

The Effects of National and Local Funding on Judicial Performance: Perceptions of Russia's Lawyers

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Courts that perform well are the cornerstone of the rule of law and democratic development. When courts are perceived as legalistic, fair, impartial, and independent of the influence of extrajudicial actors, aggrieved individuals are more likely to pursue litigation over other, potentially unlawful, alternatives. Using original data from surveys of more than 1,800 randomly sampled lawyers in 12 Russian cities, we investigate the effects of perceived government funding and power diversification on a variety of indicators of perceived judicial performance. We find that, according to lawyers, financial dependence on the national government has no independent effect on judicial performance, but financial dependence on local governments has consistently significant negative effects. We also find that diversified political power has consistently significant positive effects on perceived judicial performance, probably because the diversification makes courts seem less vulnerable to unified pressure from political actors.

Courts that perform well are essential for the development of the rule of law, as well as the protection of property rights, individual liberty, and other aspects of democracy (Bratton & van der Walle 1997; Diamond 1999; Howard & Carey 2004; Kaufmann et al. 2005; Lopez de Silanes et al. 2004; O'Donnell 1994; Prillaman 2000; Staats et al. 2005). Good judicial performance is marked by consistent application of the law and fair decisionmaking, without undue influence by extrajudicial actors or undue favor to the government when it comes in conflict with citizens. How to improve judicial performance is a critical question for scholars and practitioners of judicial politics.

A version of this article was presented at the 2008 meeting of the American Political Science Association. For thoughtful collaboration on questionnaire development and survey administration, we thank the Institute for Comparative Social Research (CESSI) and especially Anna Andreenkova. For very helpful feedback on an earlier draft, we thank Barry Friedman, Peter Solomon, Lydia Tiede, and Alexei Trochev. Please address correspondence to Vanessa A. Baird, Department of Political Science, University of Colorado-Boulder, Boulder, CO 80309-0333; e-mail: vanessa.baird@colorado.edu; or Debra Javeline, Department of Political Science, University of Notre Dame, 217 O'Shaughnessy Hall, Notre Dame, IN 46556; e-mail: javeline@nd.edu.

Law & Society Review, Volume 44, Number 2 (2010)

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Perhaps as important as actual judicial performance is perceived judicial performance. The rule of law and democracy require citizens to use courts as a venue for grievance resolution over unlawful alternatives. Such use is encouraged by the perception that courts will perform well, meaning that judges are perceived to act legalistically, impartially, fairly, and independent of the influence of extrajudicial actors.

We explore the potential effects of government funding on judicial performance through the eyes of lawyers. What might be the effects on perceived judicial performance if lawyers think courts receive their funding from the national government versus a local government? Do funds from one of these sources allow courts more independence in their decisionmaking; a greater commitment to legalism, impartiality, and fairness; and a greater ability to follow through on that commitment?

To date, little if any empirical evidence has been gathered to test the effect of perceived financial power on perceived judicial performance. Here we provide such evidence, as well as evidence on the effects of diversified political power, using survey data from more than 1,800 randomly sampled lawyers gathered from 2003 to 2005 in 12 cities in Russia, where scholars and policy makers as high as Prime Minister Vladimir Putin and President Dmitry Medvedev agree that poor judicial performance is a severe problem for the development of the rule of law. Lawyers' perceptions of judicial fairness, impartiality, legalism, and independence are untapped but important dimensions of judicial performance, as lawyers are key intermediary actors between courts and the public. Their opinions are thus both relatively informed and potentially influential in encouraging or discouraging court use (Staats et al. 2005:84–5). By measuring and analyzing lawyers' perceptions of judicial performance, we contribute to the existing literature that currently focuses on a single objective dimension of performance, "judicial independence," and the debates about its meaning and measurement. (But see Prillaman 2000 and Staats et al. 2005 for notable exceptions that examine broader dimensions of judicial performance.)

We find that perceived financial dependence of courts on national authorities has no significant effect on perceived judicial performance, whereas perceived financial dependence of courts on *local* authorities has significant negative effects. Reducing this financial dependence on local authorities may therefore be an institutional path to improving perceptions of judicial performance. In addition, we find that partisan differences between local and national authorities have significant positive effects on perceived judicial independence, fairness, and other indicators, suggesting that diversification of political power is another institutional path to improving perceptions of judicial performance.

Achieving Good Judicial Performance

What constitutes good judicial performance, and how might good judicial performance be achieved? Below we describe some characteristics of well-performing courts. We then discuss whether two political factors, court financing and power diversification, should influence judicial performance and why the performance and financing of Russian courts make Russia a particularly useful case for testing our hypotheses.

One characteristic of good judicial performance is judicial independence, here defined as the insulation of judges from the influence of nonjudicial actors, such as other branches of government or the public.¹ Judicial independence allows judges to make decisions consistent with governing law and the facts of a case and thereby facilitates judges' impartiality and maximizes the equality before the law of citizens who may have unequal power and resources (Meron 2005). Judicial independence does not mean unfettered judicial power, as judges must be held accountable if they fail to follow the law (Burbank et al. 2002:4; Dung 2003:27–9; Lubet 1998; Salzberger & Fenn 1999; Solomon 2002; Spitzer & Talley 2000). Still, the quest for accountability should not interfere with free judicial decisionmaking within the bounds of the law.

Scholars have made great efforts to conceptualize judicial independence (Becker 1970; Breyer 1996; Burbank 2003; Cameron 2002; Cross 2008; Ferejohn 1999; Ferejohn & Kramer 2006; Keith 2002; Kornhauser 2002; Kozinski 1998; Rios-Figueroa & Staton 2008; Rosenn 1987; Russell 2001; Shapiro 1981). At times, judicial independence is conceptualized as rules, norms, or institutions, and at other times, it is conceptualized as the judicial behavior that these rules, norms, or institutions may cause. Here we hope to draw from the most common denominator in the judicial independence literature by focusing on the perception of whether extrajudicial actors influence judicial decisionmaking.²

Besides independence, other desirable characteristics of courts include impartiality, fairness, and legalism. Although these

¹ Judges should also be insulated from the influence of other *judicial* actors, such as higher-ranking judges, if those judicial actors intervene for political or other reasons unconnected to the advancement of legalistic decisionmaking (Dung 2003:11–12). Although this problem of more powerful judges exerting undue influence on less powerful judges is a serious obstacle to obtaining unbiased judicial outcomes in Russia and other countries, here we focus exclusively on the equally serious problem of undue influence from political sources external to the judiciary.

² Much of the judicial independence literature focuses on common law systems where judges often work first as lawyers in private practice, get elected, and rely on precedent, as compared to civil law systems such as Russia's where judges often spend entire careers as judges, are considered state officials, and therefore may have less room for discretionary decisionmaking.

characteristics sometimes get conflated with judicial independence, here we take cues from the many scholars above who caution against such conflation and treat these virtues as distinct. For example, a court may be minimally influenced by extrajudicial actors but, for other reasons, still unfair or inconsistent in applying the law. In terms of perceptions, the same combination of characteristics is plausible, so that some courts may be perceived as simultaneously independent and unfair, or vice versa.

The Role of Government Funding

Acquiring these desirable characteristics for courts is often a thorny problem. Judges may be partisan, ideological, populist, ambitious in their career, or fearful of retribution, and it may be difficult for judges to tune out external influences (Burbank et al. 2002:5; Ramseyer & Rasmusen 2001). They may be beholden to power holders for court financing, infrastructure, or job status and thus make decisions that unfairly benefit these power holders.

One strategy to circumvent these problems and improve judicial performance is to maximize the financial independence of courts. Greater financial independence supposedly diminishes the possibility that low or insecure judicial salaries and budgets will create incentives for judges to seek funding through corrupt means and for the most qualified lawyers to avoid judicial careers (Dung 2003:15–22). Researchers thus often suggest that judges' salaries be guaranteed with life tenure (removal only by impeachment) and nondiminishable compensation; that the judiciary itself control appointments, promotions, remuneration, disciplinary action, and dismissal; that courts be given significant control over the drafting and administering of their budgets; and that courts be financed at adequate levels to cover salaries and operations.

Even when financial independence is maximized, however, good judicial performance is not guaranteed. For example, a financially independent court may still not be free of extrajudicial influence on decisionmaking (Chavez 2004a; Finkel 2004; Helmke 2002; Helmke & Levitsky 2004; Martin 2006). The preferences of the judiciary may be manipulated to match those of the government through mechanisms besides funding (Caldeira 1987; Casper 1976; Dahl 1957; Funston 1975; Martin 2006; compare Lasser 1988). Still, financial independence is probably a preferable scenario to financial *dependence* when crafting institutional obstacles to extrajudicial influence on judicial decisionmaking.

A less discussed but equally serious problem is that genuine financial independence for courts is not possible, since the funds for judicial expenses must originate *somewhere*. The question is whether different funding sources for judicial salaries and other

budget items have differential impacts on judicial performance. For example, does it matter whether courts are financed by authorities at the national level or the local level?

There is good reason to suspect that financing by local authorities may be the more detrimental to judicial performance. Local authorities often have high stakes in the outcomes of court decisions in their jurisdiction and a greater ability than national authorities to monitor those decisions attentively. If local authorities control judicial purse strings, they can then combine their high stakes and greater monitoring ability with financial leverage to reward or punish judges. Judges in turn may alter decisions to seek rewards or avoid punishment. Financing from more remote, disinterested sources may instead improve judicial performance or at least do it no harm.

The Role of Diversified Political Power

Prior research suggests that diversified political power may also matter for improved judicial performance (Bednar et al. 2001; Cameron 2002; Ferejohn 2002, 2007). Fragmented power—in the form of divided government or governments with many veto players—has been shown to hinder the ability of political actors to coordinate efforts in a variety of political contexts, including legislation (Tsebelis 1999), government spending (Bawn 1999), trade liberalization (Frye & Mansfield 2003), central bank control (Keefer & Stasavage 2003), and even civil war cessation (McLean & Nou 2006). In the context of judicial politics, political fragmentation is hypothesized to reduce coordinated action among extrajudicial actors that would punish courts for disagreeable decisions, since these actors often do not agree on what is disagreeable (Cameron 2002; Ferejohn et al. 2007). With less at risk, judges can then decide cases more freely and fairly and apply the law more consistently, with less regard for how their decisions benefit powerful actors.

For example, judiciaries in the United States experience much more decisionmaking independence when governments are divided and when joint action of a great diversity of actors is required to overturn court decisions or punish judiciaries (Brace et al. 1999; Cameron 2002; De Figueiredo & Tiller 1996; Gely & Spiller 1990, 1992; Segal 1997; Segal & Spaeth 1993, 2002; Spiller & Gely 1992). Similar effects of divided versus unified government on court behavior have been found outside the United States (Chavez 2004b; Finkel 2005; Ginsburg 2003; Ramseyer 1994; Vanberg 2001, 2005; but see Popova 2006; Popova in press). The more actors involved in policymaking, and the more those actors differ ideologically, the more independence the court has. This is especially true when institutions are first being crafted: The more

ideologically different are the actors doing the crafting, the more likely they are to try to insulate the judiciary from government influence. In the United States, for example, states with divided parties and ideologically distinct parties create the most independent judicial institutions (Hanssen 2004).

Conversely, unified control of government threatens judicial independence, because such circumstances allow the executive and legislature to coordinate to undermine the judiciary (Cameron 2002; Ferejohn 1999; McNollgast 2006; Segal 1997). Concentrated power poses a similar threat to judicial independence. For example, among postcommunist states, judiciaries are less likely to make antigovernment decisions in those cases where power is most concentrated in the executive (Herron & Randazzo 2003). Strong presidents in Russia in particular have tried to manipulate the procedures for judicial selection and otherwise manage the country's high courts (Remington 2007). If judges perceive an impending change in the executive branch, however, then the situation looks more like one of power diversification, and judges exercise greater independence (Helmke 2002; Vondoepp 2006).

A study of Russia's courts should help test whether prior findings on power diversification are generalizable and, in particular, whether national-local partisan differences improve judicial performance. Of course, in Russia, there is quite a bit of power concentration in the hands of the national executive, but there is also variation in opposition party power across regions and municipalities (Gel'man et al. 2005). This type of divided government, just like divided government within the national or local level alone, should minimize unified political pressure on courts and the possibility that courts will be beholden to political actors. Similarly, the effects of independent local executives or local legislatures with no partisan majorities should resemble the effects of other types of power diversification, allowing courts to benefit from political cross-pressures and perform better.

The Performance of Russia's Courts

According to official documents, Russia's judiciary is institutionalized to prevent inappropriate influence of political and financial power holders on judicial decisions. The Russian Constitution proclaims a commitment to judicial independence in Articles 120 and 124, and the professed commitment is reinforced in subsequent legislation, the Law on the Status of Judges (1992) and Article 5 of the 1996 Law on the Judicial System of the Russian Federation (IBA 2005:33; Popova 2006:80–2; see also <http://www.supcourt.ru/EN/jstatus.htm>, accessed 23 Jan. 2010). These establish tenure for Russian judges, objective appointment criteria,

and the judicial role in appointments, promotion, dismissal, budgets, and administrative issues.

In de facto terms, however, the poor performance of Russia's judiciary is widely lamented. Criticism from the West largely reflects the 2003 arrest, 2005 conviction, and nine-year sentence of Yukos head Mikhail Khodorkovsky, whose case was seen as politically motivated and therefore evidence of a dependent judiciary (Orttung 2004). Criticism also reflects the nontransparent and seemingly manipulated espionage trial of Igor Sutyagin, a civilian researcher and weapons specialist who had no access to classified files and gave information that was openly public (Solomon 2004b, 2005), as well as the relationship between the Russian government, the Russian Constitutional Court, and the judicial system as a whole. After its dissolution in 1993, the Constitutional Court presumably learned its lesson to stay in "safe" areas of the law and avoid further confrontation with political officials (Hirschl 2006). National-level officials later exiled the Court to St. Petersburg and have tinkered with rules about judicial selection and tenure to retain justices who serve their interests (Kolesnikov 2007; Trochev 2007, 2008).

According to Freedom House's 2007 *Nations in Transit*, which relies principally on anecdotal evidence but nevertheless often informs the conventional wisdom, "Russia scores very poorly on ratings of judicial independence. The state uses the courts to protect its strategic interests and political goals" (Orttung 2007:579). According to Freedom House's 2008 report, "Russia's courts are subject to political manipulation and can be reliably counted on to return the decisions needed by the authorities" (Orttung 2008:497). Similarly, according to the U.S. Department of State's 2008 Russia profile, "In spite of the general tendency to increase judicial independence (for example, by [a] recent considerable salary raise to judges), many judges still see their role not as of impartial and independent arbiters, but as of government officials protecting state interests. . . . The judiciary is not independent [and] is often subject to manipulation by political authorities" (U.S. Department of State 2008: n.p.).

For Russian state officials, however, criticism of Russia's courts has little to do with the above high-profile cases for which the state itself is the presumed manipulator. Instead, criticism centers on manipulation by many lesser but powerful authorities throughout Russia. German Gref, Putin's former Minister of Economic Development, voiced concern that Russia had a "closed club of judges, closed from public criticism, public supervision, from the needs of the economy" and could thus easily fall under the influence of powerful people (Solomon 2002:119). The Chair of Russia's Constitutional Court, Valerii Zorkin, announced in October 2004

that “bribe-taking in courts has become one of the most corrupt markets in Russia . . . built on various corrupt networks operating at various levels of the power structure” (Solomon 2005:337). As recently as May 20, 2008, President Medvedev proclaimed, “As we all know, when justice fails it often does so because of pressure of various kinds, such as surreptitious phone calls and money” (Medvedev 2008: n.p.).

Scholars of Russian judicial politics have identified similar problems. In defamation cases across Russia, “law and order” officials and regional politicians have commonly interfered with judicial outcomes (Popova 2006:153–5). On the eve of Putin’s ascension to power as president,

the independence of judges in Russia was compromised by inadequate financing by the federal government, which led to the “sponsorship” of courts by regional and local governments and private firms and by compensation packages for individual judges that included bonuses and perks (such as apartments) arranged by the chairmen of courts and their friends in local government. As a result, local politicians and their wealthy friends could still exercise improper influence over judges (Solomon 2002:118–19).

Businesses in Russia are indeed using courts and perceive fair treatment in cases against other businesses but not in cases against the government (Frye 2004). When businesses use courts in debt cases, they are motivated less by expectations of high judicial performance and recovering the debt and more by the need to document their debt for tax purposes (Hendley 2004).

Each of Russia’s post-Soviet leaders has attempted to address these problems. The Yeltsin administration removed term limits for judges, limited disciplinary action, and put court administration under the control of chief judges. Although these actions represented significant strides in judicial independence compared to Soviet times, and indeed the high win-rates for cases against government in the 1990s suggest that judges had reasonable discretion in such cases (Solomon 2004a), then-President Putin still inherited a judiciary widely perceived as biased, unfair, inconsistent, and inappropriately influenced by extrajudicial actors. In response, Putin ushered in a new set of laws starting in December 2001 to, among other things, increase budgetary support for the courts, double the number of judges, increase judicial salaries, offer interest-free and forgivable home loans to judges, and eliminate the role of regional government in appointments (Solomon 2002).³ However, coinci-

³ Although it may seem counterintuitive that a leader seeking to concentrate power would implement reforms to increase judicial power, such has been done not only by Putin but by Russia’s regional governors (Trochev 2004) and authoritarian leaders in the Philippines (Tate & Haynie 1993) and Egypt (Moustafa 2007).

dent with these positive developments during the Putin years, judicial independence was also under constant threat, with challenges to remove the life tenure of judges, decrease the judicial composition of the Judicial Qualification Commissions, and instill greater disciplinary measures against judges (Solomon 2008). Although many of these challenges failed, their frequent presence suggested that recent gains in favor of judicial independence and improved judicial performance were vulnerable.

Thus, like his predecessor, President Medvedev has inherited a judiciary widely perceived as biased, unfair, and inappropriately influenced by extrajudicial actors. There is still an accusatorial bias in Russia, with judges acquitting in only 1 percent of cases in courts of general jurisdiction (compared to the 15–20 percent acquittal rate of juries) (Solomon 2008:59). The Judicial Qualification Commissions, rather than serving as independent self-policing bodies for the judiciary, still take cues from the executive, and informal interaction and *ex parte* communication about cases between the executive and judiciary leadership are still common (Popova 2006:165–70). At the end of Putin's presidential administration in 2008, "illegal verdicts [were] still being made on the basis of telephone calls or for money . . . and dependent and biased attitudes, which judges display[ed] in economic cases, [were] substantially impeding the development of the economy and blocking the flow of home and foreign investment" ("Russia's Domestic Policy Under Vladimir Putin: Achievements and Failures," *RIA Novosti*, 29 Feb. 2008, <http://en.rian.ru/analysis/20080229/100334445.html> [accessed 15 April 2010]).

The Financing of Russia's Courts

Inadequate court funding has supposedly been at the heart of the above problems. All courts in Russia, save for republican constitutional courts and justices of the peace, are federal bodies and are by law funded exclusively by the federal government (Solomon 2004a; IBA 2005:34–5). Article 124 of the Russian constitution states that "The courts shall be financed only from the federal budget," and Article 33 of the Law on the Judicial System of the Russian Federation (1996) states that "Financing of courts must provide opportunity for full and independent administration of justice." (See <http://www.constitution.ru/10003000/10003000-9.htm> and http://www.supcourt.ru/vscourt_detale.php?id=8. English speakers see <http://www.constitution.ru/en/10003000-08.htm> and <http://www.supcourt.ru/EN/jsystem.htm>, all accessed 23 Jan. 2010.) Judicial budgets are drafted by the federal government in conjunction with the chairs of the Constitutional Court, Supreme Court, and Supreme Arbitrazh Court; the director of the Judicial Department of the Supreme

Court; and the Council of Judges, and representatives of these institutions may participate in discussions of the federal budget in the Federal Assembly. Reductions in judicial budgets require the consent of the All-Russia Congress of Judges or the Council of Judges of the Russian Federation.

Implementation of judicial budgets depends on the branch of the judiciary. Funds for courts of general jurisdiction and salaries of Justices of the Peace are disbursed by the Judicial Department of the Russian Supreme Court through its regional branches. Funds for support staff of Justices of the Peace are financed by regional executive agencies. Funds for *arbitrazh* (arbitration) courts are disbursed by the Supreme Arbitrazh Court, and funds for the Constitutional Court are sent directly from the federal budget.⁴

Despite these constitutional and legal provisions, federal funds for judicial salaries and operations in Russia have long been deficient. Fluctuations in the economy in the mid-1990s led the federal government to renege on budgetary commitments and fail to deliver funds allocated to the courts. And although the appropriations process does not officially allow national or local executives to alter judicial budgets, unofficial delays and bargaining often occur during the implementation stage between the Finance Ministry and courts and between court chairs and judges. As a result, judges and court staff have been left to scramble for additional income from regional and local governments and private sources and desperate for such mundane necessities as pens, paper, and stamps (Solomon & Foglesong 2000:36–42).

Some of the biggest financial burdens, such as the construction and repair of buildings, continue to face contemporary Russian courts. According to the head of the judicial department of the Supreme Court in Sverdlovsk Oblast, 13 of 61 district courts in the oblast “require a thorough repair. . . . In Krasnoturinsk, the court is located in the basement of the building with corridors not more than 80 centimeters wide.” In Kirovgrad, so many offices and people are packed into the same building that “it is impossible to provide adequate security to judges and citizens” (“The Honor and Burden of Judicial Robes,” *Oblastnaya Gazeta* [*The Regional Newspaper*], Sverdlovsk; <http://www.oblgazeta.ru/home.htm?st=3-2.sat&dt=02.12.2009>, accessed 23 Jan. 2010). As a result, according to *Izvestiya*, “today it is difficult to find even a single region that did not build judicial real estate at their own expense and render other services” to courts (“The Moscow City Government Spares No Money on the Judicial System,” 1 Feb. 2007; <http://fcp.vpk.ru/cgi-bin/cis/fcp.cgi/Fcp/News/View/2006/1865>, accessed 23 Jan. 2010).

⁴ We thank Alexei Trochev for guiding us on Russian court financing.

Recent construction of the Moscow City Court provides an extreme example of how regional and local governments can play an unofficial but huge role in judicial budgets. According to the All-Russia Audit Chamber, 50–70 percent of the cost of constructing the court came from the regional budget, amounting to approximately 1 billion rubles. Although such expenditures would seem to violate the spirit of the constitutional provision for exclusive federal financing of Russia's courts, they are often not illegal thanks to technicalities like, in the example of the Moscow City Court, retaining the real estate as city property ("The Moscow City Government Spares No Money on the Judicial System," *Izvestiya*, 1 Feb. 2007, <http://fcp.vpk.ru/cgi-bin/cis/fcp.cgi/Fcp/News/View/2006/1865>, accessed 23 Jan. 2010). Instances of more egregiously illegal interference in court funding also abound. In one such example, Bondarev, a judge and chairman of a district court in Ryazan, siphoned off money intended for judicial enforcers as a reward for good job performance and used it to purchase new apartments for three judges (including himself) and supplies for the court, including new typewriters, pencils, paper, and even a jeep (Foglesong 2001). Overall, the constitutional provision to fund courts exclusively from the federal budget has been relatively toothless.

In Putin's attempts to improve judicial performance, money has therefore played a principal role. His 45 billion ruble (\$1.5 billion) Federal Targeted Program, "Development of Russia's Judicial System for 2002–2006," provided a sizable increase in spending on the courts for a variety of expenses (IBA 2005: 34–5; also see <http://fcp.vpk.ru/cgi-bin/cis/fcp.cgi/Fcp/ViewFcp/View/2006/60/>, accessed 23 Jan. 2010). By 2007, the base salary of Russian judges was 30,000 rubles a month (\$1,000), relatively high in most Russian cities (Solomon 2008:68). Perks like housing were diminished in favor of these higher salaries and other regularized federal expenses less subject to local discretion. Thus, the ability of local authorities to influence judicial outcomes was reduced directly, by removing the power of regional legislatures to screen judges during appointments and promotions, and also indirectly, by decreasing courts' needs for supplemental funding from local governments and private firms (Solomon 2002).

De facto supplemental funding from local authorities still exists, however, which is unsurprising given the (often overlooked) power of Russia's regional actors (Gel'man et al. 2005; Solomon & Trochev 2005; Stoner-Weiss 2006; Trochev 2006). As Moscow Mayor Yuri Luzhkov said in 2007, "Without the participation of subjects of the federation, it is impossible to imagine the possibility of creating normal conditions for the judicial system" (*Izvestiya*, 1 Feb. 2007, <http://fcp.vpk.ru/cgi-bin/cis/fcp.cgi/Fcp/News/View/2006/1865>, accessed 23 Jan. 2010). This situation makes Russia's judiciary

institutionally unique compared to other nations' judiciaries, which are rarely funded by more than one governmental level. It is therefore important to understand perceptions of financial dependence of Russia's courts on local authorities versus national authorities and how that financial dependence is perceived to influence judicial performance.

Data and Method

To do so, we used data from surveys of Russia's lawyers conducted in 2003, 2004, and 2005 (from May or June to September of each year). The surveys were designed by us and administered as face-to-face interviews in respondent homes by the Moscow-based Institute for Comparative Social Research (CESSI) in 12 Russian cities. The 12 cities represented small, medium, and large cities with adult populations of more than 350,000: Moscow (adult population of 8.6 million), St. Petersburg (3.8 million), Nizhny Novgorod (1.1 million), Novosibirsk (1.1 million), Samara (946,000), Chelyabinsk (853,000), Rostov-na-Donu (867,000), Perm (796,000), Saratov (712,000), Khabarovsk (469,000), Irkutsk (458,000), and Tomsk (389,000).

We selected approximately 50 *advokaty* (lawyers) at random in each city from lists of *advokaty* provided by regional departments of the Ministry of Justice, which grant licenses to *advokaty*. These official lists are comprehensive and include *advokaty* working mainly in courts of general jurisdiction and also arbitrazh courts and before Justices of the Peace, but they do not include workplace information and so do not allow sampling by type of court. Generalizations must thus be made to licensed *advokaty* working in cities with populations of more than 350,000 as a whole. As we describe below, the data support generalizing in this manner: Reasonable proxies for working in arbitrazh courts, such as taking cases involving business disputes, suggest that *advokaty* working in arbitrazh courts do not differ significantly in their opinions from *advokaty* working in other types of courts.

The Ministry of Justice's lists of *advokaty* contain only names, not contact information. Therefore, after selecting the respondents' names, we sought contact information from the Union of *Advokaty*. Some *advokaty* freelance, have multiple jobs, or are formally registered at jobs where they never work, adding to the challenge of locating all respondents. We made every effort to locate those *advokaty* whose names were randomly selected and make appointments by phone to interview them at their homes; no replacements were allowed.

In 2003, the response rate was 57 percent of the 1,075 targeted advokaty, or 614 respondents. In 2004, the response rate was 49 percent of the 1,245 targeted advokaty, or 608 respondents. In 2005, the response rate was 50 percent of the 1,220 targeted advokaty, or 614 respondents. The reasons for nonresponse included the inability to find contact information for selected advokaty, refusal to participate due mainly to time constraints, unavailability due to vacations and business trips, ineligibility of selected advokaty who stopped practicing law, and postponement of the interview, which could then not be rescheduled.

We wrote survey questions in consultation with the United States Agency for International Development (USAID)'s Moscow branch and CESSI. The Russian translation was prepared by CESSI and checked by Javeline and USAID.

Like all survey research, our research is subject to the challenge that respondents purposely misrepresent their perceptions to interviewers due to social desirability bias or other self-serving reasons. Interviewer feedback for our survey suggested that misrepresentation was a minimal concern here. Lawyer respondents openly discussed and admitted instances of corruption, bias, and dependence in the Russian judicial system. The bigger challenge when interviewing lawyers is impatience toward the end of the survey, since lawyers get paid on an hourly basis and thus highly value their time. We intentionally placed critical questions, such as those discussed in this analysis, toward the beginning and middle of the survey.

Measuring Perceived Financial Dependence

Lawyers' perceptions about court funding are not the same as valid data on actual court funding. However, these perceptions are highly valuable for three reasons. First, judiciaries riddled with corruption are often unable or unwilling to produce valid data on their finances. As mentioned previously, off-the-books side payments by local authorities to judges have been rampant in Russia. These have come in the form of subventions, credits, and in-kind assistance and have left the financial fate of many courts in the hands of their chairs, who scramble for funding to supplement the official budgetary disbursements (Fogelsong 2001:70–4). Given the extent of this unofficial financial activity, official data showing that, for example, judges are dependent exclusively on the federal government for salaries may be less helpful than the perceptions of a sizable number of randomly sampled insiders such as lawyers.

Second, perceptions about court funding are crucial in and of themselves, even if they diverge from reality, since these perceptions can influence judicial legitimacy. As we show, lawyers'

understanding of the sources of court financing colors their impressions of judicial performance, which has important ramifications for public respect for and use of courts. If courts are objectively dependent on specific government institutions or actors for their funding but are perceived to be independent of those institutions and actors, then lawyers may be more likely to suspect good judicial performance and encourage litigation, and citizens may be more likely to use courts. Conversely, if courts are objectively independent of specific government institutions or actors for their funding but perceived to be financially dependent on those very institutions and actors and therefore biased and unfair, then lawyers may be less encouraging of litigation, and public use of courts may decline.

Finally, the reason that government funding may influence judicial performance is that it may create a situation of financial dependence whereby courts are beholden to a particular level of government for particular expenses or even perks. This perceived financial dependency, rather than the precise ruble amount of government funding, was hypothesized as the relevant factor for judicial performance. Situations where government funding is high, but courts are not perceived to be financially dependent—because the courts could go elsewhere for the funds, because the funded expenses are not that crucial, because the funding is so institutionalized as to be beyond the discretion of current office holders, or for some other reason—were not hypothesized to alter judicial performance one way or another. Conversely, low government funding that is nevertheless perceived as crucial to court operating was indeed hypothesized to alter judicial performance. Low funding from both the national and local governments could create the perception of high financial dependence on both these levels of government simultaneously, meaning that perceived financial dependence is not zero sum. Lawyers offering their reasonably informed perceptions of financial dependence should have thus allowed us to test our hypotheses about judicial performance (see Table 1).

We asked lawyers about the financial dependence of the courts where they worked most frequently for a variety of budgetary items. Because this research focused mainly on the differential impact of perceived national versus nonnational funding, questions about local financial dependence did not make finer distinctions between levels of local government such as oblasts and cities. In addition, in cases where national funding is administered by local authorities, the questions explored not the perceived origin of the money but whether the *advokaty* respondents perceived local authority discretion.

Of those surveyed, almost two-thirds said that the courts where they worked most frequently were dependent on local authorities

Table 1. Financial Dependence of Courts

(A) on local authorities (%)
Responses of Russian lawyers to the question, "To what extent is the court where you work the most often dependent on the local authorities for the following?"

Dependence of the court on the local authorities for:	Somewhat or a great deal dependent	Not very much or not at all dependent	Unsure	Refused	Total
The building	63.8	23.6	10.7	1.9	100
The furniture, equipment, and other supplies	57.3	28.9	12	1.8	100
Social benefits and privileges to personnel	48.9	35.4	13.8	1.9	100
Financing of other functions	46.7	33.6	17.5	2.2	100
Judges' salaries	41.5	43.1	13.3	2	100
Staff salaries	39	47.7	11.3	2	100

Total number of weighted observations is 1,836.

(B) on national authorities (%)
Responses of Russian lawyers to the question, "To what extent is the court where you work the most often dependent on the national authorities for the following?"

Dependence of the court on the national authorities for:	Somewhat or a great deal dependent	Not very much or not at all dependent	Unsure	Refused	Total
Staff salaries	73.7	14.7	9.4	2.2	100
Social benefits and privileges to personnel	70.8	16.5	10.7	2	100
Judges' salaries	70.4	16.5	10.9	2.2	100
The building	65.2	21.8	11.1	1.9	100
Financing of other functions	64.6	18	15	2.4	100
The furniture, equipment, and other supplies	61.1	25.8	11.1	2	100

Total number of weighted observations is 1,836.

for the building; more than half said the courts were dependent on local authorities for furniture, equipment, and other supplies; and just under half said the courts were dependent for social benefits and privileges to personnel and financing of other functions (Table 1). Even for salaries, which were increasing throughout the 2000s and so presumably were in less need of supplementation, approximately 40 percent of lawyers surveyed believed that judges and staff were dependent on the local authorities.

Perceived dependence on local authorities for the above expenses coincided with an even greater perceived dependence on national authorities. Anywhere between 60 and 75 percent of lawyers said that the courts where they worked most frequently depended on the national authorities for different court expenses, with an especially large perceived dependence on national authorities for staff and judge salaries and social benefits and privileges to personnel. Building, furniture, equipment, and supplies were the

Table 2. Financial Dependence of Courts on National Authorities, by Year

Percent saying “somewhat” or “a great deal dependent” on national authorities:

	2003	2004	2005
Staff salaries	72.7	68.9	79.4
Judges' salaries	67.0	66.7	77.4
Social benefits and privileges to personnel	66.9	68.7	76.8
The building	64.5	63.0	67.9
Financing of other functions	61.9	62.1	69.7
The furniture, equipment, etc.	60.1	57.2	66.0
<i>N</i>	613	609	614

main areas where dependence on national and local authorities was reported by similar percentages of lawyers (see Table 2).

The perception of financial dependence on local authorities changed little from 2003 to 2005. (Results by year are available upon request.) The perception of financial dependence on national authorities, however, did change significantly for each of the six budget categories. From 2004 to 2005, about 5 to 10 percent more lawyers reported financial dependence on the national authorities for each budget item in the courts where they worked most often (Table 2). This increase in perceived financial dependence of courts on the national authorities may be linked to the consolidation of national power in relation to Russia's regions that followed the 2004 school hostage-taking in Beslan.

Note that only a minority of lawyers in any year perceived Russia's courts to be financially independent of either the local authorities (at most 48 percent) or the national authorities (at most 26 percent) for any single budget item. However, when we looked at courts in different Russian cities, there was a fairly wide range of perceptions of financial dependence on both the local authorities and the national authorities from one city to the next (see Table 3).

Perceptions of the dependence of courts on local authorities for each of the six budget items were highly correlated (Cronbach's alpha 0.94). If lawyers perceived that the court where they worked most often was dependent on the local authorities for staff salaries, there was a high probability they would also perceive that the court was dependent for the building, equipment, and other expenses. Similarly, perceptions of the dependence of courts on the national authorities for each of the six budget items were highly correlated (Cronbach's alpha, 0.94).

However, perceptions of financial dependence on the local authorities and the national authorities were not highly correlated with each other. For each respondent, we took the mean response for perceived dependence for all six budget items on the local authorities and the mean response for perceived dependence on

Table 3. Financial Dependence of Courts, by City

(A) on local authorities

Percent saying "somewhat" or "a great deal dependent" on local authorities:

	Judges' salaries	Staff salaries	Social benefits and privileges to personnel	The building	Furniture, equipment, supplies	Financing of other functions	N
Samara	56.0	53.3	50.7	63.3	57.3	52	150
Moscow	50.9	51.6	57.2	64.8	60.4	54.7	159
Khabarovsk	43.3	46.7	52.7	59.3	56.7	49.3	150
Perm	41.6	43.5	44.8	63.6	54.5	46.1	154
St. Petersburg	38.7	27.3	48.0	69.3	62.0	51.3	150
Rostov-on-Don	37.3	35.3	47.3	62.7	56.0	42.7	150
Saratov	37.1	33.1	43.0	58.9	50.3	43.0	151
Irkutsk	35.5	33.6	44.7	53.3	46.7	41.4	152
Nizhny Novgorod	27.2	24.1	46.9	65.4	61.7	34.6	162
Novosibirsk	24.4	21.8	32.1	52.6	41.7	23.1	156
Chelyabinsk	22.5	19.2	28.5	64.2	54.3	25.2	151
Tomsk	17.9	17.2	35.8	55.6	43.7	25.2	151

(B) on national authorities

Percent saying "somewhat" or "a great deal dependent" on national authorities:

	Judges' salaries	Staff salaries	Social benefits and privileges to personnel	The building	Furniture, equipment, supplies	Financing of other functions	N
Rostov-on-Don	92.0	91.3	86.0	82.0	79.3	90.0	150
Khabarovsk	74.7	72.0	74.7	66.0	64.7	70.7	150
Nizhny Novgorod	74.1	77.2	73.5	61.1	57.4	66.0	162
St. Petersburg	72.7	75.3	67.3	58.7	53.3	59.3	150
Moscow	70.4	74.2	72.3	74.2	67.9	67.9	159
Irkutsk	69.7	75.0	71.7	69.7	68.4	72.4	152
Tomsk	66.2	65.6	62.3	60.3	55.6	58.3	151
Saratov	62.9	71.5	61.6	57.0	57.0	56.3	151
Novosibirsk	62.2	64.1	59.0	44.2	49.4	46.8	156
Samara	62.0	64.0	70.7	50.7	49.3	55.3	150
Perm	60.4	64.3	63.6	56.5	50.6	54.5	154
Chelyabinsk	58.3	69.5	69.5	57.6	55.6	54.3	151

the national authorities. The relationship between the two indexes was substantively zero (Pearson r , -0.05).

Measuring Power Diversification

We measured partisan differences by whether the mayor, majority of the city legislature, regional head, or majority of the regional legislature belonged to a party besides United Russia and therefore differed from the national majority party. The dichotomy thus showed whether any local government institution had different preferences from those of the powerful national government. For those cities with no formal opposition local executive or legislative majority, we measured the independence of local executives or divided local legislatures by whether there was at least one independent local executive or one local legislature without a majority party. We could therefore analyze the independent effects of

Table 4. National-Local Power Diversification

	2003	2004	2005
Minority party (not United Russia) local executive or legislative majority	Chelyabinsk Nizhny Novgorod Perm Samara	Chelyabinsk Nizhny Novgorod Perm Samara	Chelyabinsk Novosibirsk Samara
Independent local executive or divided legislature (no legislative majority)	Irkutsk Khabarovsk Novosibirsk Tomsk	Irkutsk Khabarovsk Novosibirsk Tomsk	Khabarovsk Nizhny Novgorod Perm Rostov-on-Don Saratov Tomsk

formal divided government, as evidenced by local leaders formally affiliating with opposition parties, and informal divided government, as evidenced by local leaders choosing not to affiliate with the dominant national party or being divided amongst themselves and unable to form a partisan majority in the local legislature.

These may not be perfect measures of power diversification, because other parties or individual nonmembers of United Russia may still find it politically expedient to align with the national majority party. The measures thus allow for a conservative test of the effects of political diversification on judicial performance, and it is reasonable to suspect that, if an effect is found, it would be even greater in situations of greater power diversification. Table 4 shows which of our 12 Russian cities had a minority party executive or legislative majority or an independent executive or divided legislature in 2003, 2004, and 2005.

Measuring Judicial Performance

In measuring the most high-profile element of judicial performance, judicial independence, one common approach is to look empirically at whether courts have ruled against their own governments (Helmke 2002, 2005; Herron & Randazzo 2003; Iaryczower et al. 2002). Although the strategy has merit, it assumes that pro-government judicial decisions are indisputable evidence of extrajudicial influence. While extrajudicial influence may have occurred, other explanations are also plausible. For example, the government may have acted lawfully and been rightfully judged, or the court's preferences and the government's could be similar (Cameron 2002). Moreover, *antigovernment* judicial decisions may still have been influenced by extrajudicial actors. For example, the case may have merited a much stronger pro plaintiff decision than the actual outcome. Using court rulings as evidence of judicial independence thus may lead to the miscategorization of cases, as extrajudicial influence may be erroneously inferred or overlooked.

(For a rich discussion of the various advantages and disadvantages of measuring judicial independence as a court's willingness to overrule government actions, see Ferejohn et al. 2007.)

Similar dilemmas exist for measuring other elements of judicial performance. For example, enforcement actions against judges who commit ethics violations may seem to represent a good measure of judicial bias. However, it is not clear that a greater quantity of recorded enforcement necessarily reflects more violations and thus poor judicial performance. Greater recorded enforcement may reflect a more rigorous crackdown on violations and thus *good* judicial performance. Conversely, limited enforcement may signify few ethics violations and thus good judicial performance, or limited enforcement may coincide with many undiscovered or unprosecuted ethics violations and thus signify quite poor performance (Staats et al. 2005:86).

Here we instead measured judicial performance by the perceptions of lawyers. Lawyers know the law, have everyday experiences with judges in and out of court, and are thus uniquely positioned to evaluate the existence of extrajudicial influence and biased judicial decisions (Staats et al. 2005). These perceptions may at times be incorrect, but the perception of judicial bias is arguably important in and of itself. The behavior of governments, lawyers, plaintiffs, and other actors in the courtroom is greatly influenced by expectations of impartiality versus bias, not to mention the expectations of the media and public who are deciding whether judicial institutions are worthy of their respect and use (Frye 2002; Frye & Zhuravskaya 2000). Lawyers' perceptions of judicial performance are especially important because lawyers often give cues to other elites and the mass public about the legitimacy of the judicial system.

We therefore measured judicial performance with survey questions asking lawyers whether (1) judges make decisions that are independent of the preferences of the local authorities, (2) average people get a fair hearing in court, (3) people are equal before the court regardless of income or power, (4) courts carefully consider the average person's side of the story in cases against government agencies, and (5) courts follow legal procedures in cases against government agencies. (See Table 5 for the precise question wording of these and other measures in our analysis.)

These questions tap similar but not identical dimensions to those recommended by Staats et al. (2005). Building on Prillaman (2000) and relying on the perceptions of legal experts, their five dimensions of judicial performance—*independence, efficiency, accessibility, accountability, and effectiveness*—represent a perfectly reasonable definition of judicial performance. For our purposes, however, we are most concerned with judicial performance as

Table 5. Measures

Variable	Survey Questions
Judges independent of local authorities	In your opinion, how independent are judges in your city to make decisions that go against the preferences of the local authorities? completely independent, rather independent, fully dependent (four point scale: low 1, high 4, mean 2.4)
Average person gets fair hearing	If the average/ordinary person (<i>prostoi chelovek</i>) took a case to a Russian court, do you think this person would get a very fair hearing, a rather fair hearing, or not very fair hearing, or would you not get a fair hearing at all? (4-point scale: low 1, high 4, mean 2.6)
All are equal before court	Some people think that all are equal before the court, whether they are rich or poor, ordinary (<i>prostie</i>) people or bosses. Other people think that the court treats the rich and powerful better than it treats ordinary (<i>prostie</i>) people. Which view is closer to your own? Do you feel this way strongly or only somewhat? (4-point scale: low 1, high 4, mean 2.1)
Judges listen to individual's story against government	Thinking about all the cases with which you are familiar within the last year where a person took a government agency to court, how carefully would you say the courts consider ordinary people's side of the story? very carefully, rather carefully, not very carefully, or not at all carefully, don't know anyone who has taken a government agency to court? (4-point scale: low 1, high 4, mean 2.6)
Judges follow legal procedures against government	Thinking about all the cases with which you are familiar within the last year where a person took a government agency to court, how closely would you say the courts follow legal procedures? very closely, rather closely, not very closely, not at all closely (4-point scale: low 1, high 4, mean 2.6)
Financial dependence on local authorities	To what extent is the court where you work the most often dependent on the local authorities for the following? a great deal, somewhat, not very much, not at all (mean index of responses to questions about six budget items: social benefits and privileges to personnel; building; furniture, equipment, and other supplies; judges' salaries; staff salaries; financing of other functions—low 1, high 4, mean 2.5)
Financial dependence on national authorities	To what extent is the court where you work the most often dependent on the local authorities for the following? a great deal, somewhat, not very much, not at all (mean index of responses to questions about six budget items: social benefits and privileges to personnel; building; furniture, equipment, and other supplies; judges' salaries; staff salaries; financing of other functions—low 1, high 4, mean 3.1)
Trust in local authorities	Using this card, please tell me how much trust you have in each of the following organizations and government bodies: a great deal of trust, a fair amount of trust, not very much trust, or no trust at all? If you haven't heard or read enough about any of these to form an opinion, just say so. Administration of your town (4-point scale: low 1, high 4, mean 2.2)
Trust in Putin	Using the same card, please tell me how much confidence you have in each of the following public figures: a great deal of confidence, a fair amount of confidence, not very much confidence, or no confidence at all? If you haven't heard or read enough about a person to form an opinion, just say so. Trust in President Vladimir Putin (4-point scale: low 1, high 4, mean 3.0)
Local-national partisan differences	Dichotomous variable representing whether the party or party majority of any of four important regional/local authorities (mayor, city legislature, regional head, or regional legislature) was something besides United Russia and therefore different from the national majority party.
Independent local executives or divided local legislatures	Dichotomous variable representing whether the mayor or regional head was independent or whether the city legislature or regional legislature had no party majority in cities with no opposition local executives or legislative party majorities.

it relates to the fairness and impartiality of the decisionmaking process. We thus paid less attention to factors like accessibility, which conveys little information about whether a court is biased or unbiased; the accountability or competence of judges, which Staats et al. (2005) define more as the *ability* of judges to be legalistic rather than whether judges in fact *behave* legalistically; and effectiveness, or mechanisms and procedures that make rulings stick, which often involve factors outside the courtroom. Instead, we paid much greater attention to the variety of ways that judges may or may not bias their decisions (see Table 6).

Testing the Effects of Perceived Funding Dependence

Table 6 shows the results of ordered logit models on these various indicators of perceived judicial performance. We analyzed the effects on perceived independence, fairness, equality, impartiality, and legalism of perceived financial dependence on local authorities and perceived financial dependence on national authorities.

Table 6 shows that the perceived financial dependence of courts on national authorities had no significant effect on almost every measure of perceived judicial performance. Lawyers' perceptions of financial dependence on national authorities were unrelated to their perceptions that judges make decisions independent of local authorities, all Russians are treated equally before the court regardless of wealth or power, judges listen to the stories of ordinary people in cases against government, and judges follow legal procedures in cases against government. The one exception where perceived financial dependence on national authorities had a somewhat significant negative effect was whether average people get fair hearings.

By contrast, the perceived financial dependence of courts on local authorities had a significant, independent, negative effect on every measure of perceived judicial performance. Where courts were perceived to be most financially dependent on local authorities, judges were perceived to be the least free to make decisions going against the preferences of those authorities. Similarly, perceived financial dependence of courts on local authorities has significant, negative effects on lawyers' perceptions that the average person gets a fair hearing in a Russian court, that rich and powerful people are treated the same as poor and ordinary people, and that courts carefully consider ordinary people's side of the story and closely follow legal procedures in cases against government agencies.

These negative effects of perceived local financial dependence were extraordinarily robust. The above results were achieved using

Table 6. Effects of Funding Dependence and Diversification on Judicial Performance

Ordered logit estimates:	Judges independent of local authorities	Average person gets fair hearing	All are equal before court	Judges listen to individual's story against government	Judges follow legal procedures against government
Financial dependence on national authorities	0.02 (0.09)	-0.19 (0.10)	-0.10 (0.09)	0.01 (0.12)	-0.01 (0.11)
Financial dependence on local authorities	-0.66 (0.10)	-0.40 (0.07)	-0.26 (0.08)	-0.56 (0.11)	-0.53 (0.10)
Local-national partisan differences	0.41 (0.13)	0.50 (0.14)	0.58 (0.13)	1.10 (0.17)	1.02 (0.18)
Independent local executives or divided local legislatures	0.26 (0.14)	0.38 (0.13)	0.47 (0.13)	0.52 (0.16)	0.36 (0.16)
Trust in local authorities	0.35 (0.10)	0.30 (0.11)	0.44 (0.09)	0.23 (0.12)	0.13 (0.12)
Trust in President Putin	0.43 (0.12)	0.26 (0.11)	0.38 (0.10)	0.42 (0.14)	0.51 (0.13)
Cutpoint τ_1	-1.26 (0.51)	-2.13 (0.49)	0.85 (0.49)	-1.50 (0.70)	-1.70 (0.62)
Cutpoint τ_2	1.07 (0.51)	0.03 (0.48)	2.41 (0.49)	0.41 (0.68)	0.75 (0.62)
Cutpoint τ_3	3.18 (0.53)	2.62 (0.51)	3.81 (0.50)	3.68 (0.69)	3.83 (0.64)
N	1,496	1,505	1,516	997*	1,007*

Note: Each dependent variable is a 4-point ordered categorical variable. See Table 5 for precise question wording and response categories for both dependent and independent variables. Results are not shown for two other included variables, dummies for “don't know” and missing responses: 109 and 106 respondents out of 1,836 did not give substantive answers to questions about trust in local authorities and trust in President Putin, respectively. Rather than toss out these respondents and reduce our sample size, we coded nonrespondents as 0 and included dummy variable controls for whether the respondent gave a substantive response. These dummy variables did not alter our substantive results for the other independent variables.

*These questions were asked only in 2004 and 2005, not in 2003, resulting in a lower sample size.

robust standard errors analysis (survey analysis in Stata). Controlling for city dummies (individually and jointly), as well as including or excluding advokaty from any one or several of the 12 cities in the sample, produced substantively identical results. (Results are available upon request.)

Furthermore, the results probably hold for all advokaty, regardless of whether an arbitrazh or other court was their primary workplace. Approximately 52 percent of the advokaty we interviewed claimed to have taken during the past year at least one type of case that is frequently heard in arbitrazh courts, including disputes over business agreements and contracts (49.4 percent), bankruptcy (18.2 percent), and environmental damage or pollution (5.8 percent). Analysis at the bivariate and multivariate levels suggested that the perceptions of advokaty who work on such corporate issues resemble the perceptions of advokaty who do not work on corporate issues. The Pearson r was never higher than 0.1 for the bivariate relationship between indicators of judicial performance and these corporate issues, whether measured individually (such as business disputes) or aggregated as a dichotomy to distinguish advokaty with corporate experience from other advokaty. When added to the multivariate models in Table 6, taking corporate cases had no statistically significant effect on indicators of judicial performance. Note that the inclusion of such proxies for working in arbitrazh courts did not affect other results. Perceived financial dependence on national authorities continued to have no statistically significant effect on judicial performance, while perceived financial dependence on local authorities continued to have statistically significant negative effects.

Testing the Effects of Power Diversification

The models in Table 6 also test for the effects of power diversification by including variables representing the difference in party affiliation between local and national authorities and, where no formal differences in affiliation existed, the presence of independent local executives or absence of partisan majorities in local legislatures. Prior research suggests that partisan differences between local and national authorities may help explain why judges could be perceived to act independently, feeling liberated by the cross-pressures of diversified political power. Where no such formal differences exist, differences in ideology or policy preferences, as are often held by independent local executives or divided local legislatures, may still provide some diversification and cross-pressures and seem to liberate judicial decisionmaking, although

perhaps not as powerfully as when local leaders formally affiliate with opposition parties.

The models indeed show that partisan differences between local and national authorities had consistent and highly significant positive effects on perceived judicial performance. Local-national partisan differences facilitated perceptions of judicial independence, average people getting a fair hearing, equal treatment, and fair outcomes and procedures in cases against government agencies. The fact that partisan differences between the local and national authorities aided the cause of judicial performance is an indication of the importance of diversified power. The finding is consistent with much of the literature on the effects of divided government on judicial independence.

The less formal indicator of power diversification, the presence of an independent local executive or the absence of a partisan majority in a local legislature, also had consistently positive effects on perceived judicial performance. According to lawyers, power that is diversified unambiguously, such as through formal affiliation with opposition parties, was an effective mechanism for achieving good judicial performance, and so was the less extreme power diversification that accompanies independent local executives and divided local legislatures.

Addressing Challenges

Given that our data measured lawyers' perceptions, an obvious challenge is that we reversed the causal story. Perhaps lawyers first perceive poor judicial performance and then infer financial dependence. Or perhaps lawyers first perceive good judicial performance and then assume less financial dependence.

Although we cannot rule out endogeneity, the latter story seems implausible because it fails to explain the lack of statistical significance of perceived financial dependence on the national authorities. If lawyers inferred financial dependence from their perception of poor judicial performance, then they should be just as likely to infer national financial dependence as local financial dependence, especially at a time when Putin's concentration of power was widely discussed, but the data showed no independent relationship between perceived judicial performance and perceived financial dependence on national authorities. It is true that one of our measures of judicial performance included a reference to local authorities, not national authorities, but the remaining five measures contained reference to no level of government at all and were scattered throughout the survey and far from the financial dependence questions. These multiple indicators suggest that our

findings are robust. Still, in analyses of relationships between perceptions, endogeneity problems are very difficult to resolve, and it is impossible to rule out endogeneity entirely.

Another obvious challenge is that the relationship between perceived financial dependence on local authorities and perceived judicial performance is spurious and may reflect the correlation of both variables with trust in political authorities. Perhaps highly trusting advocates are more likely to perceive that courts are financially independent of local authorities and also that courts perform well.

To address this challenge, the models in Table 6 control for the most likely variables to confound results because of their relationship to the dependent variables—trust in local authorities and trust in Putin. A lawyer's trust in local authorities is quite plausibly linked to his or her perception of dependence on those authorities, with more trusting lawyers also being less likely to believe that local authorities exercise undue influence on courts. Similarly, a lawyer's trust in Putin is plausibly linked to a more positive outlook on the functioning of contemporary Russian institutions, including judicial decisionmaking, whereas Putin critics may be the most pessimistic about courts.

We measured trust in local authorities by a direct question asking a lawyer's trust in the administration of his or her town. We also measured trust in Putin by a direct question. (See Table 5 for precise question wording.)

The models indeed show that trust in local authorities had a significant, positive effect on a lawyer's perception of judicial independence, the ability of average Russians to get a fair hearing, equal court treatment of rich and poor people, and court fairness in listening to ordinary people (but not on court fairness in following legal procedures in cases against government agencies, although the coefficient was still positive). Similarly, trust in Putin had a significant, positive effect on most measures of perceived judicial performance. Note that the effects of political trust did not alter our conclusions about the effects of perceived funding dependence on local authorities and the effects of power diversification (see Figure 1).

Size of the Effects of Perceived Funding Dependence

Using the parameters estimated by the ordered logit models in Table 6, we were able to estimate the probability that lawyers perceived good judicial performance given varying perceptions of the financial dependence of their courts on local authorities (Figure 1). Each graph represents the predicted probabilities of the worst

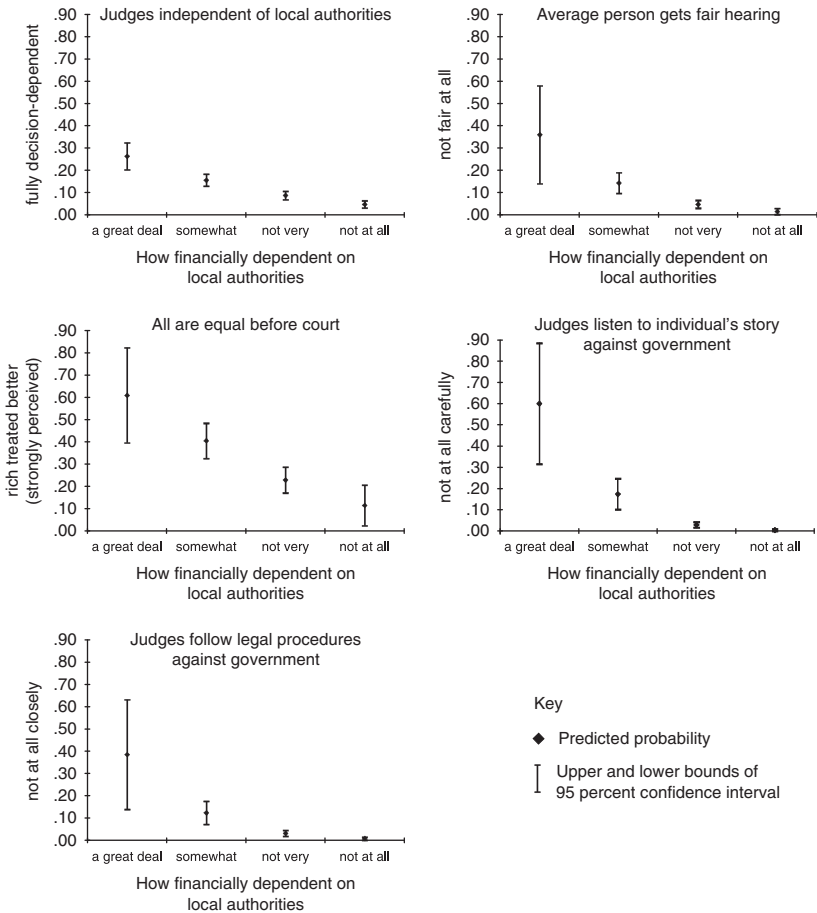


Figure 1. Effects of Local Financial Dependence on Indicators of Judicial Performance: Predicted Probabilities.

outcome for any individual indicator of judicial performance. For the question about whether judges are independent to make decisions that go against the preferences of the local authorities, the graph shows the probability of lawyers saying that judges are fully dependent. For the question about whether the average person would get a fair hearing in a Russian court, the graph shows the probability of lawyers saying that the person would not get a fair hearing at all; for whether all are equal before the court, the graph shows the probability of lawyers feeling strongly that rich and powerful people are treated better; and so on.

To generate predicted probabilities, all explanatory variables were held constant at their means, except for the mean index representing perceived financial dependence on local authorities, which was varied along four different values, 1 representing the

lowest mean, 4 representing the highest, and 2 and 3 representing points in between. These numbers represent realistic values for perceived financial dependence, since many lawyers estimated that the courts where they worked most frequently were at similar levels of financial dependence for judges' salaries, staff salaries, the building, and the other budgetary items that comprise the component measures of the index of financial dependence, making 1, 2, 3, and 4 the modal means.

Figure 1 shows that perceived judicial performance is best served by very low levels of perceived financial dependence on local authorities. For each indicator of judicial performance, courts were perceived to perform at their absolute worst when *advokaty* thought the courts where they worked most often were financially dependent on local authorities. When *advokaty* thought their courts received a great deal of funding from local authorities, they were significantly and substantially more likely to perceive that judges depended on those authorities for decisionmaking, that the average person did not get a fair hearing, that rich people were treated better than poor people, and that judges did not listen to individuals or follow legal procedures in cases against government. By contrast, when *advokaty* thought their courts were not financially dependent on local authorities, these negative perceptions of judicial performance decreased considerably or disappeared altogether.

More specifically, with less perceived financial dependence on local authorities, the predicted probability of perceiving judges to be fully decision-dependent on local authorities decreased from 0.26 to 0.05. The predicted probability of perceiving that average people failed to get a fair hearing decreased from 0.36 to 0.01, that rich and powerful people were treated better than ordinary people decreased from 0.61 to 0.11; that judges failed to listen to an individual's story against government decreased from 0.60 to 0.004; and that judges failed to follow legal procedures decreased from 0.38 to 0.01.

In other words, in the eyes of Russian lawyers, the effect of extreme financial dependence on local authorities can be fantastic. Conversely, as lawyers see it, taking local money out of courts would go a long way toward improving judicial performance. Financial independence from local authorities can render a court once perceived as heavily biased into one perceived as relatively independent, fair, impartial, and legalistic.

Conclusions

Russia's judiciary is perceived to be dependent for funding on both national authorities and local authorities. The ramifications

for courts of this perceived financial dependence are mixed. Perceived financial dependence on local authorities has the predictably negative independent effect of compromising perceived judicial performance. Such financially dependent courts are thought to be more dependent on local authorities, less likely to grant ordinary people fair hearings and treat all people equally regardless of wealth or power, and less likely to consider ordinary people's sides of the story and follow legal procedures in cases against government.

Perceived financial dependence of courts on national authorities does not have these independent effects, and indeed perhaps the biggest conclusion for Russia and elsewhere is that courts need not fear being seen as biased or compromised in their decision-making by national-level funding. However, when national governments are strapped for cash, courts should avoid the temptation to allow local governments to pick up the slack. The perception of financial dependence on the local authorities promises to harm the courts' reputations for good judicial performance.

Whether lawyers' perceptions are correct is subject to future research. If lawyers are correct, then by receiving financial assistance from local authorities, courts harm not only their reputations for good judicial performance but actual judicial performance and thus the rule of law. If lawyers are incorrect, then courts may receive much needed funding from local authorities without compromising judicial performance, but the local money still causes a public relations problem for the judicial system and negatively influences the rule of law, should citizens consequently distrust courts and choose unlawful alternatives to litigation. Objective data on judicial financing from local authorities and on judicial performance would help illuminate which of the above concerns is primary. Such data would be especially welcome from countries outside Russia that may finance their judiciaries from more than one level of government and thus allow scholars to test whether the connections between local financing and judicial performance, in perception and reality, are broadly generalizable.

Courts that benefit from a diversification of power because local executives and legislative majorities are not formally affiliated with United Russia also perform better, according to the above indicators. In a country with concentrated power, it seems that even a little local autonomy can be meaningful for judicial performance. This finding corroborates conclusions in the judicial politics literature and contributes new evidence that power diversification in the form of local-national partisan differences has effects similar to the well-researched effects of executive-legislative partisan differences. Here, too, future research in countries outside Russia with federal systems and greater variation in

regional power would be very useful in testing the generalizability of our results.

As for Russia, the concentration of executive power, the dominance of Putin's United Russia Party, and the subsequent small amount of partisan differences between local and national authorities might lead us to predict coordinated and successful efforts at extrajudicial influence on judicial decisionmaking. Prior research suggests, and our research confirms, that these factors do indeed work against judicial performance and that the prospects for improved judicial performance in Russia are bleak, unless local-national partisan differences grow stronger over time and allow courts to benefit from power diversification.

Of course, even if political power diversifies, Russia and other countries face many additional challenges to promoting fair judicial procedures and outcomes. Clientelism, bribery, conflict of interest, violence, intimidation, and other means of illegal persuasion often plague even those judiciaries deemed financially and politically independent (Rose-Ackerman 2007). In Russia, for example, Blass (2007:33) claims that citizens paid an average bribe of 9,570 rubles, or US\$358, in 2005 to obtain justice in court, with an estimated total of \$210 million worth of such bribe payments in courts that year (http://www.indem.ru/en/publicat/2005diag_engV.htm, accessed 23 Jan. 2010). Prior to entering a courtroom, judicial processes could already be tainted by "predatory policing" (Gerber & Mendelson 2008). Rectifying these serious problems is as essential for judicial legitimacy, the rule of law, and democratic development as improvements in the dimensions of judicial performance described here, but the latter would at least be a step in the right direction.

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