real Corruption Thrives, March 4, 2010.


\(^{15}\) According to Brian Whitmore, President Medvedev has sought to “fill the bureaucracy with so-called ‘civiliki,’ officials with backgrounds in civil law, to counter the strength of the ‘siloviki’ clan of security service veterans surrounding Prime Minister Vladimir Putin.” Brian Whitmore, The Politics of Police
Apparently, half of those who were replaced were immediately “reassigned” presumably to less responsible positions within the MVD; whether the others will eventually resurface in new positions cannot be ruled out. All of these officials held senior positions during Mr. Putin’s term of office – whether he approved of his successor’s actions or has merely acquiesced in them is not yet apparent.

Mr. Medvedev’s action has been explained as part of an effort to consolidate his own power while demonstrating that his campaign against corruption is more than mere rhetoric. Presumably, President Medvedev intended to send a message to Russian government officials and the public at large that conduct that was tolerated in the past would not be in the future.

In the view of Russian journalist Alexandra Samarina:

A reform of the law enforcement bodies of the country of such scale Russia has never seen before [sic]. In a single moment, more MVD officials that during the entire tenure of Vladimir Putin were put into retirement [sic]...The head of state has launched a decisive offensive, showing that he is not only someone who says freedom is better than the absence of freedom, but he is prepared to fight for this important territory.

Ms. Samarina’s language may be hyperbolic or premature, but cannot ignore Mr. Medvedev’s action. Even if it is merely an effort to communicate to governmental officials that a new era has begun where corruption will not be tolerated it is important. Perhaps, it represents the beginning of a new political era where the Russian president will begin to install his own people, replacing Putin holdovers who do not respect his authority17.

Edict 208 sought to achieve a number of objectives, including:

- 50% reduction in MVD Central Apparatus.
- 20% total reduction of MVD personnel.
- New MVD Northern Caucasus District established.
- Foreign Migration Service to handle deportation of foreigners.
- Corruption by MVD personnel to be treated more severely.
- Ministry of Health to handle detoxification.

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16 Mikhail Vinogradov, Reform of Internal Affairs, Politika i Obshchestvo, No. 6(657), February 22, 2010, at http://www.profile.ru. Mr. Stepashin as a former Prime Minister and former Minister for Internal Affairs may have the gravitas sufficient to prove a credible successor to Mr. Putin.

17 Presidential Edict 208, Edict No. 208, “On Several measures for reform of the Ministry for Internal Affairs of the Russian Federation,” February 18, 2010. The fact that Medvedev has demonstrated his keenness to fire high-profile officials involved in corruption should not be taken to mean that he is more aggressive in his anti-corruption campaign than his predecessor Mr. Putin. To the contrary, Kremlin insiders believe that Medvedev has an informal agreement with Putin not to remove top officials without the latter’s approval (Charles Clover, Rash of Sackings shows it is Tougher at the Top under Medvedev, Financial Times, March 5, 2010 at http://www.ft.com.)

5
Edict 208 will bring major changes to not merely the manner in which the MVD operates but also the lives of the Russian people on a day-to-day basis.”

What is the significance of Mr. Medvedev’s anti-corruption campaign? When will a sufficient time pass to confidently make an assessment of this campaign?

This Article consists of eight sections. Section I seeks to offer some context for understanding Mr. Putin’s assumption of power within Russia and insight into Mr. Medvedev into why he chose to make combating corruption the center piece of his presidency. Section II aims to present a theoretical context for understanding corruption in general – it is indeed a universal problem. Section III examines some views on the level of corruption in Russia. Section IV poses the question whether Mr. Medvedev appreciates the political consequences if he were to conduct an effective anti-corruption program. Section V examines whether it is a realistic policy objective for President Medvedev to implement an anti-corruption campaign within contemporary Russia. Section VI seeks to address the arguments who contend that the anti-corruption program’s objectives are unrealistic. Section VII evaluates whether Mr. Medvedev’s is likely to accept an anti-corruption program if it must be limited in scope for reasons of expediency. Section VIII consists of a brief conclusion.

It is too early to suggest any conclusions.

I. Reading the Chai [Tea] Leaves of the Russian Political Transition

It was not until the fall of 2005, that then-Putin Chief of the Presidential Administration, Dmitri Medvedev, seemed to take a public interest in Russia’s corruption problem. He almost certainly encountered corrupt acts when he served as the Chairman of Gazprom’s Board of Directors. Nonetheless, he has been credited by some for his work with Gazprom’s Chief Executive Officer Alexei Miller to reduce the tax evasion and asset stripping taking place at Gazprom. However, not everyone views Mr. Medvedev tenure at Gazprom in such a favorable light.

21 For example, Amy Knight contends that:

Gazprom, the state-controlled energy giant whose board chairman for the last six years has been the president designate, Dmitry Medvedev. During the past three years several key assets of Gazprom—its insurance subsidiary, Sogaz, its pension funds, and its mass media interests (the Gazprom-Media group has shares in two television stations)—have fallen into the hands of Rossiya Bank, which has its headquarters in St. Petersburg. Rossiya Bank's chairman, Yury Kovalchuk, happens to be an old and close friend of President Putin. And the bank acquired these valuable assets at bargain prices, buying Gazprom-Media Holdings in 2005 for only $166 million. In 2007—just two years later—Medvedev estimated that these holdings were worth $7.5 billion, or about forty-five times the sale price. "It would appear," the report observes, "that Gazprom gave its assets to friends of President Putin for a fraction of their real worth! Compared to this deal, the loans for shares auctions [the much-disparaged privatization of state enterprises under Yeltsin] look like exemplars of honesty and transparency."Ms. Knight’s views are influenced by a report called Putin. Putin: The Results: An Independent Expert Report) (2008), a work whose authors Boris Nemtsov and Vladimir Milov see Mr. Putin’s policy largely as a failure other than in increasing his own
When Mr. Medvedev was promoted to First Deputy Prime Minister to the Russian Government, he became exposed to a greater range of issues. Furthermore, his contact with specialists concerned with the consequences of corruption - on both the Russian state and the population as a whole - increased. He became more involved in the oversight of various projects and apparently developed a better appreciation of the role of transparency and openness in their successful completion. As months went by, Mr. Medvedev increasingly started to speak publicly about the need to reduce corruption in Russia.

In an interview appearing in Izvestiia, he noted that corruption could not be dealt with in a piecemeal fashion:

> [an]ti-corruption measures can't be implemented in any one region in isolation. It's a state-wide problem, and it requires a solution (I think this is obvious to everyone by now) that extends across the whole system. We can't just tighten the screws somewhere and say that's it, one particular region is now totally corruption-free. Everyone should be involved in creating an anti-corruption mechanism. The federal government should create a mechanism capable of monitoring spending effectiveness and project implementation. In the regions, these efforts should involve regional and municipal leaders. As for how well this works in municipalities - let's wait and see. Obviously, the municipal system is only just getting started in Russia. The law on local government will come into force from the start of next year, transferring some powers to municipal formations. Joint efforts are required to ensure that they are ready to implement the national projects.”

According to former Constitutional Court Justice Tamara Morshchakova, despite his alleged concern about judicial corruption, Mr. Putin was not willing to undertake significant judicial reforms, such as enhancing supervisory review of lower courts. Writing in 2005, University of Toronto’s Peter Solomon warned that a judicial “counter-reform” in the final years of Mr. Putin’s presidency threatened to undue some of the improvements in the operation of the Russian judiciary that took place under Mr. Yeltsin and Mr. Putin’s first term.24

Perhaps, Mr. Putin’s true attitude regarding the feasibility (and desirability) of reducing corruption in the Russian Government and judiciary was best exemplified by a quip made wealth and power and those of his inner circle. See Amy Knight, The Truth about Putin and Medvedev, N.Y. Times Review of Books, May 15, 2008, at http://www.nybooks.com Although Mr. Medvedev probably has not been absolutely “clean,” in comparison with others figures in the Russian ruling elite, he generally is not viewed as someone severely tainted by his own personal corruption. For example, he is never mentioned in either David E. Hoffman’s The Oligarchs: Wealth and Power in the New Russia (2002) or Leon Aron’s Russia’s Revolution: Essays 1989-2006 (2007).

22 See e.g. Ekaterina Grigorieva, Oversight for the National Projects, Izvestiia, December 9, 2005 at 1-2.

23 Ekaterina Grigorieva, Dmitrii Medvedev: We Should not Have many Priorities, Izvestiia, December 29, 2005.

during a television broadcast, when he remarked, “[w]e will have no one to work if all the corrupt people are jailed”.  

In essence, Mr. Putin in a rare moment of candor admitted that in order to aggressively investigate alleged acts of corruption and prosecute those suspected of abusing their official positions, such pursuits would have a devastating impact on the Russian Government’s manpower; the day-to-day functioning of the state would be threatened – not to mention jeopardize Putin’s own interests and those of many of his most reliable supporters. It would demand significant resources and could have undesirable consequences. The Putin regime was built on the carcass of the former Soviet state; Putin probably believed that applying the old guard’s methods was essential to ensure domestic stability and preserve the status quo.

A. Mr. Putin’s Rise to Power

Throughout 1999, then-President Yeltsin, his family, and members of his inner circle became increasingly concerned about the possibility that he might be impeached and ultimately prosecuted for financially benefiting by illegal means and for abusing power while in office. Mr. Yeltsin was not convinced that then-Prime Minister Sergei Stepashin would provide him and his family adequate “protection” from such incursions.  

By August 9, 1999, President Yeltsin had apparently reached an understanding with Mr. Putin about what he required, in the way of protection from future harassment, before he would willingly give up the presidency. Mr. Putin was willing to adopt what can only be described as an “expansive view” of the immunities and benefits to which a former president and his family are entitled under the Russian Constitution despite the absence of a legal basis for taking such a position. As discussed below, political expediency trumped the proper interpretation of the Constitution’s vague language on the rights and immunities of former Russian presidents.

Another important consideration in Mr. Yeltsin’s calculus was that the “ceasefire,” which was to end the Russian-Chechen conflict was breaking down. Leading figures within the Russian national security community favored sending armed forces back into Chechnya to finally resolve this festering “problem”. During the first Chechen conflict, Mr. Stepashin served as the Minister for the MVD. Its armed forces had the primary

27 See The New York Time’s On-Line file on Vladimir Putin. Prior to this appointment, Mr. Putin was FSB Director July 1998 until his appointment as Secretary of the Security Council of the Russian Federation, a position that probably gave him more exposure to President Yeltsin’s senior advisors as well as a larger segment of the national security community. This might have helped him increase his contacts beyond persons in the intelligence community. Vladimir Vladimirovich Putin’s Website, http://www.putin2004.ru.
28 In the mid-1990s, Mr. Stepashin worked in the FSB, serving briefly as its Director. See Brief biography of Sergei Stepashin, The Center for the Political Situation of Russia, available at http://www.ancentru.ru/
responsibility to suppress the Chechen “insurgency.” As the conflict dragged on, Mr. Stepashin demonstrated an interest in a negotiated settlement. Thus, it was the view of many senior political and military figures (and presumably President Yeltsin) that Prime Minister Stepashin was not well suited to serve as prime minister if large-scale hostilities with Chechnya were resumed.

Unlike Mr. Stepashin, President Yeltsin could rely on Mr. Putin both to protect him against future legal problems, but also to prosecute aggressively a new fighting in Chechnya. Many Russian political figures feared that unless there was a rapid and decisive victory over Chechnya, separatism would increase within the Russian Federation. After the mysterious Moscow “bombings,” a majority of the Russian population seemed to favor eliminating any threats emanating from Chechnya.

On December 31, 1999, Mr. Putin, as acting president, immediately issued a presidential edict providing Mr. Yeltsin and his family lifetime immunity, which included a complete exemption from arrest, detention or even questioning about their activities. The Edict also prohibited the search and seizure of their property, irrespective of how it was obtained. Furthermore, the former president was to receive a generous pension and be given a permanent staff.

This Edict went into effect immediately. Its broad scope was essential to Mr. Yeltsin, whose popularity was in rapid decline. Article 91 of the Russian Constitution simply states that the president “possessed immunity” what this entailed was an open question. In February 2001, then President Putin arranged the adoption of a law on presidential immunity that essentially formalized all of the Edict’s provisions. After leaving office, Mr. Yeltsin led a quiet life until his death in 2009.

B. “Combating Corruption” and Planning the Not-Quite Post-Putin Era

It took Mr. Putin several years to consolidate his political and economic power. When he first took office he largely explained the country’s corruption problem as an amalgam of a variety of factors, including the absence of the rule of law; Moscow’s failure to exercise effective control over the country’s bureaucracy and regional authorities; and society’s tolerance of corruption as an unavoidable feature of everyday life. This provided him with an excuse to increasingly centralize power in Moscow – to build a “power vertical” with him at its pinnacle.

29 The MVD’s troops were organized into well-equipped military units, they are not lightly armed “law enforcement” personnel. See Serguei Cheloukhine and Charles A. Liberman, Reforming Power Structures: Russian Counter-Terrorism Response to Beslan (M. R. Haberfeld, ed.) in A New Understanding of Terrorism: Case Studies, Trajectories, and Lessons Learned, at 252-52 (2009).


32 Edict of the President of the Russian Federation No. 1763, On Guarantees for the Former President of the Russian Federation and Members of his Family, December 1, 1999.

Nonetheless, upon assuming office he gave lip-service to combating corruption and undertook actions that might give the impression that the problem was being addressed, albeit unsuccessfully. Speaking before the Russian Federal Assembly in July 2000, Putin declared:

Legal nihilism is growing and the public's confidence in the authorities and in justice is falling. Among our priorities must be the struggle against organized crime and corruption. It is these forms of crime that are mercilessly consuming the economy of the country, discrediting the organs of government, and undermining the international authority of the Russian Federation.

The opportunities for bureaucrats to act according to their own whims, to freely interpret the norms of the law, both in the center and in the regions, oppresses businesspeople and creates a fertile environment for corruption . . . .34

Throughout his term of office, Putin, like Yeltsin before him, would appoint individuals to commissions and form special bodies to study and propose various anti-corruption policies. Most of these bodies or commissions were under-funded, met infrequently, and the recommendations produced by them, were seldom implemented, or done so only in a limited fashion. It is difficult to judge whether he engaged in such activities to strengthen himself vis-à-vis his political opponents, cynically manipulate Russians and foreigners, or provide a “smoke-screen” for various seizures of state assets/state takings of private assets.35

In 2007, President Putin had not yet formalized his own plans for his political future. Ultimately, President Putin rejected the idea of running for a third consecutive term. Instead, he chose to arrange for the Federal Assembly to amend the Russian Constitution to vote to transfer many of the president’s powers to the prime minister. As a result, President Putin continues to exercise considerable control from the position of prime minister. Mr. Putin decided to endorse his protégé Dmitrii Medvedev as his preferred successor and there was little doubt that this endorsement would result in Medvedev acquiring Russia’s top-job.36

With the President’s backing, state control over the principal media sources for the people and the promise of “continuity,” the outcome of the 2008 Russian Presidential election was never in doubt. President Medvedev’s first act as president was to make Mr. Putin his prime minister. Although under the Russian Constitution, the president could dismiss his prime minister at any time, Putin was confident that his successor would not

35 The most well-known instance of this is in connection with the Yukos matter. See News about Yukos, including commentary and archival articles published in The New York Times. .http://topics.nytimes.com. See also Ethan S. Burger, Vladimir Putin’s ‘Dictatorship of Law’: Its Potential Implications for the Business and Legal Communities, 13 Eastern Europe Reporter, No. 12 at 1-5 (December 2003) (with Evgeniya Sorokina) (setting out a roadmap more than 9 years ago regarding how the Russian government would use the Russian legal system to seize Yukos’ assets).
do this. Mr. Putin not only had full faith in Mr. Medvedev’s loyalty, but he was confident that the country’s political elite wanted Mr. Putin to maintain the reigns of power. In addition, early in his term, President Medvedev gave support to the proposal to amend the Constitution to extend the Russian president’s term by one year -- the presumption at the time was that Mr. Putin would return to his former post.

About six months prior to resolving the presidential succession, Mr. Putin arranged for the Russian State Duma to amend the Russian Federal Law “On the Procuracy,” which, inter alia, established an Investigative Committee to be the lead body in investigate allegations of high-level corruption. Formerly, the General Procuracy investigated corruption allegations. This law made the Investigative Committee’s Chairman Deputy Procurator General ex officio.

Although the Investigative Committee was described as being “under the auspices of the Procuracy,” its chairman would report directly to the Russian president, rather than the Procurator General, as might be expected. This gave the president the ability to quash any investigations into corruption at the top levels of the Russian government. In certain instances, however, the Procurator General together with other key officials had the authority to force the Head of the Investigative Committee to continue an investigation. Once President Putin arranged for Mr. Medvedev to succeed him, it seemed highly unlikely that the new President would press for the investigation of a matter that Mr. Putin opposed – at the time it seemed doubtful that Mr. Medvedev would threaten his mentor’s interests.

C. A View of the Political Evolution of Dmitrii Medvedev

As former Constitutional Court Justice Tamara Morshchakova observed, there was still much-needed reform on the issue of corruption in Russia, and this became an area that interested President Medvedev.

You'll recall that President Putin named corruption as one of his unfinished tasks, and this relates to the courts as well. Corruption in this sense doesn't just mean the courts, the accepting of bribes [sic]. Corruption means the issuing of illegal rulings as the result of influence on the part of interested parties, often the representatives of the authorities. Therefore the importance of the subject is clear. It is another matter in which methods will be selected in order to resolve this problem.

Numerous commissions studying the corruption problem often discussed the need to increase the salaries of senior government personnel and other state workers. Such thinking can at best be described as unsophisticated that or it may reflect a lack of candor. Many Russian government officials, at all levels, seek state positions so that they would

37 Not surprisingly, then-Procurator General Yuri Chaiko did not view this diminution of authority positively, but the provision remained in the law.
39 Id.
be in a position to extort bribes.40 This is the case both at the highest levels of the Russian government as well as lower levels where officials recognize that it is often more cost effective for businesspersons to pay bribes than deal with frequent audits and inspections, or risk the denial of licenses.41

Increasingly, Mr. Medvedev came to appreciate the complexities and scale of corruption in Russia as well as its consequences.42 He seemed also to become increasingly aware that his world view differed considerably from that of Mr. Putin. Soon after President Putin selected Mr. Medvedev to be his designated successor, the future president devoted more attention to addressing the country’s corruption problem.

Upon assuming office, then-President Vladimir Putin’s hand-picked successor Dmitrii Medvedev made combating corruption a top priority of his presidency. Almost immediately upon taking office, Mr. Medvedev seemed to raise the corruption issue in every speech he delivered or interview he gave. Not only did he assign his staff to develop a program for combating corruption, his actions increased expectations that he would be less tolerant of corruption than had been his predecessors.

Mr. Medvedev has sought to emphasize how corruption was intertwined with many of Russia’s domestic problems, noting that it was not merely a victimless crime through which low-level officials could supplement their incomes.43 In his annual address before the Federal Assembly, President Medvedev identified Russia’s “economic backwardness and corruption” as the principal reasons for many of the country’s problems44 – setting the tone that no longer would government officials or private citizens tolerate corruption.

40 See Ilya Barabanov, Expensive Law Enforcement: Experts say that there is no way to improve the existing police force because the system itself breeds corruption, The New Times, No 19, May 2009 (quoting law enforcement personnel as saying that the cost of buying certain positions are in the $100,000 to $1,000,000 range). For addition information explaining which Russian state bodies are most likely to seek to extort money, the benefit offered the potential bribe payer, and the amount of the bribe sought, see Trace, Trace Bribeline Report Details Bribery Trends in Russia: BRIBEl ine supports anti-corruption and compliance solutions, March 11, 2009, available at https://www.traceinternational.org.
41 Author Unidentified, RF govt to propose toughening responsibility of business-Putin, TASS, December 8, 2009.
43 For a description of President Medvedev’s anti-corruption efforts, see relevant pages of the presidential website in English http://eng.kremlin.ru.
President Medvedev’s initiative was unlikely to have been taken without his patron’s blessing, which seems to have had significant ramifications.

President Medvedev’s anti-corruption activities received a favorable reaction both within Russia and abroad. Perhaps, as a result of such favorable responses, Prime Minister Putin did not fully abdicate his role in the fight against corruption even after leaving the country’s top seat. In fact in his own state Addresses to the Federal Assembly during his term as President, Mr. Putin would often raise the issue of corruption. Nonetheless, it was only later in his role as Prime Minister that Mr. Putin began to operationalize the term.

In his inaugural address, President Medvedev did not discuss the topic of corruption. Nonetheless, he sought to convey a devotion to the development of the rule of law in the country, which he saw as a key component of societal stability and economic health.

With his background in law, it is not surprising that rule of law would be emphasized in his anti-corruption campaign. Not drawing specific attention to the corruption issue may have been a conscious choice. In doing so, he would avoid the possibility that those opposed to its enactment would be able to kill his initiative at the outset. Mr. Medvedev, his closest advisors and others who have a reputation in the anti-corruption area were brought in to develop and execute the National Anti-Corruption Plan. In order to ensure momentum, he unveiled a complex and inter-related set of tasks.

Almost from the announcement of the anti-corruption program in Russia, various interest groups, senior officials within state bodies, and specialists at institutes and within academia expressed skepticism over whether this latest anti-corruption effort could fulfill its declaratory goals or even was intended to do so. Many of the program’s aspects

45 The Russian Premier website contains numerous items relating to corruption and Mr. Putin’s activities in this area, available at http://www.premier.gov.ru; see also the website of Intellectual Russia for the texts of Mr. Putin’s speeches to the Federal Assembly when he was president, available at: http://www.intelros.ru. In deference to his mentor, President Medvedev appointed Kremlin Administration Head Sergei Naryshkin as the Chairman of the Anti-Corruption Council. Over the years, Naryshkin held numerous positions under President Putin including Deputy Prime Minister of Russia for external economic activity in February 2007. In May 2008, President Medvedev appointed him Chief of the Presidential Administration of Russia.
46 These tasks included ensuring that:
1. drafts of the federal laws were prepared, as set out by the Plan for review by the President;
2. regular presentations on the state of the implementation of anti-corruption efforts, for the Chairman of the Council of the President occurred, a report on the course of implementation of the Plan was prepared on a regular basis, and new proposals for improving anti-corruption efforts were undertaken;
3. a system to compensate persons harmed by corruption was created;
4. new tasks to the military, law enforcement and regulatory bodies (including the Investigation Committee and address the issue of making MVD and Procuracy personnel), and new bodies be created as appropriate;
5. criminal and civil forfeiture conflict of interests were improved;
6. governmental procedures would be consistent with new laws issued under the Plan;
7. an anti-corruption portion of the official website of the President of the Russian Federation in both Russian and English was operational; and
8. a draft of the federal law "On countering corruption" was prepared for action by the State Duma.
Available at http://eng.kremlin.ru.
represented a threat to entrenched economic and political interests in the country. Whereas some opponents of the project sought to protect their parochial interests, many people recognized that one could not merely mandate the elimination of corruption through legislation. Corruption was far too deeply rooted in Russian society. However, Medvedev spoke as follows:

I place particular importance on the fundamental role of the law, which is the cornerstone of our state and our civil society. We must ensure true respect for the law and overcome the legal nihilism that is such a serious hindrance to modern development.

A mature and effective legal system is an essential condition for economic and social development, supporting entrepreneurship and fighting corruption. But it is no less important for increasing Russia’s influence in the international community, making our country more open to the world and facilitating dialogue as equals with other peoples [sic].

Finally, true supremacy of the law is only possible if people feel safe in their lives. I will do everything I can to ensure that the safety of our citizens is not just enshrined in the law but is genuinely guaranteed by the state.

These tasks I have named call for day-to-day cooperation with all the responsible political forces in our society, with all the institutions of civil society and with the parties and the country’s regions.

President Medvedev eventually had his staff develop a National Plan for Countering Corruption (hereinafter the “Plan”) that allocated tasks and set milestones to be completed before the end of the year. President Medvedev set June 25, 2008 as the date when the Plan was to be ready. As part of the process, Medvedev sought to include state bodies, research institutions and non-governmental organizations not specifically assigned tasks under the Plan. These entities took the opportunity to produce recommendations to both promote their ideas and ensure their inclusion in the creation and implementation of the new anti-corruption system. The manner in which the Plan was implemented was highly political with no group wanting to be excluded from either the preparation of the Plan or its implementation.

The Plan culminated with the enactment of the anti-corruption law, the principal features of which required:

(i) state officials to declare income & net wealth (existing requirement);

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47 For an excellent overview of the problem of political corruption in Russia and why measures to combat it to date have failed, see Michelle Man, Political Corruption in Russia: An Evaluation of Russia’s Anti-Corruption Strategies, 2 POLIS Journal, Winter 2009, available at: http://www.polis.leeds.ac.uk
48 Dmitrii Medvedev, Speech at Inauguration Ceremony as President of Russia, May 7, 2008, at: http://eng.kremlin.ru.
50 There is a great diversity of views concerning whether the requirement that certain state officials disclose their income is meaningful as the rules are easily circumvented. While some regard these measures as desirable, many Russian citizens are cynical. According to one Moscow Times story, “[w]hen senior officials declared their incomes and those of their wives and children last month, some claimed that they
(ii) state officials to report “ratting” on corrupt colleagues, i.e. inform on others’ unlawful conduct;

(iii) observe conflict of interests rules,\footnote{The Russian Audit Chamber was assigned the task of systematizing the rules governing the concept of conflict of interests for state workers. See Audit Chamber Website, Commission of the Accounting Chamber of the Russia Federation for the observance of requirements for officials conducting state civil service and the regulation of conflicts of interest, available at http://www.ach.gov.ru/ru/comm.} and

(iv) tenders for state purchases to be held on a competitive basis (eliminate loopholes and give teeth to existing rules and procedures).

For these measures to succeed would require constant monitoring – such as verifying that taxes were used for proper purposes and that the Anti-Corruption Law’s provisions were being observed.

Since 1994, Russia has had a Criminal Code which contained numerous provisions treating various acts of a corrupt nature as criminal offenses. Under Russian jurisprudence until an offense is formally incorporated into the Criminal Code it cannot be punished. Over time, legislators enacted new laws which seemingly were to be enforced by Russian law enforcement and regulatory personnel, but they lacked full force until incorporated into the Criminal Code. Even after these new offenses were incorporated into the Criminal Code, law enforcement and regulatory personnel as well as judges had difficulty applying them.

While legislators do not have great difficulty drafting articles that defend and punish offenses like murder, robbery and the payment/receipt of a bribe, corruption-related crimes are different. As the Russian economy became more sophisticated, certain acts involving anti-monopoly practices and the buying and selling of securities came to be regarded as illegal. Nonetheless, given the sophistication of such evolved corruption acts, it has become more difficult to define the elements of crimes. For example, how does one anticipate the full spectrum of actions that might be classified as using one’s position in the government or in a private business entity for personal gain?

Similarly, in the abstract, it is not always easy to define what constitutes illegal breaches of fiduciary duty or conflicts of interests. Many questions could only be answered over time, such as how extensive the law should be when defining the relatives and friends of individuals believed to have engaged in wrongful conduct. In some circumstances favoring certain parties over others can be illegal, while in other contexts it is not.

Another problem with the drafting of the latest Russian anti-corruption measure was one of harmonization. In isolation, it is not always possible to envision which laws would need to be amended to be consistent with the Anti-Corruption Law and the Criminal Code. It was one thing to declare that it was necessary to undertake a systematic examination of a huge volume of laws and other normative acts; it was quite another to perform the task properly. As stated above, it is easy to deal with easily identifiable forms of corruption such as bribery or improperly awarding a government contract to a

owned tiny apartments and ancient cars -- while others said they earned as much as $11 million and owned snazzy Porsches and Lexuses.” Anna Malpas, Anti-Graft Measure Fails to Impress the Public, The Moscow Times, May 4, 2009 at www.cdi.org.
bidder who does not deserve it. It is quite a different feat to establish that one has acted on inside information, however, such as the granting of licenses by buying land the value of which may go up.

As Moscow was focused on dealing with new rules in the anti-corruption arena, other areas of activity did not stop. For example, in mid-2008, Russia adopted a law that imposed severe restrictions on foreign investment in 42 sectors deemed strategically significant. This law has discouraged foreign investment in numerous areas of the Russian economy and hindered the development of the country’s banking sector.

Such a law may be inconsistent with Russian domestic or treaty obligations. The law may have been adopted to protect the jobs of a large number of Russian citizens, protect “infant industries,” or provide excess profits to particular individuals. Whether this type of legislation is a legitimate exercise of state power or the product of “corrupt motives” is often difficult to determine and even more difficult to prove – it was not clear what should be done in such cases.

In his first Annual Address to the Federal Assembly, Medvedev spent a considerable amount of time devoted to the problem of corruption as a means to communicate that he would not tolerate business as usual.

Eventually, the State Duma enacted the Federal Law of the Russian Federation No. 273-FZ “On Counteracting Corruption” (hereinafter the “Anti-Corruption Law”), It became the centerpiece of President Medvedev’s anti-corruption effort. While the Anti-

53 In fact, banks have played an important role in tax evasion and money laundering because until recently, businesses were permitted to maintain “confidential” bank records that were not accessible to the tax police. See Author Unidentified, Confidential bank information inaccessible to Police, SKRIN Market and Corporate News, December 2, 2009 at www.allbusiness.com.
54 Specifically, President Medvedev stated at great length and in great details that “ Corruption is the greatest enemy of a free and democratic society” See Presidential Address to the Federal Assembly of the Russian Federation, November 12, 2009. An English translation of the complete text of the speech is set out on the Presidential website at http://eng.kremlin.ru.
55 For the purposes of “The Anti-Corruption Law”, corruption is defined in Article 1 as “(a) the abuse of a service position, the giving of a bribe, the receipt of a bribe, the abuse of authority, a commercial bribe or other illegal use by physical persons of their official positions despite that legal interests of a [legal entity] or of the state for the purposes of receiving privileges such as money, valuables, other property or services of a material character, other property rights for oneself or for third persons or the illegal presentation of such benefit to the aforementioned person by other physical persons” or “(b) the accomplishment of actions, indicated in subpoint “a” of the present point, in the name or in the interests of a legal person.”

Even though Russian legislators were able to reach a consensus on what constitutes corruption, at least in the abstract, in practice it can take many forms. Actions regarded as corrupt in one culture may not be deemed so in another. Furthermore, even individuals within the same culture may have different opinions. Notably, the signatories to the United Nations Convention against Corruption could not even reach agreement on what corruption was. For the full text of the Convention and related materials, see relevant pages of the United Nations Office on Drugs and Crime website, available at http://www.unodc.org.

Russia signed and ratified the Convention against Corruption and is currently undertaking its own efforts to combat corruption. In late 2009 a meeting was held in Doha to discuss establishing mechanisms for independent monitors to report signatories’ compliance with the Convention. Maria Selivanova, Russia Pretends to Fight Corruption, RIA Novosti, November 18, 2009, at http://en.rian.ru.
Corruption law also provides for detailed procedures and allows for exceptions under special circumstances, the manner in which the new normative act law is being implemented is uncertain.

For example, what roles do political influence and corruption play? Most energy companies have discovered that one needs tremendous leverage to prevail against the Russian government and its instrumentalities in the event of a dispute in Russia. This calls into question the rules and procedures newly invigorated by the Medvedev administration.

This view seemed consistent with President Medvedev naming Alexander Bastrykin - an individual with close ties to Prime Minister Vladimir Putin - to be the Investigative Committee’s First Chairman. Nonetheless, the amended Law on the Procuracy probably does not operate as intended and President Medvedev seems willing to acquiesce to the arrangement.

At the same time, Mr. Medvedev was not convinced that the existing state structure and its personnel could be relied upon to implement an anti-corruption plan. He needed someone with the relevant experience to circumvent the existing structure. Furthermore, he probably wanted someone that would be beholden to him as opposed to Prime Minister Putin, who seemed disinclined to shake up the bureaucracy, even though the Russian bureaucracy’s corruption was perhaps the largest component of the corruption problem in the country.

Mr. Stepashin is now in charge of the Audit Chamber of the Russian Federation. Furthermore, President Medvedev has assigned the Audit Chamber key responsibilities and significant powers in current anti-corruption efforts. One is compelled to inquire whether these are random events -- mere coincidence without any political significance. Another factor that may have entered President Medvedev’s calculus is that Prime Minister Putin pushed aside Mr. Stepashin in his pursuit of the presidency.

II. **An Analytical Framework for Thinking about Corruption**

Ultimately, corruption involves the improper use of authority to gain wealth or increase one’s political power. Conceptually, it can be useful to divide the commercial transactions that occur in the country into three categories.


57 Individual acts of corruption can also conceptually be divided, such as:

(i) Petty corruption that only has an impact on the bribe-payer and recipient (e.g. militiamen extort briber from car drives for allegedly speeding, or, insider-trading leading to a fraud on the market)

(ii) Individualized public corruption, where bribes are extorted/volunteered by owners of a business (e.g. hospitals, hotels, manufacturers, etc.) that might not otherwise pass inspection; or licenses are obtained by someone who would otherwise not be entitled to a license.

(iii) Bribe is paid during the tendering process for government contracts or privatization leading to the construction of unsafe and/or costly public projects (i.e. bridges, tunnels, etc.) or a where a natural resource is purchased for a fraction of its market-value. Both of these types of bribe-related offenses harm
Vital – ‘high’ stakes (e.g. fixing of major court cases, governmental approvals where recipient is not entitled to them, awarding of contracts, *inter alia*).

Functional – ‘medium’ stakes (e.g. obtaining governmental approvals to which one is entitled, but cannot attain without paying a bribe).

Routine – ‘low’ stakes (e.g. paying a bribe to avoid receiving a “speeding” ticket or have low level official overlook minor health/safety violations).

Under this framework, the greater the payoff for a corrupt act, assuming the risk of detection and punishment are the same, the more persons generally are willing to engage in unlawful acts. In most instances, a majority of corrupt acts are committed in the pursuit of money. To a lesser extent, corruption is the result of one’s desire to increase their political power – that is the ability to get others (both individuals and institutions), to further the primary beneficiary of the corruption.

The furtherance of a corrupt scheme by its nature involves getting others to commit corrupt or unsanctioned acts, whether deemed to be a crime or an administrative offense, which might be punished by a reprimand. Most corrupt acts are probably committed by persons exercising executive authority. Corrupt acts are also engaged in by legislators and judicial personnel. In a sense, a market develops in which forces of supply and demand determine the “cost” of obtaining a corrupt outcome.

Not surprisingly, all national governments lack the capacity to fully and uniformly enforce their criminal laws or ensure the honesty and effectiveness of their civil servants. Universally, law enforcement bodies and quality control managers operate under severe budgetary, material, and personnel constraints as well as in situations where they are constantly dealing with competing priorities. Only a fraction of the crimes committed or abuses of power by governmental officials are formally reported to the appropriate authorities. Thus, it should come as no surprise that not all crimes are punished or instances of inappropriate government conduct resolved or publicized.

Of those instances of crime or instances where government officials fail to perform their expected duties, it is infeasible to investigate and appropriately punish every culpable individual. Apart from also being constrained by limited material and personnel resources, procurators or management personnel must have evidence before initiating proceedings against corrupt officials. Realistically, meeting evidentiary burdens will only occur when those responsible for the conduct of their subordinates are reasonably

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societies since governments receive less than they are otherwise entitled, arguably depriving government of fund needed to pay for public services (assuming that the government would provide such services).


59 The cost for obtaining a positive outcome to which one is not entitled varies according to numerous factors, such as the personalities of the persons involved, the perceived benefits and risks involved, the financial circumstances (i.e. the “going rate”). These variables are sui generis and may include (i) location where the bribe is paid – usually depending on the wealth of the area), (ii) by the sector (the more profitable the sector, the higher the bribe), and (iii) the number of people who must be bought off (the greater the number the higher the risk not merely of being apprehended and punished, but also making one susceptible to future blackmail or as the Russians say kompromat).
confident that they will prevail and that there will not be any negative consequences for them personally.

In addition to limited means and evidence, is the issue of priority. In general, law enforcement personnel attach the highest priority to the most heinous crimes. Other persons responsible for ensuring that state workers comply with the law may seek to maximize their “success” rate in response to senior government officials responding to pressure to uncover and punish corrupt acts. Not surprisingly, many within the law enforcement community believe that the best allocation of their time and resources is to concentrate on high visibility cases in the hope of deterring future crimes (and furthering their careers). Capturing ‘big fish’ tends to be the priority of anti-corruption efforts in Russia.

Of course, it is difficult to determine in advance how complex a matter may turn out. As a result, there is always the risk that investigating transgressions may reveal deficiencies or wrongdoing conducted by others, who were not the subjects of the initial investigations. In addition, attempting to solve certain crimes may expose one to personal danger and this may discourage other persons or organizations from lending assistance on matters in the future. This is the environment in which anti-corruption campaigns are carried out. The particular circumstances may differ, but the personnel involved often have to deal with common issues.

The two case studies most frequently cited as successful efforts in reducing corruption – Hong Kong and Singapore- may not be feasible in Russia. Both Hong Kong and Singapore are Asian islands with small populations dispersed in a small area where independent anti-corruption commissions played a central role in the process, but that they also combined senior political support and civil service reform. The two polities also share a common legal legacy from Great Britain, both having been former colonies. This might suggest that the models that have succeeded there are of limited relevance to the situation in Russia. Russia’s approach of increasing state officials’ salaries seem not to have been the decisive element (though increasing low salaries may have been one factor that contributed to the result).

60 These official bodies should not be confused with certain Russian civil groups, including the so-called “Independent Corruption Commission” that appeared in May 2009. These entities had the quality of being a collection of disorganized groups of citizens or perhaps government-sponsored NGOs. See Peter Fedynsky, Grassroots Effort Emerges to Fight Russian Corruption, Voice of America, May 15, 2009 at www1.voanews.com.

III. **How Extensive is Corruption in Russia?**

In 2008, the Russian INDEM Foundation estimated that $318 billion in bribes are paid each year to Russian officials.\(^{62}\) This figure is only slightly more than the Chairman of the National Anti-Corruption Committee Kirill Kabanov’s estimate of $300 billion. The amount required to effectively bribe a Russian official more than doubled between 2008 and 2009\(^{63}\). It is important not to overlook that bribery is only a small subset of actions that can be characterized as corruption, but it seems to receive a disproportionate amount of attention in the analysis of corruption.

Perhaps the greatest example of corruption in Russia was that while there were severe restrictions on normal people working within state bodies, senior officials were under no such restrictions. Average state employees were precluded from owning stocks in private companies, and participating in other state-sponsored entrepreneurial activities. Indeed, any outside income earned by these low-paid bureaucrats was largely from freelance writing or teaching. Such preclusions served two purposes: firstly, there was less of the pie to share and secondly, this provided the Russian political leadership with a way of rewarding their most loyal subordinates.

A. **The Patronage System – Crony Capitalist**

This proved to be a highly lucrative patronage system which the political leadership could use to ensure the support of key officials. Due to what could only be a deliberate legal loophole, such individuals could serve on the boards of directors of the largest corporations - and chair the boards at companies where the state holds a controlling interest. Senior Deputy Prime Minister Dmitrii Medvedev [was] chairman of the board at Gazprom; Senior Deputy Prime Minister Sergei Ivanov [was] chairman of the board at the Unified Aviation Corporation. Industry and Energy Minister Viktor Khristenko [was] the *Transneft* Chairman, and Defense Minister Anatoly Serdyukov [subsequently] accepted the same position with Khimprom in Volgograd.

Experts say that this nominal presence on the boards of directors does not mean that civil servants run the companies in question. This is not what they are there for. Rather, the membership enables them to receive bonuses amounting to millions of dollars a year, i.e. much more than what these people would otherwise be paid as Cabinet ministers\(^{64}\). These bonuses are entirely lawful. Along with everything else, such promotions ensure a civil servant's absolute loyalty to his superiors because this "additional post" may easily be taken away again. It bears some resemblance to the feudal system when a nobleman’s loyalty earned him estates and lands that literally fed him and that could always be

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\(^{62}\) The INDEM Foundation’s website is available at [http://www.indem.ru/russian.asp](http://www.indem.ru/russian.asp) and includes materials dealing with corruption, judicial reform and related issues. INDEM is an excellent source of legal and sociological developments in Russia, but as is understandable its work if often of a descriptive or theoretical nature.


\(^{64}\) Their official government salaries are almost 100,000 rubles a month, which is more than enough from the standpoint of ordinary citizens.
confiscated again and turned over to another nobleman. In turn, the nobleman might pay
taxes, provide supplies (e.g. food), or arm troops/conscripts for the military.

According to specialists, Russia owes its appearance of a new generation of oligarchs to
this practice. There are "old" oligarchs (the people who bought assets from the state for a
song back in the 1990s) and "new" ones (the ones who manage state companies). In fact,
these so-called new oligarchs are usually more powerful and wealthier than the old ones.
As on April 25, Gazprom was worth $235.5 billion, Rosneft was worth $94 billion, and
Russian Railroads was worth $550 billion.

Boris Kagarlitsky, a director at the Globalization Studies Institute, describes this practice
as "a modern form of privatization." According to Kagarlitsky, the civil servants are
essentially oligarchs insofar as this term denotes people who use not only business to gain
access to government, but also use government as a business tool.

The state says that placing officials on the boards of corporations is necessary to ensure
"effective management" and "correct mistakes made in the course of privatization." State
officials in major companies and corporations are supposed to prepare them for a new
and improved round of privatization. A similar strategy was employed in Ukraine, where
a repeated privatization of the Kryvorizhstal steel mill after the Orange Revolution earned
the state a hefty sum. In Russia, however, it is the other way round. Three major Russian
companies that are of vital importance for the infrastructure of the national economy
(Gazprom, Svyazinvest, Russian Railroads) are selling assets instead of consolidating
them.

Another nominal motive of dispatching civil servants to the positions of power in major
companies concerns the so-called war on corruption. This is only a pretext, of course.
The state wants its representatives in major companies and corporations so that they can
look out for state interests.65

Despite the existence of this blatant example of corruption, these appointments occurred
at a level that did not openly have an impact on Russian citizens and most businesses.66

65 Unidentified Author, State Officials are Nominal Directors of Russian Corporation, Novye Izvestia, April
66 Id., see e.g. The same article identified some of these arrangements: Some state officials having posts in
state-run companies: (i) Senior Deputy Prime Minister Dmitrii Medvedev - Chairman of the Board,
Gazprom, (ii) Senior Deputy Prime Minister Sergei Ivanov - Chairman of the Board, Unified Aviation
Corporation, (iii) Deputy Prime Minister Alexander Zhukov - Chairman of the Board, Russian Railroads,
(iv) Deputy Prime Minister Sergei Naryshkin - Chairman of the Board, Channel One TV Network (ORT),
(v) Industry and Energy Minister Viktor Khristenko - Chairman of the Board, Transneft, (vi) Agriculture
Minister Alexei Gordeyev - Chairman of the Board, RosAgroLeasing, (vii) Defense Minister Anatoly
Serdyukov - Chairman of the Board, Khimprom, (viii) Finance Minister Alexei Kudrin - Chairman of the
Board, Agency for Deposit Insurance, (ix) Economic Development Minister Herman Gref - Chairman of
the Board, Russian Venture Company, (x) Transport Minister Igor Levitin - Chairman of the Board,
Sheremetevo International Airport, (xi) IT and Communications Minister Leonid Reiman - Chairman of
the Board, Svyazinvest, (xii) Sergei Sobyanin, Head of the Presidential Administration - Chairman of the
Board, Thermal Emission Elements (TVEL), (xiii) Igor Sechin, Deputy Head of the Presidential
Administration - Chairman of the Board, Rosneft, (xiv) Presidential Aide Viktor Ivanov - Chairman of the
Board, Almaz-Antei Air Defense and Aeroflot; (xv) Presidential Aide Sergei Prikhodko - Chairman of the
Board, Tactical Missile Weapons, and (xvi) Presidential Aide Igor Shuvalov - Member of the Board, Russian Railroads.
Ms. Panfilova’s perspective is that while certain anti-corruption laws and related measures have been enacted and there has been considerable discussion as well as actual efforts undertaken to implement them, there has not been nor will there be a systematic effort to apply the applicable anti-corruption rules to all officials, irrespective of their governmental position or political connections.\(^{67}\) We provide in an annex Transparency International’s Global Corruption Barometer for 2009 to illustrate how widespread Russia’s corruption is at present.

The information contained in the Annex suggests that corruption within the Russian judiciary is at approximately the same level as other parts of the government. This suggests that the Russian courts are not a sanctuary from corruption but are rather part and parcel of Russia’s corruption practices.\(^{68}\) The most recent judicial reforms do not aggressively address the problem.\(^{69}\)

\(\textbf{B. }\textit{Room for improvement?}\)

There is a tendency of some when examining corruption to narrowly focus on the payment of bribes to gain or obtain business or receive special treatment from government officials. An overemphasis on seeking to limit corruption by strengthening criminal law enforcement against the payment of such bribes may be counterproductive. The use of civil suits by private parties harmed by corruption represents one promising avenue to explore.\(^{70}\)

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\(^{67}\) Maria Selivanova, Russia Pretends to Fight Corruption, RIA Novosti, November 18, 2009 (According to the Head of Transparency International Moscow Branch, Elena Pamfilova, the Russian Government has to move beyond sloganeering and actually enforce the law). Some western analysts see the Russian government’s anti-corruption efforts as a cynical exercise intended to preserve the power of the ruling class – that is using the law as a political weapon in a country where the distinction between governmental bodies and criminal organizations are blurred at best. See Steve LeVine, Putin’s Labyrinth: Spies, Murder, and the Dark Heart of the New Russia (2008), Edward Lucas, The New Cold War: How the Kremlin Menaces both Russia and the West (2008), David Satter, Darkness at Dawn: The Rise of the Russian Criminal State (2003), and Yuri Felshtinsky and Vladimir Pribylovsky, The Corporation: Russia and the KGB in the Age of President Putin (2009).

\(^{68}\) See Anastasia Kornya and Natalia Kostenko, Russian courts are biased – experts, Vedomosti, October 30, 2009 (courts are not independent of government) and BBC Website’s Russian Service, Judge discusses pressure on the part of the Kremlin, May 13, 2008, available at: http://news.bbc.co.uk/ see also Peter Finn, Hopes for Court Reform Stir in Russia; Judge's Testimony Describing Political Pressure Seen as Hint of Medvedev's Intent, The Washington Post, at A-11, June 9, 2008 and Galina E. Enyutina, Corruption in Russian Judicial Bodies, in Organized Crime, Terrorism & Corruption 18-30 (2002), available at policy-traccc.gmu.edu). Ms. Enyutina’s study outlines the structure of the Russian court system, the manner by which judges are selected, factors that contribute to the existence of corruption, and offers suggestions for improving the situation.

\(^{69}\) Leonid Nikitinskiy, In Other Words: Presidential Initiatives on Judicial Reform Risk Being 'Mere Amendment to Judicial Lexicon', Novaya gazeta, January 13, 2010, (contending that certain reforms governing review of judicial decisions not only are unlikely to have much of an effect, but the delay in putting such reforms in place illustrate the inertia in the court system despite the great need to address the corruption problem).

Taking advantage of commercial/market tools is often overlooked. For example, private litigation may offer opportunities to fight corruption, for example in the tender situation. Identifying creative ways to discourage managers to tolerate corrupt activity has not been sufficiently tapped. Similarly, contracts that would not have been concluded but for public or private acts of corruption could be treated as void.71 Lastly, we can look to the US’ private approaches, and the use of shareholder derivative lawsuits in particular, for more supply-driven approaches to anti-corruption projects72.

Higher due diligence in the area of mergers and acquisitions could help combat corruption was well. Federal Anti-Monopoly Service is charged with approving mergers. If in the course of a merger, a government official profits handsomely, albeit illicitly, conventional anti-corruption tools would not detect mush misfeasance since no actual bribe may have occurred. The Anti-Monopoly Service could assist in detecting certain corruption acts that may elude traditional anti-corruption detection agencies.73 Private business could play a role in eliminating such illicit profit-making schemes.

Not surprisingly with respect to Russia, opinions will differ over whether corruption constitutes an insurmountable problem and whether efforts allegedly taken to date have actually reduced corruption or heightened awareness of it. Furthermore, there is a lack of unanimity as to whether policies formulated to combat corruption are indeed genuine or merely symbolic.

Without a doubt economic crime and corruption serves as a deterrent to both investment and economic development.74 According to the Dow Jones Survey of 182 corporate executives worldwide:

51% of companies delayed key business plans such as new business partnerships and entry into new or developing markets and another 14% abandoned them completely because of legal questions arising from unclear anti-corruption regulations. In addition, 59% delayed and 11% abandoned key initiatives because they could not get the information they needed to adequately assess the corruption risk.

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71 See Mathias Nell, Contracts Induced by Means of Bribery - Should they be Void or Valid?, Nr. V-53-07, Passau University’s Internet Center for Corruption Research, (2007), at http://www.wiwi.unipassau.de. In fact, Professor Johann Graf Lambsdorff’s Center has considered some of the most innovative concepts for not merely applying technology to combat corruption, but also proposals for modifying aspects of commercial law to create additional disincentives to engaging in corrupt behavior.


73 Unidentified Author, Medvedev orders government to study new legislation for signs of corruption, ITAR-TASS, October 26, 2009.

IKEA’s travails with corruption in Russia are well known. What is particularly disturbing about IKEA’s difficulty to operate in Russia is that it did not threaten the economic well-being of a major domestic competitor. Rather, IKEA was filling a huge void in the Russian market and would be bringing a major tax-payer to the locales in which it located. Yet, it seems that many Russian officials chose to use their official positions as means to extract personal income. This situation does not seem limited to large foreign corporations but to small and medium businesses, both Russian and foreign, alike.

In November 2009, the global accounting firm, Pricewaterhouse Coopers came to the conclusion that either Russia has the highest level of economic crime in the world or the most honest people. Since the crisis began, 71% of surveyed companies said they were victimized by economic crime, and nearly half of the respondents live in fear of their assets being stolen.

This is an area where it is difficult to develop an accurate gauge of the problem. Analysis of the issue of corruption in Russia is heavily dependent on the financial and political importance of relevant commercial activity and the Russian interests with the greatest concern in the outcome.

Determining the “consequential damages” caused by corruption to Russian society is far more difficult than estimating the amount of money that illegally changes hands. There is a vast diversity of views concerning its causes, economic consequences, political ramifications and societal costs, both within specific countries as well as globally. Part of the reasoning for differing opinions is the difficulty of determining what to measure in order to ascertain corruption’s costs. Furthermore is the issue of developing a reliable or at least defendable methodology to measure corruption. Suffice it to say, there are high costs incurred by a highly corrupt society. In February 2010, 12,000 protesters took to the streets in sheer frustration over the Russian government’s performance of late. One government opposition group stated that the crowd was the largest anti-government demonstration in Russia since 2001. Russia is no novice to social and political revolutions. If the leadership wants to hang onto their public seats and private profits, it must do more to demonstrate that the ‘corruption problem’ is being dealt with.

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76 Paul Goble, Russian Officials Acting Illegally Now Pose a Greater Threat to Businesses than Do Ordinary Criminals, Window on Eurasia, February 25, 2009, at: http://windowoneurasia.blogspot.com. According to journalist Nikolai Dzis’-Voynarovsky, “...law enforcement personal are [now] interfering with business twice more than are bandits...” Id.


IV. **Does Medvedev Really Want to Create a “Rule of Law” State?**

In most countries where the level of corruption is high, organized crime is active for two reasons: first, such organizations flourish in such settings and a closely related second, such organizations are drawn to operate in such inviting settings. Russian organized crime is active in numerous areas such as the drug trade, financial fraud, human trafficking, importation of goods without the payment of customs duties, illegal weapons exports, money laundering, protection rackets, etc. Frequently, organized criminals pay bribes to law enforcement personnel and more senior government officials, *inter alia*, to gain their cooperation or, at least, prevent interference with their criminal activities.79

In the 1990s, it was often difficult to distinguish between organized crime and legitimate business practices, particularly in connection with privatization.80 Subsequently, it became increasingly difficult to distinguish between certain organized crime figures and government officials.81 It is not readily apparent whether we had a situation of government capture by criminal groups, or that criminal groups were working for government officials.82 In any case, Russian organized crime groups increasingly took on the characteristics of other such groups, except that they seemed more financially sophisticated. Not surprisingly, Russian law enforcement personnel increasingly looked to other countries experience in combating organized crime, for example Italy.83 However, as current anti-corruption enforcement bodies lament, technology is often several years ahead of anti-corruption laws or detection mechanisms.

Given the evolution of corruption actors and their modernized techniques, it is not surprising that nearly a year after the enactment of the Law, the Investigation Committee had still not completed the preparation of a list of offenses falling under the rubric of

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79 Numerous books and articles have been written about Russian organized crime a good deal of them focusing on its evolution into a transnational operation- from a purely domestic operation to one that largely encompassed (and limited) its activities to the successor states of the Soviet Union and other neighboring countries, see e.g. Stephen Handelman, *Comrade Criminal: Russia's New Mafiya* (1997); Federico Varese, *The Russian Mafia: Private Protection in a New Market Economy* (2001); Mark Galeotti, *Russian and post-Soviet organized crime* (2002); James O. Finckenauer and Yuri A. Voronin, *The Threat of Russian Organized Crime* (2003); and Joseph D. Serio, *Investigating The Russian Mafia* (2008).


82 See the World Bank Institutes website, State Capture and Influence. This page contains numerous links to papers and articles on this topic, available at: http://web.worldbank.org.

83 Vladislav Kulikov, *The Mafia is mortal, Rossiskaia gazeta,* October 27, 2009, at http://www.rg.ru. Italy has found the confiscation of property to be a useful tool in combating organized criminal groups. Article 104.1 of the Criminal Code of the Russian Federation envisions the confiscation of property pursuant to a court order as a form of punishment under a number of circumstances – it may be appropriate for use against organized crime groups, including those holding assets abroad. At the same time, one needs to be cautious to in order to prevent the abuse of this form of punishment.
“corruption.” Without such a list it is not possible to properly determine the extent of corruption in Russia and develop appropriate measures to counter it. Even though Mr. Bastrykin was not formally a subordinate to the Prosecutor General he insisted that the Procuracy as a whole, along with other relevant agencies, would help develop this list. The sincerity of Mr. Medvedev’s anti-corruption campaign hangs in the balance of Mr. Bastrykin’s promise.

While the Russian Criminal Code contains a chapter dealing with crimes against civil service and local self-government bodies, not all the offenses that could be classified as “corruption” are sufficiently identified to properly implement the Anti-Corruption Law. Furthermore, Mr. Bastrykin insisted that “…in order to investigate corruption cases faster, [it was necessary to ask the presidential administration to propose changes to the Code of Criminal Procedure [explicitly granting] the Investigation Committee the authority to request foreign legal assistance in corruption cases…”

No such changes were proposed by Mr. Medvedev and consequently, a consensus seemed to emerge that the new Russian President was destined to fail in his objectives vis-à-vis corruption. In order for Mr. Medvedev to be “successful” to any degree in reducing the level of corruption, he needed to manage public expectations by increasing awareness of its scope, find allies who would benefit from his policies, and minimize confrontations with institutions and individuals who would regard his actions as a threat. In addition, while the Russian President seemed to appreciate that genuine judicial reform would play a critical role in genuinely combating corruption, it remains far from clear that he can accomplish this without the full support of the senior level of the judiciary.

It now has been more than a year since the Anti-Corruption Law was enacted in Russia. Given the ambitious task of reducing both public and private sector corruption, it is admittedly too early to fully evaluate the Anti-Corruption Law’s impact. Moreover, the situation is likely to change over time. Furthermore, it would be irresponsible to ignore three factors that loom largely on developments to date.

Firstly, neither corruption nor its impact can be measured with reasonable confidence. Polls measure perception and not objective reality. For example, an increase in the number of reported instances of corrupt acts to the authorities can have numerous explanations: individuals are more willing to report acts of corruption in expectation that their activism may have positive consequences, the authorities are more willing to collect and maintain data on corruption (even if they are not usually willing to act on it), the

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86 See Susan Rose-Ackerman, Corruption and Government: Causes, Consequences and Reform (1999).
87 See Richard Rose and William Mishler, Corruption as Perceived and Experienced: Russia as a Test Case, Centre for the Study of Public Policy, University of Aberdeen, Studies in Public Policy No. 458 at 26, 29-30 (2009) (noting the discrepancy between the perception and experience in Russia as well as the apparent lack of impact of corruption on regime support – suggesting an exaggeration of the extent of corruption in Russia).
level of corruption has actually increased or persons perceive actions, and/or formerly
deemed acceptable to now be manifestations of corruption.88

Secondly, Russia’s present economic structure seems to have increased the importance of
bureaucrats and their decision-making power. This situation has slowed the maturation of
a market economy and apparently increased the willingness of small and medium
entrepreneurs (who usually lack strong political backers) to pay bribes to government
officials. This situation was particularly evident during the initial period following the
global financial crisis where it seemed that “favored” business persons received a
disproportionately large share of state aid (subsidies).89 In the near-to-mid term, whether
anti-corruption efforts have altered the distribution of economic and political power may
be judged based on the manner in which privatization is carried out and state enterprises
are managed.90

Thirdly, it is not clear whether regional elites have succeeded in obtaining greater power
that would permit them to dominate local government bodies and thus exercise greater
influence over local businesses.91

According to a Moscow Institute of Sociology’s Alla Chirikova, an arrangement has
evolved where the authorities in Moscow now allow for political figures in the region
provided that the regional leaders show themselves to be politically reliable and that their
economic policies promote growth. In a sense, this would represent a reduction of the
“power verticals” strength, where in exchange for political support, regional leaders
oversee regular business objectives, because the central authorities are incapable of
managing economic and political activity from Moscow. This situation might coincide
with a reduction of the central authorities’ willingness and ability to exercise control over
the lower tiers of economic activity in the country.

V. Can Anti-Corruption Efforts in Russia Succeed?

In the summer of 2009 President Medvedev seemed to continue to focus on the legal
basis for combating corruption rather than concentrating on the implementation of the
anti-corruption initiative. He sought to expand the role of the Russian Audit Chamber in
the anti-corruption with the enactment of “Ob antikorruptionsnoi ekspetize normativnykh
pravovykh aktov i proektov normativnykh pravovykh aktov,” currently led by former Prime Minister Sergei Stepashin. Subsequently, President Medvedev enhanced Mr. Stepashin’s responsibilities by placing all audit commissions work under the auspices of the Audit Chamber, assigning it more responsibility in the international area, particularly involvement in the implementation of G-20 decisions, and giving it review plans for the state corporation modernization. The “internationalization” of the Audit Chamber’s activities could put it in a position where it interacts with the Financial Service for Financial Monitoring (RosFinMonitoring), particularly where state-controlled enterprises may have been engaged in money-laundering activity.

This law concentrated on the procedures that governmental bodies and personnel were obligated to follow laws relating to combating corruption. The Procuracy and the Ministry of Justice along with the Audit Chamber were assigned the principal functions in this area. Presumably, the State Duma and its relevant committees will remain involved in the process as well. Important to note, however, is that the manner in which Investigative Committee affiliates carried out their duties was formally established by other bodies.

In addition to international involvement, since its creation, the Audit Chamber conducted “audits” of governmental bodies, during the course of which instances of corruption were revealed. As a result, the Russian President had established a method by which the personnel attached to the Audit Chamber and Procuracy could learn of illegal conduct, to which the Investigative Committee could turn a blind eye.

President Medvedev and Prime Minister Putin stressed the importance that government officials declare their incomes and net worth. Senior officials and organizations expended a considerable amount of energy to ensure that they would not be covered by this obligation. Efforts were made to slow when these laws would take effect. This arguably gave the relevant officials sufficient time to hide their assets. Since most people receiving illegal funds within Russia received their payoffs in cash, the value of this requirement appeared more symbolic than substantive.

As Roland Oliphant observed:

> [When] Dmitry Medvedev and Vladimir Putin published declarations of their assets and earnings, [i]t was originally viewed as] a “hint” to other public servants to follow suit in disclosing not only their own earnings, but those of their spouses and children. Was this a welcome move to openness, or just window dressing? And can public moves like this come anywhere near to tackling the leviathan that is corruption in Russia?

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93 Irina Granik, Serge Stepashin is made the head of the chamber // Audit Chamber, shall acquire its vertical and will oversee economies of different countries. Kommersant’, January 19, 2010, at http://www.kommersant.ru.

94 RosFinMonitoring’s website is available at http://www.kfm.ru.

95 See Ethan S. Burger, Only Following Some of the Money in Russia, 17 Demokratizatsia, No. 1, at 41–70 (Winter 2009).
The declarations made for public fodder. Juicy headlines in gossip magazines declared that Putin apparently earned more than his boss, with 4,622,000 rubles a year (plus a modest military pension) to Medvedev’s 4,139,726 rubles. The public learned that the Medvedevs own a single, roomy apartment of 367.8 square meters and the Putins a more modest 72 square meter home with both families owning large plots of land. Little could be said about the unremarkable handful of cars listed. Lyudmila Putina [Mrs. Putin] apparently had no income or assets, and her husband did not list his savings, leaving plenty of room for speculation about the billions of dollars that seem to have gone missing.96

Of those individuals who submitted to financial declarations, VTsIOM estimated that 70% of the Russian people did not believe them.97 Yet despite considerable cynicism over whether these efforts really contribute to combating corruption, new efforts to impose stricter requirements in this area are underway.98

A question worthy of study is how tolerant Audit Chamber personnel are of corruption? Persons who deal directly with bribe-payers might believe they can act with impunity since their supervisors engage in corrupt acts and go unpunished. However, this perception may not be altogether accurate. Hence, it is important to question if a team of individuals from the Audit Chamber are working on an audit, how difficult will it be to ensure that there are now consequences for government officials who commit prohibited acts?99 In fact, there have been numerous instances in which Audit Chamber employees apparently engaged in acts of corruption such as accepting bribes.100

97 Комсомольская правда [Komsomlskaia Pravda], Corruption must become indecent, Korruptsiia June 1, 2009.
98 Anastasia Kornya and Natalia Kostenko, Quiet Checks: State Officials' Income Declarations will be Verified Randomly, Vedomosti, September 22, 2009 (new rules are being developed that will provide that state officials' income will be verified by special units within federal ministries and departments. In addition, the Personnel Directorate of the Presidential Administration will be examining the income declarations of senior officials (prime minister and deputy premiers, ministers of the federal government, governors, ambassadors, prosecutor general, Investigative Committee chairman, Auditing Commission chairman and members). See also Natalya Krainova, Cops Will Have to Declare Income to Bosses, Moscow Times, May 27, 2009 at www.cdi.org.
100 See e.g. Author Unidentified, Former officials of the Audit Chamber sentenced for the receipt of bribes, Kreml.org, August 31, 2009, available at http://www.kreml.org. In this case, inspectors for the audit chamber altered records so that a private company appeared to own state property. See also Author Unidentified, Rocket-Carriers // Inspector of the Accounting Chamber Arrested – wanted to participate in a transaction with Lockheed, Kommersant, September 27, 2007, at http://www.kommersant.ru. In this matter, Yuri Gaudukov, a senior inspector with the Audit Chamber demanded a bribe of 7 million euros (nearly $10 million) from the Russian Company NPO Energomash, which produced rocket engines for Lockheed Martin in order for its export licenses be “reinstated.” In fact, Kommersant has literally scores of stories where officials with the accounting chamber were either accused of or convicted for extorting or
Rather than having inspector generals within each governmental ministry or committee, the Audit Chamber fulfills that function for the entire executive branch. In theory the Procuracy has the authority to oversee executive bodies to ensure that their actions comply with applicable law. However, since the Procuracy has multiple tasks—including investigation and prosecution of crimes—it tends to be reactive rather than proactive and thus it may not be well suited for this function.

In addition, according to Sergei Stepashin, the Audit Chamber is empowered to perform functions that one would expect to be handled by the Federal Tax Service, which operates under the auspices of the Ministry of Finance. According to Mr. Stepashin:

"We want to make sure all of the money arrived and we want to see a return. [RUSAL] was the subject of so much discussion: Where did the money go? We conducted an audit and learned that the money had been used for its designated purpose, to pay off debts. Incidentally, Oleg Deripaska repeatedly said he was willing to transfer most of his stock to the state. I think one of the results of the direct financial assistance of these companies by the state will be the transfer of large stakes in the companies to the state, or even their temporary nationalization. In the future, when the capitalization of the companies starts rising again, the question of the private owner of the assets -- old or new -- can be settled.

It may come as no surprise that a computer search of the Federal Tax Service’s website has no entries for “RUSAL,” which suggests that Mr. Deripaska continues to enjoy “protection” at the highest levels of Russian leadership.

Since late 2008, the Russian State Duma has become a rubber stamp for the leadership, in a sense, abdicating its function as a legislative body. They do not oversee the operation of the government. Many members are willing to sell their votes to private interests and they lack a sense of representing constituents. Furthermore, many persons of questionable backgrounds have paid to become candidates for the Russian State Duma since its deputies currently enjoy immunity from prosecution. State Duma Speaker Boris

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101 Author Unidentified, Audit Chambers should [Be] Involved in [the] Analysis of Anti-Crisis Measures, TASS, November 16, 2009.
102 The Russian Federal Tax Service Website is available at http://www.nalog.ru.
103 Interview of Sergei Stepashin, Chairman of the Audit Chamber and co-chairman of Russian Bar Association with Maksim Glikin, personal correspondent, “The Main Thing Is To Keep This Supervision from Becoming Nothing More Than an Opportunity To Inform on People,” Vedomosti, May 12, 2009 at www.ach.gov.ru.
104 The New York Times maintains a website on Oleg Deripaska, at one time Russia’s richest oligarch. Mr. Deripaska is married to the late Boris Yeltsin’s grand-daughter and until recently was considered a favorite of Mr. Putin’s. See New York Times website for a profile, at http://topics.nytimes.com.
105 According to one observer, “…[e]verything changed in late 2008 when the Duma majority (United Russia, in other words) had made a mess of the presidential law on corruption and earned a public dressing down from the head of state. It taught United Russia a lesson or two so that it began snapping to orders from the Kremlin. It did not even dare correct or amend presidential laws anymore. Regrettably, it did nothing to improve quality of the legislation, but that could not be helped. What counts is that this obedience spared United Russia problems...” Unidentified Author, Flexible Duma, Nezavisimaia gazeta, No 283, at 3, December 30, 2009.

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Gryzlov has suggested that deputies suspected of corruption be stripped of their immunity.\textsuperscript{106}

There is a significant divergence of opinion regarding whether progress is being made in efforts to reduce official corruption. For example, First Deputy Prosecutor General Alexander Buksman stated at a meeting of the Group of States against Corruption (GRECO) that during the first 9 months of 2009 nearly “38,000 corruption-related crimes were exposed; bribe-taking was up 6 percent to 11,800.”\textsuperscript{107} The courts reviewed 806 criminal cases against federal and local officials, including 128 cases against heads of municipalities, 179 against heads of local administrations, and 21 against heads and deputy heads of executive bodies.”\textsuperscript{108} Buksman sought to project the impression that politics is not playing any role in the Procuracy’s activity. He stated that:

Through joint efforts, we’re succeeding in making everybody equal before the law. Suffice it to say that we’ve held a number of high-ranking officials responsible for corruption: the- speaker of the Stavropol Territory legislature, deputy governors of the Kurgan and Orel regions, the chairpersons of the governments of the Amur and Novosibirsk regions, heads of municipalities in Adygeya, Stavropol Territory, and the Kaliningrad, Moscow, Orenburg and Rostov regions.

While not belittling the significance of criminal prosecution of certain venal officials, we should say this is not the only task, and it is not most important.” The main feature of the effective legislation is its orientation toward prevention and counteraction of corruption. This is what we should focus on in the first place [as President Dmitry Medvedev has indicated corruption is] Number One enemy.

The accuracy of this portrayal is indeed suspect. This is particularly evident by the information presented in the income/net worth statements submitted by senior government officials. For example, Maria Yentaltseva, head of protocol of President Medvedev, owns a Bentley Continental GT Speed (a car costing approximately three times her annual salary) and although she declares that she owns this car, it is uncertain how she found the means to purchase it.\textsuperscript{109}

\textsuperscript{106} Author Unidentified, Any MP Implicated in Corruption to be Stripped of Immunity – speaker, ITAR-TASS, December 23, 2009.
\textsuperscript{107} It is difficult to evaluate the reliability of the number of corruption cases the Investigative Committee is indeed investigating. Furthermore, there are qualitative differences in the manner in which a case might be investigated. In any event, according to the Head of the Prosecutor-General's Office Investigation Committee, Alexander Bastrykin, this year his Committee was investigating 16,000 criminal cases of corruption of which 12,000 investigations began this year. Given differences in when data is reported, the figures may vary. The variation here does not appear to be great. In late October 2009, the Committee Reports that 842 persons having a “special status” were convicted of corruption related offenses, “...500 people's deputies and elected chiefs of local self-governments, fifteen deputies of regional legislatures, 19 judges, 33 procurators, 86 lawyers and over 100 police and drugs control service investigators...” 16,000 cases of corruption being investigated in Russia-Bastrykin, TASS, October 22, 2009.
\textsuperscript{109} Author Unidentified, People of Medvedev have reported about income, Polit.ru, at http://www.polit.ru/news.
The universe of corruption extends far beyond the acceptance of bribes or the trading of favors. It includes awarding state contracts for reasons having nothing to do with the merits of the bid. It also involves treating money allocated to the budgets of state bodies as if they were bank accounts for state workers. Given the complexity of the crime, many Russian observers are skeptical about the possibility of significantly reducing corruption in the country. Corruptions tend to thrive in environments where the government is highly bureaucratic and the oversight of its personnel weak (and often corrupt), civil society is underdeveloped, and the media is either government controlled or beholden to special interests not inclined to challenge the status quo. This describes Russia’s current circumstances.

It would be a mistake to view the Russian leadership and the state bureaucracy as a single actor. Similarly, although many of the most prominent individuals in the Russian economy would not have gained control of large segments of the country’s economy, it would not be entirely accurate to describe Russia as a corporate state where those who exercise power have seized the most significant economic assets in the country.

At present, economic and political power in this country is shared among a number of groups including “the nomenklatura oligarchs,” the “upstart oligarchs,” the “siloviki” (i.e. persons who made their careers in the so-called “power ministries”, such as the Ministry for Internal Affairs (MVD), the Committee for State Security (KGB), or the Ministry of Defense [including persons in the defense industry or uniformed services]),111 and most recently a group referred to as the “ments.”112

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110 Dmitry Kazmin, When it Comes to Their Needs, There is No Need to be Thrifty, Vedomosti, December 30, 2009 at http://rt.com/Top_News/Press/eng/2009-12-30/?fullstory. The MVD is inflicted with corruption at all levels, which not only sends a message to other state bodies, but also to people working for the MVD. According to Kazmin, “The Interior Ministry is convinced in the effectiveness and efficiency of using taxpayers' money to purchase items such as a hand-carved, cherry-wood bed, with a thin layer of "24 karat gold", for the guest room in the Serebrayny Bor (it, along with 54 other items, were priced at $4.4 million). However, after the story became public, the central apparatus of the Interior Ministry began monitoring all purchases that included "karats" - an employee of the Ministry told "Vedomosti". But, when time comes to make purchases, the Ministry is not yet ready to become frugal. An invitation to bid for the supply of firewood, total volume of which equals 41 million rubles, for the repair of 252 copiers (29 million rubles) was published on zakupki.gov.ru. Meanwhile, the Ministry is prepared to pay 178.5 million rubles for "a mechanized mobile laundry device, MPP-9M or the equivalent of." Id. See also Natalia Korchmarek, Reforms for the Ministry for Interior, Trud, No 243, December 24, 2009.


113 Leonid Nikitinsky, the Secretary of the Russian Union of Journalists, is often credited with popularizing this term. It “comes from the lexicon of ‘thieves’ and other criminals. In prisons and camps, the word mean ‘in the broadest sense’ any enemy of the prisoners who worked and did not violate the rules of his fellows, But in life outside these institutions, it has acquired a broader meaning. There . . . it refers to those who exploit their position for financial gain out of entirely selfish motivations regardless of the rules and includes among others traffic police, the militia, tax officials and indeed anyone who is in a position to throw his weight around and force those around him to pay up.” Paul Goble, How Putin’s ‘Dictatorship of
In late 2009, the Moscow Institute of Contemporary Development issued a report called “The Modernization of Russia as the Construction of a New State.” The report essentially was a proposal for Russian President Medvedev to create his own “power vertical” dedicated to changing the nature of the Russian State. While this new structure would initially co-exist with the system created and controlled by Prime Minister Putin, the former would, in theory, eventually supplant the latter.\(^\text{114}\)

This concept reflects views similar to those of Mikhail Delyagin, the Head of the Moscow Institute of the Problems of Globalization. Mr. Delyagin contends that for President Medvedev to succeed in reducing governmental corruption, he must replace those individuals who owe their positions to Mr. Putin as “…it is senseless to reform the old system, it is necessary to build a new one…”\(^\text{115}\) Although such opinions are logical, at present they do not appear to be very realistic.

Given the view that governmental corruption, particularly in law enforcement bodies, is too widespread to achieve noticeable results, some have suggested concentrating efforts on the judiciary. This would require improved training of judges, the replacement of a large number of judges who are unresponsive to anti-corruption efforts, and greater accountability through increased transparency, in particular the publication of judicial decisions.\(^\text{116}\)

Undoubtedly, some present and former judges have expressed their frustration with corruption in Russia and their desire to make progress through reform. Notably, President Medvedev has frequently emphasized judicial reform as a key to combating corruption. Nonetheless, no matter how much improvement occurs within the judiciary, unless the Procuracy more aggressively seeks to root-out corruption, the number of corrupt acts that are reported, investigated and prosecuted will be limited. Furthermore, no matter how committed judges are to the effective implementation of President Medvedev’s anti-corruption program, they will be susceptible to threats of violence aimed at them and their families.

\(^{114}\) Elina Bilevskaia and Aleksandra Samarina, To Medvedev is suggested the building of his vertical” Independent Gazette, October 30, 2009 at http://www.ng.ru

\(^{115}\) Id.

\(^{116}\) Judicial corruption can manifest itself in many ways such as the manner by which cases are assigned. Some have also criticized the role of certain people who work within the court system, but are not judges – so-called posredniki. Such middlemen will approach a party and say for a sum of money they can secure a favorable decision. The precise process is not always clear – the money may ultimately be paid to a judge, or someone else within the court system. Apparently, President Medvedev has had encountered this in his own career. According to the President, “[a]t the entrance to the court there was a tiny room on the ground floor for a lawyer of a very special kind. He invited visitors to take a ride in his car around the court building and there, in the car, he offered his middleman services.” Medvedev was adamant that such individuals should be prosecuted. Posredniki at courts of law purest sort of corruption – Medvedev, TASS, October 21, 2009.
VI. Do the Skeptics Tend to be Right?

Public opinion is fickle, greatly influenced by the professionalism and the manner by which studies of it are conducted (e.g. in person vs. telephone polling; giving respondents a range of choices, having respondents rank their preferences or concerns, posing “yes”/”no” questions, the skill of the pollster, etc.). Researched amassed from public opinion studies are inherently unstable and can be of questionable value. In politics, perception is usually more persuasive than reality; hence he who controls perception yields greater influence of public opinion than mere facts would allow. Nonetheless, public opinion has a tangible impact in the political and policy sphere.\(^{117}\) As certain respondents take on certain political views, others are likely to be affected by their opinion. Politicians and policy makers usually monitor public opinion; like the Heisenberg Uncertainty Principle, this can lead to outcomes that do not actually reflect beliefs at a certain time.\(^{118}\) Changes in public opinion may generate political support in favor of or against individuals or ideas.

There is little to suggest that, at present, strengthened enforcement of norms aimed at limiting corruption will come about in response to the demands of the Russian electorate. For example, in a survey of 1,600 people by the government-run polling body Russia Public Opinion Research Center (VTsIOM),\(^{119}\) while respondents saw the militia as corrupt, the same people had a generally positive attitude of the anti-corruption campaign.\(^{120}\) Both Transparency International and Global Integrity conducted surveys indicating that Russian citizens believe it is futile to complain to the authorities about corruption, while at the same time the percentage of respondents who see President Medvedev’s anti-corruption program as “effective” increased from 12% to 21% between 2007 and 2008.\(^{121}\)

Such polling data suggest that if the anti-corruption campaign is going to produce genuine change to Russian society, certain politicians must first recognize that an alliance of interest groups hold significant power. Such groups can compel exogenous change to the political system or, at the very least, cause the replacement of persons seen as being responsible for failed past policies. However, one cannot ignore recent data produced by

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117 Ironically, the Russian language uses the word politika to denote both politics and policy. Linguistically, one needs to make use of more complex phraseology to distinguish one from the other. For example, respect to the former one might convey thoughts with terminology such as “zaniat’sia politikoi” — go into politics; “govorit o polite” — talk politics; “tekyshchaia politika” — current politics — while for the latter one finds the following terms: “nutrenniaia politica” — domestic or internal policy, “vneshniaia politika” — foreign policy. “politika mira” — peace policy and “politika nevneshmeshchatel’strva” — policy of non-intervention. Context is important in every day conversation, formal writing and public opinion surveying. See e.g. http://lingvo.yandex.ru.

118 See the American Institute of Physics website, http://www.aip.org/

119 VTSIOM’s website is maintained both in the Russian and English languages, at http://wciom.ru/ and http://wciom.com. There is considerable debate about the objectivity of VTsIOM’s work given its ownership.


the Interior Ministry’s Investigative committee that shows corruption increasing eightfold in Russia in 2009.\textsuperscript{122}

Generally, this is a slow process – but it often begins when persons in positions of political influence are forced to examine society’s problems. Thus, when in May 2009 the Chairman of the Supreme Court Vycheslav Lebedev and Ministry of Justice Chief Alexander Konovalov gave their report on the “results” of the first year of President Dmitrii Medvedev’s anti-corruption campaign and showed some candor that there had not been any “fundamental” improvements in the situation within the country, the logical conclusion to reach is that an intensification of the campaign was necessary and obstacles to its accomplishment addressed.\textsuperscript{123}

The Report identified corruption in the education and health sectors, and various regulatory bodies; a great deal of effort has to be directed to curbing corruption in these areas since they represent the majority of the public’s interaction with the Russian government. Furthermore, it criticized the Russian population’s “tolerance” (or passivity) of corruption as a factor hindering the effectiveness of recent efforts. Notably, the Report stated that loopholes in legislation and regulatory norms, incompetent civil servants and the lack of civil society were factors “contributing to the problem,” the country’s corruption problem could not be attacked in a piecemeal fashion. Although the Report did not seek to move beyond the discussion that had been “tolerated” to date, such as suggesting that the country’s most senior officials deserved a large share of the blame, the Reports implications could not be overlooked.

Certainly, Chairman of the National Anti-Corruption Committee Kirill Kabanov was not afraid to offer a more candid diagnosis of the disease inflicting Russia that prevented the anti-corruption campaign from succeeding – his appraisal had obvious political ramifications.

Konovalov’s blaming of legal loopholes, sub-standard civil servants and the “absence of civil society” is a euphemistic evasion of the fact that the political system within which he works holds the president of Russia hostage. The shortcomings of legislation are irrelevant so long as the legal system lacks any independent power of its own (and a recent move to make the chairman of the Supreme Court appointed by the president, instead of being elected by his peers, is hardly likely to improve matters). That makes sensible moves like Konovalov’s suggestion to cut the number of civil servants, or promises of new laws - Lebedev announced that the Supreme Court had drafted a federal constitutional law on the Supreme Court and courts of general jurisdiction, as well as a on a code of judicial ethics somewhat empty.\textsuperscript{124}

\textsuperscript{122} Amy Beavin, Economic Crimes Rises Eightfold in 2009, Moscow Times, January 28, 2010 at www.themoscowtimes.com In this article, the Investigative Committee stated that it had uncovered 428,000 economic crime in 2009, including more than 74,000 large-scale crimes, with resulting losses at $33 billion dollars a 745% increase from the same period in 2008. The Committee explained the rise, in part, by the global economic crisis.

\textsuperscript{123} Roland Oliphant, Tilting at the Windmills of Corruption: One Year into the War on Corruption, Medvedev’s Crusaders Have Few Victories. Russia Profile, May 28, 2009, at http://www.cdi.org/

\textsuperscript{124} Id. (paraphrasing Kabanov’s critique and quoting him on occasion).
There is general agreement that Russia is undergoing considerable political change. Yet, there is no widespread consensus on the nature such change will take. Many observers see a country in crisis while others think such characterizations are dramatic exaggerations. Academics, journalists and political scholars are now speculating about whether various economic, policy and political disputes are indeed irreconcilable differences over power and resources over the country’s future course or mere differences over tactics, primarily aimed at influencing domestic and international public opinion.

VII. Medvedev’s Approach to Combating Corruption

President Medvedev is under no illusion that dramatically reducing corruption in a short time is an unrealistic goal. Nonetheless, it is unclear whether his efforts will achieve their objectives even in the long-term. According to Mr. Medvedev, “[i]t is easy to sigh and say that corruption cannot be defeated. It is much more difficult to work, to perfect legislation and achieve improvements . . . .” He seems to recognize that reliance on governmental action alone is destined to fail; he is respectful of individuals and organizations that appear to share his goals.

There are two bodies involved in the development of Russia’s anti-corruption policies. The first is Council of the President of the Russian Federation to Counter Corruption. It is a state entity charged with implementing the National Anti-Corruption Plan (NAC). The second body is the National Anti-Corruption Committee, which consists of prominent researchers and NGO activists headed up by Kirill Kabanov. President Medvedev will meet with the Committees’ members soliciting their ideas to carry out and gain support for the NAC.

Public perception of whether the anti-corruption campaign has been a success will likely hinge on three criteria whether: (i) the Russian population’s quality of life improves, (ii) citizens feel that government officials are not using their positions to export bribes and (iii) that all citizens are being treated equally by government officials, with a focus on the militia and judges in particular.

This should come as no surprise to persons that study Russian public opinion polls. The militia seems to represent the litmus test of success of the anti-corruption campaigns because a large share of the citizenry comes into frequent contact with them.

125 Author Unidentified, Medvedev says Much Should be Done to Fight Corruption, TASS, November 23, 2009.
126 The Council’s responsibilities are set out in detail in the National Anti-Corruption Plan, which was issued on July 31, 2008, available at http://eng.kremlin.ru.
127 Author Unidentified, Committee urges presidential council to step up anti-corruption fight, TASS, November 23, 2009.
129 Id.
130 Frankly, this will be a difficult test to pass. According to Paul Goble, approximately 1/3 of Russia militiaen have psychiatric problems or are alcoholics. Attracting personnel of a high caliber will not be easy. See Paul Goble, One-Third of Russian Militiamen Psychopaths or Alcoholics, Expert Says, Windows on Eurasia, January 18, 2010, at http://windowoneurasia.blogspot.com/
*Vedomosti* printed an opinion piece discussing why the police occupy a central role in an assessment of Russia’s anti-corruption campaign.

What is going on with the Russian militia? They are discredited because, among other things, their powers with respect to corruption are limited. The police detain and fine a certain class of person for violating Russian laws and other normative acts, whereas senior civil servants, legislators, procurators, [and] businessmen are immune from police purview. The militia in Russia is still used to promoting the particular interests of the powers-that-be to the detriment of the interests and safety of the population. Low authority in society, corruption in the system, and obsolete performance evaluation requirements make financial considerations essentially the only motive for joining the force in the first place. And since the official pay is nothing to write home about, police officers begin to make money only when they find their own individual niche in a corrupt system.

While it might appear that corruption is a proxy for the operation of the Russian system, it is not. Plenty of countries can sustain an acceptable quality of life for its population even if it experiences high levels of corruption.

While the Russian government and private businesses may be able to deliver goods and services to the citizenry, international business investors expect more than simply getting the deals done whilst operation in Russia. Business investors require that the ends and the means of a deal appear legitimate. For both Russian and foreign businesses to pursue business opportunities in the country, corruption must be tackled. President Medvedev has given a number of speeches calling for the modernization of the Russian economy. Implicit in such speeches on the liberalization of the former state-driven economy, is that the modern economy expects legitimate business transactions. However, it seems as if rampant corruption in Russian makes the modernization of its economy impossible to achieve within a reasonable period of time to thwart competition.

Next-door neighbor China has successfully offered a semblance of intolerance for corruption whereas Russia has failed to equally- and in a shorter amount of time at that. For example, China has successfully modernized its train system with the introduction of record-setting high-speed trains to relatively few corruption scandals. Conversely, Russian train companies seem incapable of generating profits, or of producing comparable trains in the near future, which, of course, raises the question: “Where is the money going?” [that was ear-marked for this project]?

Corruption is not merely a public sector phenomenon, but that it is widespread in the private sector as well. In violation of Russian corporate law, Russian business entities

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131 Id.
132 Nikolaus von Twickel, Medvedev Institute Proposes Radical Reforms, The Moscow Times, 4 February 2010 at www.themoscowtimes.com. This article reports that the Institute for Contemporary Development-a think tank close to President Medvedev who chairs the Institute’s board of trustee- published a paper that calls for drastic measures for the modernization of the Russian state, in line with Medvedev’s agenda. Such aggressive moves towards modernization include, inter alia, joining NATO and the EU, reintroducing gubernatorial elections, and limiting presidential terms to 4 years.
frequently enter into consulting and other agreements with third-party companies they control. Money that had been allocated for particular purposes in the state budget is consequently not spent and paid out as dividends.

According to Mr. Stepashin, private firms, often with the cooperation of corrupt executive or judicial personnel, facilitate non-market economic “competition.” There are about 40,000 cases of the seizure of enterprises, real estate, and shipments of goods by raiders in Russia each year. The Comptroller's Office agrees with President Medvedev, who has demanded the criminal prosecution of this kind of behavior. Corrupt bureaucrats and law enforcement officials are behind most of the corporate takeovers. The system for the state registration of title to real estate and the practice of confiscating the registers of company owners from private registrars often are the main link in raider schemes, for example. In spite of this, the current RF Criminal Code does not include any provisions envisaging penalties for the actual raiding, or for assistance in these actions or the failure to prevent them.

I believe stricter penalties will be set for raiding, including the abuse of trust and the falsification of documents and evidence. I also feel the [Anti-Corruption Law] should specify that corporate disputes must be heard in a court where the corporate entity is located instead of in a court at the opposite end of the country. There should also be a special procedure for hearing collective suits, so that raiders will not be able to obtain corrupt judicial decisions. Or, conversely, to set short deadlines for challenges of the decisions of administrative agencies by enterprises, and so forth. Finally, bankruptcy proceedings and arbitration proceedings should be much more transparent.135

It was anticipated that the Russian General Procuracy would play a central role in spearheading the anti-corruption effort, particularly given its oversight function over institutions to which it is not connected, including the courts. Unfortunately, it appears that personnel conflicts and bureaucratic politics hindered the implementation of anti-corruption efforts. For example, in December 2009, Russian Procurator General Yuri Chaiko announced that the Heads of Investigative Committee’s Moscow Branch, Anatoly Bagmet, had been dismissed for “violating his oath of office.” Deputy Prosecutor General Alexander Buksman executed the documents relieving Mr. Bagmet of his position.136

While the above episode may seem to be a manifestation of an on-going competition for control over the Investigative Committee, this is not necessarily the case in all matters. With respect to certain political matters, Procurator General Yuri Chaiko and Investigative Committee Head Bastrykin have not always managed to cooperate. It seems like Mr. Chaiko at times feels compelled to seek Mr. Medvedev’s involvement, for example, with respect to solving the murder of Russian journalist and human rights

135 Interview of Sergei Stepashin, Chairman of the Audit Chamber and co-chairman of Russian Bar Association with Maksim Glikin, personal correspondent, The Main Thing Is To Keep This Supervision from Becoming Nothing More Than an Opportunity To Inform on People, Vedomosti, May 12, 2009 at www.ach.gov.ru.
activist Anna Politkovskaia. At the same time, it seems like Mr. Bastrykin seems content in not extending his bureaucratic empire.

In Rossiiskaia gazeta, Mr. Chaiko proudly stated that in the first 9 months of 2009, over 800 corruption cases were brought against both regional officials as well as those working for the central authorities. Procurator Chaiko implicitly criticized personnel operating under the auspices of the Investigative Committee, over whom he does not have official control, for lack of professionalism. He made a point that some investigators seemed to be acting in response to political decisions rather than strictly enforcing the law. The Procurator General did not seek to leave the impression that he did not control all activities that formerly he had controlled – implicitly suggesting that he was more devoted to the rule of law than some others working for the Procuracy.

The Procuracy in all cases verify the legality and justification of the procedural decisions adopted during the preliminary investigation stage and participates in the examination of criminal cases by the courts. [Improved] oversight measures must be adopted [to prevent] the unjustified bringing of criminal cases and other violations of criminal-procedural legislation. For example, during the last year, 427 illegal decrees to initiate criminal cases were cancelled at the behest of the procurators of the investigative bodies. (There have also been situations where) detectives refused to initiate a criminal case due to corrupt instructions [in violation of the law].

Corruption in Russia is both systemic and perpetuated by the political process, which encourages cronyism. Officials whose principal function is to combat corruption seem to appreciate the complexity of the problem as well as the constraints on making significant progress in reducing it. Some officials who are responding to particular manifestations of corruption seem to believe that the situation can be rectified merely by replacing particular individuals or groups who have abused their positions.

Despite President Medvedev’s unveiling of a multi-faceted program to combat corruption, it is difficult to know whether he fully appreciated the difficulty of the task he had set out for himself. Thus, bribe paying has evolved into a cost of doing business, analogous to paying additional taxes. As a result of bribery, the authorities often fail to enforce applicable regulatory norms, and this can have tragic results – an incalculable cost of corruption.

140 Author Unidentified, Rostekhnadzor Claims Wiping out "Corruption Manifestations", TASS, November 26, 2009.
141 See Lidmila Alexandrovna, Media Blame Nightclub Fire in Perm on Corruption, Negligence, TASS, December 4, 2009 at (discussing a fire at a nightclub in Perm in which 113 persons were killed and 113 hospitalized).
Persons even use their lower level positions to provide themselves with an opportunity to extort bribes from the population.\(^{142}\) This has led to students in Ministry for Internal Affairs Academies (MVD) and universities\(^{143}\) to bribe administrators and instructors to gain entry into such institutions and to ensure that they receive high grades.\(^{144}\) Given these circumstances, there is little basis for expecting a reduction in corruption among the police.\(^{145}\) According to one story carried in the magazine New Times, low salaries need not represent a hurdle in recruiting militiamen since the potential for extorting bribes is so great. According to one militiaman, 

"There are two ways of making a district police chief in Moscow," . . . [e]ither you are pals [sic] with your superiors and you have a common business venture with them, or there is some business structure that promotes you. The position may cost from $100,000 (minimum) to $1 million. Promotion to chief of a district such as Tsaritsyno costs at least $500,000 . . . .\(^{146}\)

Throughout the Russian government there appears to be ways to "supplement" one’s income,

Men close to business circles who know what they are talking about maintain that a smart police chief in a district like Tsaritsyno will easily collect $100-$200 million a year. The Central Administrative District is even better from the standpoint of easy money - collection here amounts to $1.5-$2 billion. Insiders point out, however, that the police are not the only collector[s]. "Do not forget the Federal Security Service, prosecutors, veterinary service, firefighters, the government of Moscow, and tax structures," one of them said. "Monthly revenues in a "good" district may easily amount to $200,000-250,000.\(^{147}\)

Despite the widespread cynicism among a large segment of the population, many Russians believe that the country’s leadership, President Medvedev and Prime Minister Putin in particular, are sincere in their desire to reduce corruption in the country. This was illustrated when MVD Major Alexei Dymovsky from Novorossiisk sent a video address to Mr. Putin in which Major Dymovsky describes the extent of corruption he

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\(^{145}\) According to an item appearing in the Russian newspaper Vedomosti:  
Low prestige, corruption, and obsolete performance evaluation requirements leave financial considerations essentially the only motive for joining the force in the first place. And since the official pay is nothing to write home about, police officers begin to make money only when they find their own individual niche in the general framework of corruption.


\(^{147}\) Id.
encounters, and the active participation in or indifference to corruption by more senior MVD personnel.

In making his public appeal, Major Dymovsky seemed to think that Mr. Putin could improve the situation. The MVD then announced that it would be forming a commission to examine Mr. Dymovsky’s accusation of corruption among some of his superiors. He was fired the following day.

Factors such as those discussed above probably explain why President Medvedev chose to make the militia the first target of his anti-corruption campaign, discussed at the outset. This decision has an important political component since the senior militia officials all served under then-President Putin and can be replaced with persons who will owe their positions to President Medvedev.

It has long been common knowledge that there was a significant amount of corruption within the Russian military, but most politicians avoided raising the issue. In a dramatic change, Russian legislators in late 2009 brought this issue to the forefront. When opening a round-table devoted to this topic, the Senior Deputy Chair of the Duma’s Defense Committee shared his concerns:

The army plagued by corruption is not combat capable and cannot fulfill its main task of Fatherland defending. This is a direct threat to national security.

Corruption has longed been present in both the Soviet and Russian military culture. It was a common and widely tolerated practice for senior officers to use troops for their own benefit such as constructing their homes. The hazing of new enlisted men by both career soldiers and more senior constricts was commonplace.

With the end of the Cold War came new opportunities to make money by engaging in a range of entrepreneurial activities. As a result, it became increasingly common for potential conscripts to seek out ways to avoid doing military service. This could often be accomplished by paying a bribe to a doctor who would prepare papers that would lead

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151 Once in the armed forces, Russia appears to be experiencing a significant dissertation problem, while each case is unique. One aspect of the situation is that a large share of the deserters takes weapons with them. See Paul Goble, 20,000 Soldiers -- Many Armed -- Now AWOL from Russian Army, Window on Eurasia, January 25, 2010, at: http://windowoneurasia.blogspot.com (According to one individual referred by Dr. Goble, “…the continued mistreatment of soldiers, up to and including the use of torture by fellow soldiers, known as “dedovshchina” in Russian, and by officers, many of whom have little training or ability to manage their subordinates otherwise…”).
to a deferment. In addition, with the privatization of the defense information, the corruption problem has apparently reached new levels.

Aleksandr Sorokina, Head of the Military Investigation Department of the Investigative Committee estimated the cost of corruption to the Russian Army as being in excess of the equivalent of $700 million. This figure was based on the cost of the total harm resulting from 1,400 crimes and overall represents an increase by one-third over the prior year. This data seems to understate the scope of the problem.

Writing in Parlamentskaia gazeta, Maria Sokolova summarized other information presented at the Roundtable suggesting that reported corruption within the military was getting worse – which of course presents the question whether the actual situation was indeed getting worse or the anti-corruption campaign created an environment where instances of corruption were more likely to be reported to the appropriate authorities.

In nine months of 2009 the Main Military Prosecutor's Office registered 1,400 corruption crimes material damage to the state amounting to 2.5 billion rubles. Officers committed 70% of crimes of such kind and 14 crimes were committed by top-ranking officers. Overall, 599 people were taken to account for corruption. We can only guess how many such cases remain in the shadow. The biggest quantity of corruption crimes is committed during purchases and auctions and the spending of money allocated for research and development. During fulfillment of the state defense order there are cases of illegal transfer of budget money for the products that have not been supplied, as well as exaggeration of the volume of the completed work. Many cases of fraud and corruption are related to housing supply for servicemen, and capital construction. Protectionism in hiring for state service is widespread in the Armed Forces. There is also a problem of illegal export of armament.

The need for reforms in the area of the military purchasing system can be shown by the following:

- Ministry of Defense officials estimated that up to 50% of the money allocated for purchase of armament and military hardware was being stolen, representing an increase of former estimates of 10-15%, the vast majority being paid out as kickbacks; and
- the Russian Auditing Chamber estimated that Rosoboronpostavka (an agency established so that the uniformed military would not be conducting the purchase of their own defense orders) had properly spent only 0.1% of the

153 Yury Gavrilov, Impossible to give and impossible to take; The Main Military Prosecutor's office struggles against bribes in military registration and enlistment offices, DEFENSE and SECURITY (Russia), November 2, 2009.
154 Such estimates at best can be considered to be only rough approximations given that Russia has a conscripted army and uncertainty over the method by which the Russian armed forces’ price its consumables (e.g. food, oil, etc.), equipment (e.g. weapons systems), and real property (airfields, barracks, bases, ports, etc).
156 Maria Sokolova, Spot on the Tunic, Parlamentskaya Gazeta, No. 63, at 11, November 27 - December 03, 2009.
approved full-year target figure of expenses during the first half of 2009, yet Rosoboronpostavka’s Head Victor Cherkesov was nonetheless paid a bonus.\textsuperscript{157} Russian law enforcement personnel have also brought criminal charges against two generals and other officers in connection with their engagement in corruption actions.\textsuperscript{158}

It is sometimes tempting to paint Mr. Medvedev’s actions as well-intentioned, but strategic; he is keenly aware of not wanting to challenge the existing power relationships within the country. An exception may exist if decisive steps are absolutely necessary to ensure the physical and economic security of the Russian state – which may indeed be the case in the aftermath of the recent economic crisis. Yet there are two topics that should be carefully monitored before forming conclusions about this topic.

The first topic relates to the role of public officials (both elected and appointed) and state workers in private enterprise. The Russian government must decide what sort of rules will be imposed on individuals holding any official position with the Russian government with respect to his/her involvement in commercial activities (particularly enterprises largely controlled by the state or doing business with the state). In fact, Mr. Medvedev has called for the end of the practice of placing government officials on corporate boards and has since replaced them with independent directors.\textsuperscript{159} Nonetheless, he saw nothing unlawful in allowing such officials’ wives to be involved in business.\textsuperscript{160}

The second topic is the role of government in private enterprise. The Russian government must here decide what role the government will have with respect to enterprises currently controlled by the state. If state ownership is significantly reduced, the manner by which the assets are sold will serve as a barometer for the success of any reform. Whether efforts are being made to limit the ability of state officials (and their favorites) to gain control, directly or indirectly, of privatized industries will demonstrate the success of the new government’s policies. While only a small share of Russians will have the assets and knowledge to purchase controlling shares in such entities, the role that foreign individuals and legal entities are permitted to have will provide additional insight into the sincerity of anti-corruption efforts.\textsuperscript{161}

\textsuperscript{157} Ivan Petrov, Rosoboronpostavka got stuck in papers, Defense and Security (Russia), December 25, 2009.
\textsuperscript{158} Unidentified Author, Two generals & six senior officers convicted of corruption in 2009. ITAR-TASS, December 18, 2009.
\textsuperscript{159} Ben Aris, Who is Medvedev?, Businessnewseurope, February 20, 2008, at \url{http://www.businessnewseurope.eu}.
\textsuperscript{160} Unidentified Author, Medvedev not Opposed Wives of High Officials Running Business, TASS, April 15, 1989.
\textsuperscript{161} See Dmitry Zhdannikov, Medvedev says Russia's state corporations must disband, November 12, 2009, \url{http://www.reuters.com/article/idUSLC50387420091112}, Elena Shishkunova, The President Determined the Fate of State Corporations, Izvestiia, at 1, October 22, 2009, (apparently, President Medvedev was to reorganize most state corporations into joint-stock companies, with certain exceptions), Kirill Rogov, De-Incorporation of the State: Crisis of the economic model the symbols of which are state corporations is becoming a political fact, Russky Newsweek, No. 34, at 20, August 17-23, 2009; and Unidentified Author, Restrictions on State Corporations as Indication of Economic Adequacy, Nezavisimaya Gazeta, No 180, at 2, August 27, 2009, and Inga Vorobiova, Change of Form, RBC Daily, No 210, at 2, November 16, 2009.
With the passage of time, President Medvedev has either come to realize the enormity if not impossibility of significantly reducing corruption in Russia or he recognizes that both specialists and Russian citizens will not countenance promises that cannot be fulfilled or reports of progress that do not correspond to reality.\footnote{Medvedev’s Personal Blog, Medvedev The struggle with corruption and bribery will go on for years], November 7, 2009, at http://www.bfm.ru; see also All News on the subject of “corruption]. As regards accomplishing his purported goals in a fashion that the average Russian will understand, he must act decisively, which seems out of character. Otherwise, the best he can hope for is attitudinal change.

The former will be difficult to achieve in a society where there are great discrepancies of wealth and those who appear to be the country’s richest individuals either broke the law or exploited their connections to the fullest. With role models like this, attitudes about the necessity to commit corrupt acts to attain success in Russia are unlikely to change. In a society without a well-developed sense of shame or community, while it might be necessary for people to regard corruption as morally “indecent,” it would be unrealistic to expect this to occur.\footnote{Russian Presidential Website, Corruption must become not simply illegal. It must become indecent, May 20, 2009, http://news.kremlin.ru.}

VIII. Conclusion

It would be the height of arrogance for us to assert that the scenario we outline above represents how change will come about in Russia in the near-future. No one can predict the future with a high degree of confidence -- there are simply too many variables and uncertainties to take into account.\footnote{For example, the March 2008 suicide murder attacks in the Moscow subway system may make provide an impetus for more security measures or alternatively may act as a stimulus for seeking a political solution to the Chechen situation. See Unidentified Author, Terrorists Responsible for Moscow Blasts will be Eliminated – Putin, March 29, 2010, available at http://en.rian.ru/russia/20100329/158349758.html, Clifford J. Levy, Subway Blasts Kill Dozens in Moscow, The New York Times at http://www.nytimes.com/2010/03/30/world/europe/30moscow.html.} Nonetheless, many observers of the Russian scene pay insufficient attention to legal developments in the country, due to an under-appreciation of the role law plays in most societies. In this way, this article uniquely contributes to the literature on corruption reform in Russia.

In the last few years, Russian political authorities have enacted or issued numerous normative acts establishing new rules and procedures, which have permanently altered the country's political landscape as well as the population's expectations. These developments will at some point have profound consequences. When, and the manner in which they will take, remain uncertain.

We do not state with absolute confidence that our "logic of the situation" analysis and prediction is the only path that Russia will take in the future. If Russia is going to evolve

\footnote{Russian Presidential Website, Corruption must become not simply illegal. It must become indecent, May 20, 2009, http://news.kremlin.ru.}
economically, legally and politically, however, we believe our views constitute the most likely path to evolutionary change since it describes the point at which interest convergence is most likely: the interests of the largest segment of the population are served, without generally jeopardizing the positions of Russia’s economic and political elites, whilst nevertheless allaying the concerns of many foreign political and business leaders. If President Medvedev wants to end the seemingly inextricable relationship between Russia and corruption, interest convergence is key.

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