

**Mobilizing Law in Contemporary Russia:
The Evolution of Disputes Over Home Repair Projects**

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Few lives are free of conflict. Problems, ranging from hurt feelings to physical injuries, are the realities of daily life. A variety of strategies can be used to resolve problems. Law may or may not prove helpful. A rich literature exists that explores how and when people mobilize law to resolve problems in the United States (*e.g.*, Engel and Munger 2003; Ewick and Silbey 1998; Kenworthy et al. 1996; Engel 1994; Trubek et al. 1983), but we know comparatively little about how law is used (or not used) elsewhere.¹ Socio-legal scholars have shown that the willingness to use law hinges on a number of factors, including the nature of the relationship between the disputants, the significance of the problem for the injured party, the availability of legal assistance, and the surrounding community's attitude toward agitation. What is less clear is how well these factors will travel. By exploring their viability elsewhere, we can work towards a more universal explanatory framework for disputing behavior.

Russia presents an intriguing case. Common wisdom suggests that Russians rarely turn to the legal system for help, preferring instead to work out solutions on their own, which sometimes involve resorting to extra-legal solutions. Public opinion polls have consistently documented Russians' contempt for the courts and for law more generally.² This disdain has been earned. During the decades of Soviet power, the Communist Party used law in a crudely instrumental fashion, ignoring it when it proved inconvenient and changing it at a whim. Courts were likewise manipulable by the political elite. This was done most blatantly during the Stalinist purges, when the courts served as conveyor belts to the gulags, but the stranglehold of the Communist Party on the judiciary ensured that outcomes could be predetermined whenever deemed politically necessary. As Feifer (1964) illustrated in his ethnography of the Soviet courts in the 1960s, not all trials were tainted in this way. Indeed, as Sharlet (1977) has argued, it is likely that the vast majority of cases were decided according to the law, without any outside interference. But this was not the impression of ordinary citizens. They saw the ability of the regime to ignore the law

¹There are several notable exceptions, including Engel (2005); Griffiths (1986).

²The three primary polling agencies in Russia have explored this question. Though their results differ, they all agree that Russians generally have a low opinion of the courts. The most pessimistic is the Levada Center, which in national surveys fielded from 2001 through 2007 found that only about 13-17 percent of Russians fully trusted the courts (<http://www.levada.ru/press/2007040901.html>, accessed on July 25, 2008). On the positive side, the results have been trending upwards. In a national survey fielded in July 2008, the Foundation for Public Opinion (FOM) found that 28 percent of Russians viewed the activities of the courts as basically positive (<http://bd.fom.ru/report/map/d082322>, accessed on July 25, 2008). The All-Russian Center for the Study of Public Opinion (VTsIOM) asked the question differently. In a national survey fielded in November 2007, they asked Russians whether they felt that going to court was an effective method of protecting their rights. The results were fairly equally divided. 36 percent responded positively; 38 percent responded negatively; and 23 percent were unable to respond (<http://bd.fom.ru/report/map/d082322>, accessed on July 25, 2008).

and to dictate outcomes and did not want to open themselves up to this possibility. Hence, law was seen more as a weapon that the regime could use against them rather than as a weapon in their own arsenal. The idea that citizens could use the law to protect themselves against the arbitrary or illegal actions by the state was laughable.

Over the past two decades, as part of the transition from state socialism to some form of market democracy, virtually every facet of the legal system has been reformed, from the legislative base to the institutional infrastructure. Though the reforms were trumpeted as part of an effort to build a “rule-of-law based state” (*pravovoe gosudarstvo*), many Russians remain skeptical about the ability of this particular leopard to change its spots.³ It surprised few when, notwithstanding their lofty rhetoric, both the Yeltsin and Putin regimes proved themselves willing to revert to Soviet-style behavior by using the courts as a cudgel to punish political enemies and ignoring the letter of the law when it suited them.⁴ Russians responded in kind. In a national survey fielded in the fall of 2007, 68 percent agreed that it was not possible to live in Russia without breaking the law. President Medvedev has railed against this so-called “legal nihilism,” committing himself to further reforms of the judicial system and to reducing corruption in the courts and elsewhere.⁵

Most social scientists have taken this antipathy toward law and the legal system as conclusive evidence that Russians will not mobilize the law on their own behalf unless there is no other alternative (*e.g.*, Hale 2005; Varese 2001; Hay and Shleifer 1998). I am less convinced. To be sure, their lack of confidence in the formal legal system – whether motivated by fears of political interference, corruption, or garden-variety incompetence – influences their behavior. But this assumption that contempt for the formal legal system translates into an unwillingness to invoke law in any form is too simplistic.⁶ The dualism of the Soviet legal system, in which

³Interestingly, public opinion polls conducted by the Levada Center over the past decade indicate that Russians are more favorably disposed toward Brezhnev than either Gorbachev or Yeltsin. A majority feel that perestroika was a negative development for their country, and only about 12 percent have positive feelings about Gorbachev. While Yeltsin was alive, most Russians had negative feelings about him. They have warmed toward him since his death. <http://www.levada.ru/press/2008011003.html>, accessed on August 28, 2008.

⁴In a survey fielded by the Levada Center in March 2007, 40 percent of Russians surveyed indicated that they believed that the state had dictated the outcome in the trial of the oligarch, Mikhail Khodorkovskii. But only 18 percent felt badly about this. <http://www.levada.ru/press/2007030602.html>, accessed on August 28, 2008.

⁵The speech given by Medvedev on January 22, 2008, available on the website of United Russia (<http://www.edinros.ru/news.html?id=126928>, accessed on August 28, 2008), is a good example.

⁶The official caseload data, which show a steady increase in almost all categories of cases (other than criminal), also belies this common wisdom (Hendley 2006).

mundane cases are generally resolved according to the written law while political cases are resolved by “telephone” law, has carried over to the present-day Russian legal system. Few problems encountered by ordinary Russians are of interest to the Kremlin and so they may be willing to try using law. Along similar lines, it may be that attitudes are not always determinative when material interests are at stake. In my work on Russian business disputes, I found that enterprises would resort to the courts to collect debts, notwithstanding their skepticism as to the capacity of these courts to provide justice (Hendley 2004b). This disconnect between attitudes and behavior may carry over to non-business settings. Even if some are categorically opposed to going to court, this does not mean that they do not invoke law in some form. There are a myriad of strategies for resolving disputes short of litigation that bring the law into play. As has been well-documented, even in countries like the U.S. that are seen as being highly litigious, relatively few disputes end up in court (Trubek et al. 1977). Nowhere is litigation the optimal method of resolving problems. But the disputing literature generally assumes that it is a viable option and that the desire to avoid the expense and time required to litigate shapes the parties’ behavior. To what extent this assumption holds in a country like Russia where threats to go to court may be perceived as empty remains to be seen.

This requires an ability to assess both attitudinal and behavioral evidence. I take the conceptual framework developed by Felstiner, Abel, and Sarat (1980-81) as my starting point. They lay out a pyramidal series of stages through which all disputes proceed, *e.g.*, naming, blaming, claiming. Each successive stage raises the stakes for proceeding. While recognizing that the nature of the relationship between the disputants and the anger felt by the party wronged affects the willingness to go forward, they argue that other factors complicate these decisions. More specifically, they identify a set of actors and institutions that either tend to constrain or facilitate the transformational process. Primary among these is law. At every stage, the decision as to whether to continue is affected by the viability of the underlying legal claim. Also important is the accessibility of legal expertise and the willingness of lawyers to pursue the claim. Thus, these transformational actors and institutions often act as gatekeepers, sifting out both legally baseless claims and claims viewed as undesirable for other reasons. The relationship between the parties also affects the shape of the dispute and its duration.

The Felstiner-Abel-Sarat framework was, of course, not developed with post-Soviet Russia in mind. Though grounded in U.S. experience, the basic logic is transferable.⁷ In Russia, just as in the U.S., the disputing process is pyramidal in structure, with inchoate injuries at the base and litigation at the apex. Beyond this superficial similarity, the profound differences between the two countries in terms of legal culture, business climate, and institutional environment suggest that the details of the transformational process will diverge sharply. For example, when I used this framework to elucidate firm behavior through a series of case studies in 1998, I uncovered the very different role of lawyers in Russian firms. Rather than shaping the dispute (as posited by Felstiner, et al.), Russian *iuriskonsul’ty* mostly sat on the sidelines which, in turn, affected the sorts of disputes that were pursued. The key predictor of litigiousness turned

⁷Engel (2005) used it to study how personal injuries evolve in Thailand.

out to be the underlying relationship between the contractual partners. Manufacturers with a plethora of interchangeable customers were more aggressive in collecting overdue debts and tended to go to court more frequently than did their counterparts that had a fixed set of customers (Hendley 2001). But the role of the relationship between the disputants was just as pivotal in Russia as in the U.S., though the sorts of factors that influenced the relationship varied.

As this suggests, among the variables that might explain the willingness of Russians to mobilize law when problems arise is the relational costs of doing so. Felstiner, et al., focus on the nature of the relationship between the disputants and the danger of undermining it by claiming a legal remedy. Depending on how the disagreement arises and evolves, others may be involved and a reluctance to damage the relationship with these third parties may cause the injured party to forego any claim or to soft pedal any claim. There is a Russian twist. Because Russian courts are not adversarial, the sort of scorched-earth tactics that destroy pre-existing relationships are not required or even tolerated. As a result, litigation is not necessarily the death knell to a friendship or business relationship, as it likely would be in a common law system (Hendley 2004a). At the same time, whether or not it involves the courts, claiming often requires one to question the good faith and/or veracity of others and such claims can strain even the strongest friendships.

Another explanatory variable that deserves attention is the role of other costs associated with pursuing a dispute. For many, even the nascent stage of naming an injury brings with it emotional pain. Pushing the injury forward into a full-fledged dispute usually requires the injured party to devote time and financial resources. If the injured party views the underlying injury as trivial, then he may abandon it. This is a highly subjective determination. The amount at stake in the dispute may be decisive for some, while others may pursue disputes that involve small amounts of money if a question of principle is involved.

In addition to these universal explanatory variables, the Russian context suggests several others. Age may prove critical. More specifically, whether one came of age in the Soviet Union or the post-Soviet Russian Federation may matter. Many of the most basic assumptions of daily life underwent a sea change as part of this transition, especially as regards the state-society relationship. Soviet citizens grew up expecting the state to provide for their needs, while their children and grandchildren are now left mostly to fend for themselves. The younger generations have no direct personal experience of the courts serving as an instrument for dampening dissent. As a result, they may be more open to the possibility that law can serve their interests. For example, when asked in a 2003 survey by INDEM whether they would be prepared to go to court over unfair treatment by a governmental official, the results split along generational lines. Almost 60 percent of those 18 to 23 years old responded in the affirmative, while only 36 percent said they would not. By contrast, among those 50 to 59 years old, the results were a virtual mirror image, with only 38 percent expressing a willingness to appeal to court and almost 60 percent saying they would not consider it.

Regional variation is also worth exploring. Within Russia, Moscow is and always has been *sui generis*. As Chekhov illustrated beautifully, the attitude towards Moscow of those who

live elsewhere is complicated. This persists. For some, Moscow personifies everything evil in Russian culture, while for others it serves as a kind of shining city on the hill where everything works better. The sheer size of Moscow means that residents can, if they desire, operate somewhat anonymously, *i.e.*, without fear that their every action will become known to everyone. The same cannot be said of smaller Russian cities. This may affect the willingness of injured parties to press forward with their claims. Yet the results of a recent public opinion survey suggest a different dynamic. The November 2007 survey by the Foundation for Public Opinion found that as the size of the city where they lived became smaller, Russians became more favorably disposed toward the courts.⁸ Moscow residents are generally thought to be more worldly and cynical, while those who live in smaller towns are often able to retain their idealism about the regime, which may be coloring the results.

Methodology

Studying the evolution of disputes is tricky. In a perfect world, the researcher would be an unobtrusive presence in the lives of potential disputants and could observe and document the original injury and the subsequent choices as to whether to pursue some sort of remedy. In reality, however, this is not feasible. Few researchers have the luxury to hang around waiting for injurious events in the lives of others. Moreover, their very presence would likely influence the decisions by those involved as to how to proceed. A more realistic strategy is to investigate disputes after they have run their course. This still requires the researcher to identify situations where disputes might have arisen and study how different people react to similar stimuli.

Home repair projects provide a setting in which problems can arise between home owners and those hired to carry out the work. During the Soviet era, the ability to carry out such projects was severely limited and typically required residents to work through the grey or “second” economy to locate building materials and workmen. Most limited themselves to essential repairs. With the break-up of the Soviet Union came the transition to the market and the end of shortages. This, combined with the ability to privatize residential space, gave Russians a powerful incentive to improve their living space. In recent years, a multitude of construction firms have sprung up and the sales of construction materials has become a thriving business, at least in the larger Russian cities. Much as in the West, this work does not always go smoothly.

The realm of home repair projects was appealing not just because it was a fruitful source of potential disputes, but also because these disputes could be resolved through many different mechanisms. Unlike divorces or land disputes, which are statutorily required to be resolved by the courts (or other state-sponsored agencies) in Russia, disputes related to home repairs may or

⁸In response to the question of whether they considered going to court an effective method of protecting their rights, only 29 percent of those surveyed in Moscow and St. Petersburg responded in the affirmative, as compared to 36 percent in cities with less than 100,000 residents and 42 percent in small farming towns (*cela*) (<http://bd.fom.ru/report/map/d082322>, accessed on July 25, 2008).

may not proceed through the courts. My conversations with friends and colleagues in Russia before embarking on the project confirmed that many people simply “lumped” their disputes and/or came to some sort of private accommodation with their contractor. This certainly fits with what we know about such disputes in the West. At the same time, I also learned of disagreements between home owners and those they hired to carry out home repairs that had blossomed into prolonged litigation. Thus, going to court was an option, at least in theory. How open people were to litigation was less clear and became one of my research questions.

Focusing on problems arising from home repairs had the advantage of providing variation in terms of a number of variables that might affect the willingness of the parties to push the dispute forward. Key among these was the seriousness of the repair project and the amount at stake. A link between the financial outlay and the desire for some sort of remedy is a reasonable starting hypothesis. Along similar lines, home repair projects also offer considerable variation in terms of the role of relationships. As will become apparent below, many Russians find their workers through friends and whether a fear of jeopardizing these friendships might leave them reticent about making their dissatisfaction known to the workers and pursuing a remedy was unclear.

In order to explore how Russians dealt with problems arising from home repair projects, I convened a series of focus groups populated by those who had recently completed such projects. Focus groups are the best option for exploring a process, in that they allow the participants to speak at length about their experiences and do not assume that the researcher knows the full range of answers (as does a survey instrument with closed-end questions). This paper is based on six focus groups conducted during the summer of 2007 in Moscow and Saratov.⁹¹⁰ Each focus group included 9 to 11 individuals. To accommodate the work schedules of the participants, the discussions took place on weekday evenings and lasted about 2 hours. Participants were given a modest honorarium to compensate them for their time. It was felt that having an American lead the groups would be unsettling for many and, due to the prevailing anti-Americanism in Russia, could skew the discussion. Thus, the groups were moderated by Elena K. Zobina, a research fellow at the Institute of Sociology, who is experienced in leading focus groups.¹¹

The selection of these two cities as starting points for the research was designed to provide a contrast. Moscow (population: 10 million) is, of course, the financial, governmental, and cultural center of Russia. Though most agree that it is not entirely typical of Russia, it

⁹A total of six focus groups were held in each city. Three focused on home repairs and three focused on personal injuries. This paper focuses only on the home repair groups.

¹⁰The research continued during the summer of 2008, with groups in Tomsk, Kushevka, and Shumerlya, but the transcripts of these groups have not yet been prepared.

¹¹I worked with Polina Kozyreva and Mikhail Kosolapov of the Institute of Sociology in Moscow, which is part of the Russian Academy of Sciences, on the logistical side of the project.

remains a touchstone for all Russians. Saratov (population: 841,400) is situated on the Volga River and serves as the administrative center for the surrounding region (Saratov *oblast'*). During the Soviet era, its concentration of defense industry meant that it was closed to foreigners. These defense-related factories have since foundered, undermining the economic base. A comparison of the average monthly wage for the two cities illustrates the difference. While the mean wage for Muscovites is about 18,000 rubles (or about \$750), Saratov residents have to settle for less than half (8163.9 rubles or about \$355). The unemployment rate for Moscow (1.6 percent in 2006) is a fraction of that in Saratov (8.6 percent in 2006). Not surprisingly, investment in Moscow is much greater than in Saratov.¹²

In organizing the focus groups, the goal was to bring together a diverse set of Russians who shared a common experience of a home repair project. Building on the hypothesis that one's generation influences attitudes toward law and the legal system, the central organizing principle for the groups was age. In each locale, one group was to be composed of those who had come of age during the Soviet period. Another group was to be composed of those who had no meaningful memories of the Soviet period, *i.e.*, those who had been teenagers or younger during Gorbachev's perestroika. The third group was to be a mixture of these Soviet and post-Soviet generations. In addition, variation was sought in terms of gender, educational background, and work experience. Though I include information about the prior court experience of the participants in the table, this was not used as a selection criteria.

As Table 1 reveals, these aspirations were not entirely realized. The Moscow groups met the primary criteria of dividing participants by age and had a good distribution by gender and job experience, but were skewed toward those with higher education. The economic dislocation of the 1990s led to many redundancies for middle management. As a result, many people with university degrees have found themselves in jobs unrelated to their educational skills. The Saratov groups were more problematic. Though those responsible for recruiting participants were given a full set of the selection criteria, they did not follow them as rigorously as I had hoped. The older and mixed generational groups were noticeably older than in Moscow. More specifically, the older group (Group 3) inexplicably included a 21-year old. If she had been excluded, the mean age would have been almost 40, which would have been more appropriate, though still significantly younger than the older Moscow group (Group 1). More problematic was the gender division. Of the 38 participants in the Saratov home repair groups, only 2 were men. I had some warning of this. When I arrived in Saratov, the local organizer told me that I should be aware that, in Saratov, men did not involve themselves in home repair projects and so those groups would be primarily female. There is some truth in this, but it was also a convenient excuse for her inability to find male participants. I was faced with a difficult choice of whether to dig in my heels and insist on a more even gender distribution or whether to take what I could get.

¹²During 2006, capital investment in Moscow was almost 556 million rubles, while Saratov received less than 54 million. These statistical data are available in *Regiony Rossii* (<http://udbstat.eastview.com.ezproxy.library.wisc.edu/catalog/readbook.jsp?issue=710418>, accessed on July 29, 2008).

My experience of doing field research in Russia convinced me that the latter was the more prudent. I had no prior relationship with the Saratov organizer and feared that if I were too demanding, she might refuse to help me at all. The situation was not ideal but, as will become apparent below, the unintentional over-sampling of women in Saratov provided valuable insights into potential gender-related explanations.

The Evolution of Disputes Arising From Home Repair Projects

Overview. Home repair projects are problematic by their very nature. In most cases, home owners start with an idea of what they want that may be crystal clear to them, but they are not always successful in conveying that idea to the contractors. The contractors usually provide an estimate to the home owner of how much the work will cost and how long the work will take, but caution them that things may change if the contractors encounter unexpected issues. Home owners hear this, but do not always fully absorb its implications. Both sides begin the project with good intentions, but these often unravel as the project proceeds. By the time projects conclude, they can be enveloped in a haze of disappointment and recrimination. A comment by a Saratov woman (R3_S5_35_F) perfectly conveys the home owners' perspective: "Any home repair project is a natural disaster" (*Liuboi remont – eto stikhiinoe bedstvie*).¹³

Absence of Naming, Blaming, and Claiming. Before diving into the swamp of acrimonious projects, it is worth exploring the projects that went well to determine whether there is some key to success. Among those who emerged from the experience with no complaints, trust was a common theme. Interestingly, this trust was not gained through contractual protections, for only one of those who were truly satisfied had a written contract,¹⁴ but rather through personal ties. For many, this meant hiring only workers through the recommendations of friends. As will become apparent in the discussion of blaming and claiming, hiring those who had been passed "from hand to hand" was no guarantee of success. Others eliminated risk by hiring relatives. For example, when the mother of R8_S6_31_F decided to install a sauna at her home, R8_S6_31_F worried that outsiders would take advantage of her mother. In her words, "everyone sees an elderly woman and assumes that they can do the minimum amount of work for the maximum

¹³Focus group participants were guaranteed anonymity. To ensure this, I am not using the participants' names and, instead, have created shorthand terms for each participant that indicates what group they were in, their age, and their gender. R3_S5_35_F conveys that the speaker was the third participant in the fifth group in Saratov. It also conveys that she was a 35 year old woman.

¹⁴R9_M3_35_F engaged a brigade for a capital repair project at her apartment that included installing air conditioning and replacing the windows. She located the firm through a friend's recommendation, but nonetheless signed a contract. As a rule, established firms insist that their clients sign their form contracts, while workers and brigades unaffiliated with firms are less rigid about such legal niceties. In contrast to several other home repair projects undertaken by R9_M3_35_F, this project went smoothly. R9_M3_35_F did not attribute the success to the existence of a contract, but rather to the fact that the firm had a longstanding business relationship with her employer and so was keen to please her.

money.” They hired relatives and the work was completed “without conflict.”

Trust sometimes proved ephemeral. One Moscow participant (R6_M2_56_F) who had had bad experiences in home repair projects involving workers recommended by friends decided to take a different tack. She called the number she found on an advertisement stapled to a telephone pole. She was apprehensive when a worker was sent to her for some plumbing work. She went with him to the store to buy the materials needed. She hovered over him as he installed them. Her confidence was bolstered, such that when she was ready to renovate her kitchen, she again called this number. A Ukrainian woman was sent to help. Though R6_M2_56_F found her habit of chewing gum incessantly annoying, the work was good. When she had more plumbing problems, she again called the dispatcher. A worker was sent out, but this time things went haywire. He begged her to pre-pay for the work, plying her with a sob story about how he needed to pay for his daughter’s computer right away. She felt that she could not refuse this request. After she paid him, however, the man lost interest in finishing the work for her. When she appealed for help to the central dispatcher, she was rebuffed. The dispatcher disclaimed any responsibility for the behavior of the workers they provided. R6_M2_56_F realized that the first two projects had been successful not because the firm itself was reliable, but because the workers sent out were trustworthy. Though she had not had formal written contracts with these two workers, they had agreed on the amount to be paid and the deadline for completion. In her view, she erred with the third worker by not settling these basic terms up front.¹⁵

Two men – one from Moscow and the other from Saratov – explained that their projects succeeded because of their careful preparation work. The Moscow participant (R1_M1_37_M) raised hackles within his group due to his barely concealed contempt for the other participants’ inability to control their workers.

I didn’t make any of the mistakes that the rest of you did. In the first place, I therefore didn’t play any sort of games with the state [by entering into a contract]. In the second place, I sent my wife on a business trip for two weeks. ... I hired a guy for two weeks, wrote out what he was supposed to do. I told him that I would be back in two weeks ... to verify that he had completed the work. ...

He found the worker at a local labor market. They had no pre-existing relationship, nor did any of R1_M1_37_M’s friends vouch for him. They did not bother with a written contract. R1_M1_37_M said that he had told the worker that if the work was not up to snuff, he would not be paid. For R1_M1_37_M, that was good enough. Though not explicitly stated, it is likely that

¹⁵In this latter case, R6_M2_56_F did pursue the problem. She clearly blamed the worker. She also pushed through to the claiming stage. At first, her reaction was emotional. She swore at him, using the “most offensive words.” He promised to repay her and, when these promises proved empty, she got him to formalize his debt to her by signing an IOU [*raspiska*]. She has retained the IOU, but has not attempted to recover on it through the courts. The workers provided by the dispatcher are not Russians, but are from Ukraine or Belarus. Though she described herself as “ready to go to court,” she felt that taking these immigrants to court was a waste of time.

the worker was an illegal immigrant. Perhaps this is why R1_M1_37_M felt he had the upper hand. Yet he did not retain the worker's passport (as many in Russia do when employing illegal immigrants), so the worker was free to leave at any time. When the other participants asked what R1_M1_37_M would have done had the worker simply disappeared (as happened to a number of them), R1_M1_37_M responded with a slang phrase [*kuda on denetsya*] that meant that he believed the worker had nowhere to go. Trust was created through the unequal power equation.

One reason why this preparation was so critical for R1_M1_37_M and why he was disdainful of written contracts was because he did not view going to court to enforce his rights as a viable option. Thus, he had to devise a relationship with the worker that could be enforced without any help from the state. This is what he means when he refers to his unwillingness to play games with the state in the quote above. Though he has had no personal interactions with the judicial system, he had a strongly negative opinion. He described going to court as "useless, harmful [to your health], and expensive," hardly an appealing option.

Some who were satisfied at the conclusion of the project reported problems at earlier stages. One Moscow woman (R3_M1_58_F) told of a bathroom renovation that turned out well, but that began with many problems. She pointed these out and they were fixed immediately. She established trust through the course of the project and was completely satisfied when it was finished, even giving them a \$50 bonus for having finished the job more quickly than she expected.¹⁶

Though all of the participants who were pleased with their home repair projects attempted to come up with reasons why, the true commonality among them was luck. After all, the factors that identified as the key to their success were not unique to them. As will become apparent in the discussion of claiming below, many who had horrific experiences did their best to hire reputable workers, checking out their potential workers' references and seeking out prior employers to assess their skills. Indeed, many went far beyond R1_M1_37_M and checked up on the work every day. Even so, they were disappointed. The fact that several of those who were completely satisfied with one home repair project were put through the wringer in other projects buttresses the role of luck. The opinion expressed by one participant in the second Moscow group (R10_M2_49_M) encapsulated the feelings of all the groups: "decent [*poryadochnye*] people are becoming more and more rare."

More interesting than these few participants who were fortunate enough to have their home repair projects work out as anticipated are those who had problems, but did not view them as worth pursuing. Felstiner, et al., argue that the same stimulus may be experienced differently, *i.e.*, that the same event that is seen by one person as an injurious experience may be viewed as a minor inconvenience by someone else. They label such events as unperceived injurious

¹⁶She later learned that one of the workers (who was part of a family brigade) was pregnant at the time of the project. She expressed regret at not having prepared better meals for the workers while they were on the job.

experiences or un-PIE. There were surprisingly few of these among the focus group participants. Perhaps this is due to the fact that injuries in home repair projects manifest themselves with inescapable evidence, such as leaky roofs or peeling wallpaper, that have to be fixed. This makes them different from more intangible injuries, such as bruised feelings, that may be more or less serious, depending on the world view of those involved.

The only un-PIE were among the Saratov participants. There were three women who, despite being dissatisfied, did not regard the experience as injurious. Like many of their counterparts, their projects had experienced cost overruns and had taken longer than originally planned. For most of the participants, these problems caused them to treat what happened as injurious or to engage in naming. But the circumstances were different for these few. Two of them (R4_S5_38_F and R1_S6_45_F) were not inconvenienced enough to complain. For them, the fact that the quality of the work was acceptable was more important. For example, after putting a huge effort into finding just the right brigade to do her repairs,¹⁷ R1_S6_45_F's workers (in her words): "were not entirely able to confine themselves to the deadline and cost estimate. ... For ourselves, we decided that a 20 percent cost overrun – this was normal. And the deadline didn't bother us much. ... We weren't in a hurry." For R1_S6_45_F, the fact that the quality of the work was satisfactory was sufficient.¹⁸ Her circumstances, namely the luxury of having another place to live, allowed her to react casually to these violations in the understanding between her and the workers.

The situation was different for the third Saratov participant who fits into the un-PIE category. When embarking on a large renovation of her apartment, R5_S3_37_F and the construction firm agreed that it would take two months. She and her family moved in with her parents to give the workers free access to the apartment. The project ended up taking over four months and costing 30 percent more than originally agreed. In the group discussion she conceded that the delay was extraordinarily inconvenient as were the additional charges. But she felt that her hands were tied. As she said: "we simply sat and waited. ... We had no complaints against them because they came to us from our friends. We resolved everything quietly and peacefully." Her restraint was driven by her desire not to damage her relationship with the friends who had recommended these workers. Her resignation about the situation came out as she remarked: "as with any Russian, everything turned out the opposite of what was intended." Absent the relational concerns, R5_S3_37_F would have named her injury and would have sought some

¹⁷This woman put much more effort into organizing her renovations than did the Moscow man (R1_M1_37_M) who so loudly trumpeted his preparatory work. She explained: "I spent rather a lot of time. I even organized a competition. I asked them to sketch something and to write up an estimate. It was possible to grasp the extent of their professionalism by their conversation. We settled on the second brigade because they were very rational and were a family. Also, they had done some work for my aunt..." Once the work was underway, "we verified every step..." As I noted earlier, this suggests that, rather than having the key to success in home repair projects, R1_M1_37_M was simply lucky.

¹⁸She was far from exuberant, stating that the work was "not bad" (*ochen' neplokho*).

recompense.

Naming. These few examples of satisfaction or satisficing were the exception. As Table 2 documents, “naming” took place in 71 of the 84 projects discussed during the course of the focus groups, with little difference in the incidence of dissatisfaction as between Moscow and Saratov. In the Felstiner, et al., framework, naming is an internal process. It represents a recognition that the home repair project gave rise to an injurious experience.

The substantive nature of the complaints were familiar. Most involved claims of substandard work and, more specifically, the lack of professionalism of the workers. Quality complaints were present in 61 of the 71 cases (86 percent) in which the injury was “named.” In Moscow, quality issues were often entangled with criticisms (perhaps reflecting deeply-held prejudices) about the work ethic of the non-Russians who took these jobs. The higher standard of living in Moscow makes construction work unappealing to local residents. These jobs are taken by immigrants from the former Soviet Union, many of whom are living in Moscow illegally. Only one man, R10_M2_49_M, spoke of the illegality of the practice of hiring these immigrants, noting: “hiring non-citizens doesn’t make sense because you risk having to pay a fine of about 200,000 rubles [approximately \$7750].” At the same time, he conceded that such workers were half the price of Russians. For the others, it was worth the gamble. Indeed, they seemed unconcerned by the danger. The focus group participants were not sanguine about Russian workers. Several people complained bitterly about the propensity of Russian workers to drink on the job. A comment by R8_M1_43_F summed things up well: “Of course, it is more pleasant to interact with Russians, rather than Moldovans or Tadjiks, but Muscovites are all alcoholics.” She and several other women in this first Moscow focus group spoke longingly of the Soviet era. They felt that the sort of unprofessionalism that they routinely encountered today would not have been tolerated in the past. Of course, the haze of nostalgia also obscures the fact that under the planned economy it was extraordinarily difficult to find construction materials and/or workers who would do the repair work.

Complaints centered on time delays and cost overruns were also common. As the discussion above illustrates, these were not always perceived as injurious. Some recognized that the estimate provided at the outset is more of a guess than a solid promise and so were not bothered when workers are unable to live up to its terms. For example, notwithstanding the fact that R4_S5_38_F had a firm agreement as to the cost and the deadline for completion of the work, neither was honored. Her response: “in the course of any home repair, something unexpected is going to arise and you simply have to pay for these extras.” She did not perceive these problems as an injurious experience. Not everyone was prepared to absorb the unexpected with such good humor. It stands to reason that the level of inconvenience created by the delays and increased costs will play a role. Because Russians often decamp from their apartments while renovations are underway, allowing the workers to live in their apartments while the work is completed, time delays can be devastating. On the other hand, most of the time they stay with

friends or relatives,¹⁹ and so, depending on their tolerance of houseguests, delays may not be a problem. Whether there are children involved, whose may be less patient, can also affect the extent to which the experience is perceived as injurious. Of the cases in which the injury was named, problems with time delays and cost overruns arose in 31 percent.

Blaming. Within the Felstiner-Sarat-Abel framework, blaming does not involve anyone other than the injured party. It is a recognition of who is responsible for the injury that has been named, but does not requires the injured party to confront the wrongdoer. That comes with claiming. Thus, it is a low-cost activity. For most of the focus group members, blaming was collapsed into naming. Given the context of home repair, this is not surprising. As the various tales of woe were related, the villains were inevitably those who had done (or, in some cases, failed to do) the work. Though there were varying levels of anger, the primary locus of blame was clear.

The anger of some was mitigated, but not eradicated, by their own guilt. They felt that their own actions had contributed to the problems with their home repair projects. Some participants beat themselves up for not paying more attention to the work as it was proceeding, echoing a theme first raised in the discussion of naming. R8_M2_47_M had bought an apartment for his son and had hired a Ukrainian brigade to renovate it. Among other things, the project called for new wallpaper throughout the apartment and new tile in the bathroom. R8_M2_47_M, who was a fashion designer and so had strong feelings about the esthetics of the space, was deeply disappointed by the work. The materials that he bought for the project were not used. Though he blamed the workers, he also shouldered some of the responsibility himself. He commented: “I don’t know what they did with these construction materials. The biggest mistake was mine. I failed to keep them under my control. I work day and night. Over the two weeks [of the project], I was in the apartment maybe two or three times.”²⁰ He did not feel that his inattention absolved the workers of their responsibility and did make them redo some of the work.

This sense of self-blame came through even more potently in the Saratov groups. Because they were dominated by women, it is tempting to cast their responses as gender driven. Especially given that they themselves often framed things in this way. One young woman, R2_S5_20_F, illustrates this nicely. She is a university student and still lives with her mother. They decided to install a washing machine and needed some plumbing upgrades. Her mother consulted with friends and found a brigade of three men and they agreed on the price and deadline for the work. For them, the fact that these workers were Christian family men was just as important as the price for the work. At the outset of the project, they had a good relationship with the workers, even giving them a key to their apartment and fixing their meals. The project seemed to be going

¹⁹This practice is essential if non-local (especially non-Russian) workers are hired.

²⁰As an aside, it is worth noting that he visited the apartment more often than R1_M1_37_M, who felt laying out the ground rules and then staying away was part of the secret to his success. These two men participated in two different focus groups so there was no exchange between them.

smoothly. Over time, however, R2_S5_20_F's boyfriend grew suspicious of the amount of money the women were spending on the project and started investigating. R2_S5_20_F explained why the women themselves failed to notice a problem: "We, as women, didn't understand anything about what the workers were saying. We believed what they told us. However much they said it was going to cost, that's how much it would be." According to the boyfriend, the amount they had given the workers was sufficient for "a Kremlin hall." It turned out that the workers had been buying more material than was needed and had been using these excess materials for other construction projects. Though she described herself and her mothers as "non-conflictual" (a common theme among the women of Saratov), they steeled themselves and confronted the workers. Ultimately the workers returned some of the money and the women were satisfied. As with their Moscow counterpart, the fact that they blamed their own shortcomings for the difficulties did not stop them from pursuing the injury.

For a few, their sense of guilt kept them from pointing the finger of blame at anyone else. Another woman from the fifth Saratov group, R1_S5_45_F, illustrates this nicely. On the recommendation of friends, she found two women to renovate her one-bedroom apartment.²¹ She stayed at home while the project was underway and believed that her efforts to make these workers feel comfortable by feeding them²² and gossiping with them had somehow backfired. They were a bit older than her and she described them as "very amiable." Yet she also found that the "more they talked, the less they tried [to complete the work]." After they left, she found that some of their work had been slipshod, but felt that she could not blame them because she had approved the work at the time. Her friendly relationship with them caused her to overlook their carelessness, but her innate sense of fairness made her refrain from calling them on the flaws after the fact.

Of the remaining handful that did not engage in blaming, the reasons varied. One Saratov woman (R4_S6_55_F), who was already a pensioner at 55, said that when the newly installed bathroom tiles began to pull apart from one another after only a month, "I wasn't sure who was at fault." Several others felt that pursuing things – whether by blaming or claiming – would have been more trouble than it was worth. When her wallpaper started to peel off only 18 months after it had been put up, one Moscow woman (R5_M3_35_F) simply bought some super glue and fixed the problem herself. Several others expressed a sense of resignation tinged with a desire to spend their time more productively. Another woman from this same Moscow focus group

²¹She was adamant about not hiring men, noting that "too often our men are alcoholics and tend to disappear from work ..."

²²The question of whether feeding the workers was a good idea became a bone of contention in many of the groups. Some felt that it would have been rude not to provide lunch. Others believed that serving lunch created an unhealthy sense of familiarity between the workers and the clients that then made it difficult to point out shortcomings in the work. One Moscow pensioner (R2_M1_57_F) said that she might recommend the young man who had worked for her to others, but would caution them not to feed him.

(R9_M3_35_F) said that she “didn’t feel like cursing and threatening every time [something went wrong].” Doing so took emotional energy that she preferred to devote to her family. This theme, which taps into the legendary Russian ability to suffer, will become even more pronounced as we turn to claiming.

Claiming. The first two stages in the Felstiner-Abel-Sarat framework do not require any sort of affirmative action. Rather, they reflect an evolution in the thought process of the injured party. With claiming, however, the existence of the dispute becomes apparent to the outside world. The injured party notifies the person or firm responsible and asks for some sort of remedy. The type of redress sought can take a wide variety of forms, ranging from apologies to restitution to full-fledged litigation. In fact, analogous situations can give rise to radically different claims, illustrating the potent role played by the perceptions of the injured party in shaping the demands made. If an injury is seen as serious, either due to the amount of money or principle at stake, then the injured party is unlikely to settle for an apology or some other face-saving gesture that might be sufficient for a more minor injury. Thus, just as with the earlier stages of naming and blaming, context matters.

As this suggests, not all injuries lead to claims. Almost half (43 percent) of those who were disappointed with their home repair projects did not make any sort of claim. A full third of those who felt someone else was to blame did not seek any remedy. What sorts of factors account for this willingness to “lump” their injuries? Felstiner, et al., argue that a recognition that the cost of pursuing the problem, whether measured in time, emotional energy, money, or relational damage, will cause abandonment. They also note the potent role of law as a transformational agent, *e.g.*, if the law does not support the claim, then it is less likely to be pursued. The behavior of the focus group participants is generally consistent with these general rules, albeit with a Russian twist.

Being Russians, there was a cloud of gloom and doom that hung over the discussion. Medvedev has framed this in terms of legal nihilism, but it goes deeper. This sense of fatalism was expressed by a woman (R6_S6_35_F) who had hired two different sets of workers to renovate the apartment she bought when she moved to Saratov, all of whom had proven unreliable and incompetent. She did not make any effort to seek recourse from them. Instead, she and her husband redid the work themselves. She told the group: “I am sorry for our country. I wish things were better here – that people weren’t lied to all the time. We all just want to live.” Her cost-benefit analysis goes to the very heart of the Russian character.

Others were more prosaic. There were several respondents who simply did not want to be bothered any further. Sometimes this was because the repairs had been relatively trivial and so any amount recovered would likewise be trivial and not worth the effort.²³ Sometimes it was

²³In Saratov, for example, many participants had replaced their windows. In the Soviet era, window frames were wooden and prone to leaks. During the winter months, most people had to glue newspaper strips to avoid drafts. A thriving business in replacing these old windows has grown up in

because the respondents were unwilling to expend the necessary emotional energy. Typical was a Moscow respondent (R9_M1_49_F) who, when asked why she opted not to do anything when a renovation of her apartment that cost over \$10,000 went wrong, responded: “I decided to spare my nerves.” In other cases, the respondents wanted to move on and did not want any further contact with the workers, even if it might have resulted in getting the work redone or some monetary recovery. A good example is R4_M2_32_F, who hired two Ukrainian women to even out the ceilings in her apartment and to put up new wallpaper.²⁴ As the project evolved, she figured out that the women were not as experienced in home repairs as they had claimed to be. They did not tell her that the door in the kitchen ought to be hung before the wallpaper was put up, which caused delays and extra expenses. Yet she made no claim against them, though the terms of her contract guaranteed the quality of the work. She decided that the work was good enough. More importantly, making a claim would have inconvenienced her because she would have had to delay a long-planned vacation.

The bulk of those who failed to claim were stymied. They felt themselves entitled to some sort of restitution, but were blocked by circumstances. The two issues that came up most frequently were the inability to locate the party at fault and the lack of a written contract. Often the two were interlaced with a schizophrenic combination of fatalism and positivism. The propensity to hire individual workers – often immigrants – rather than established firms increased the risk that the workers would disappear into the wind when problems arose. But hiring a firm was no guarantee of stability. In the construction sector, they come and go quickly, leaving few traces. Often they have no actual office, but only someone who answers the phone and takes orders. When problems arise, the phone number is quickly changed. The focus group members, who frequently invoked the word “disgraceful” (*bezobrazie*) to describe the behavior of the workers and firms, believed that it went largely unpunished because those injured felt they had no recourse when they used these fly-by-night firms.

A pattern revealed itself among the Saratov participants. They would prepay for work and would then be unable to find anyone to take responsibility when the work was done in a slipshod manner. One woman, R9_S3_29_F, hired a firm to do some plumbing work. In the course of the job, they created a hole in the floor of her bathroom, such that one could see through to the lower floor. When she confronted the workers, they shrugged and told her that’s how it had turned out [*tak poluchaetsya*]. When she and her husband tried to call the firm itself, no one picked up the phone. Eventually she gave up and hired someone else to do the job. She never got the money back that she had paid the incompetent plumbers. Another woman, R7_S3_32_F, prepaid to have her balcony enclosed with glass. When the workers came, only her elderly mother was home. They only framed out the job; they did not put in the glass. Like

recent years. Some firms are more competent and reputable than others. Those who deal with the less able firms often come away dissatisfied. Yet the amount paid is not large enough to cause most severe financial discomfort. Hence, they tend to walk away.

²⁴Like R1_S5_45_F, she was categorically opposed to hiring men to work in her home.

R9_S3_29_F, she was never able to contact the firm. When asked whether it would make sense to search further for the workers or the firm, her answer was definitive: “it would be absolutely pointless.” She too was out the money for the repair and, though she had named and blamed, was left unable to claim.

Neither of these women had signed a contract. Among the focus group participants, it was taken as an article of faith that recovery through the formal legal system required a formal written contract. Thus, even if they had no intention of initiating litigation, many felt seeking any sort of remedy was pointless if they lacked such a document. Yet they rarely demanded a contract at the outset because they felt uncomfortable doing so. A Moscow woman (R8_M1_43_F) explained: “Probably we are too trusting. We assume that nothing will go wrong.” She had electrical work done at her apartment and was displeased by the results. Unlike the Saratov women, she worked through an established firm and was able to contact them. They gave her the cold shoulder, telling her: “unless you have a contract in hand, we won’t talk to you. We never concluded a contract with you. Take your questions to court.” When she talked to a lawyer, he also discouraged her, saying: “why should you waste your health.” Not surprisingly, she dropped it. In another Moscow group, a younger woman (R3_M2_24_F) explained why her hands were tied when the ceiling tiles started dropping off a month after being glued into place: “We hired a brigade, but we didn’t have a contract with them. It was useless to call them. They had vanished. We had only their cell phone numbers. They were not citizens of Russia. As a result, we had to have the work done a second time.” She was fortunate that her uncle was able to redo the work. But even if she had been able to locate these workers, she was convinced that the absence of a contract left her with no viable claim against them.

At first glance, what I am describing would seem to be a lovely illustration of how both the injured parties and those to blame are operating in the shadow of the law. Though litigation is not yet on the table, both sides are taking account of the likely outcome of litigation in fashioning their bargaining strategies. If the firm that did R8_M1_43_F’s electrical work thought it could be held liable by a court, then it would probably have settled with her. Its high-handed behavior only makes sense when we factor in its belief that the lack of a written contract place it beyond the reach of the law. Likewise the apparent diffidence of R3_M2_24_F and others becomes more logical when we factor in her rock-solid belief that she could not insist on any remedy without a contract. What makes this particularly fascinating is the fact that they are all wrong. Much like Ellickson’s Shasta County ranchers (1991), these Russians’ version of the law is distorted. In one of the focus groups, this came to the fore because one of the participants (R7_M1_61_M) was a frequent litigant and had educated himself on the details of the law.

R7_M1_61_M: You don’t need a contract. Pay attention here – a receipt is good enough because it confirms that you paid for the work. If I pay you 100 rubles, that means that I consider that to be the value of the work you did. If you disagree, that’s fine, I’ll go to court. I guarantee you – if you write up a complaint and ask that the court order your construction firm to redo the work, your construction workers will show up and do the work.

Moderator: So this works if you threaten them?

R7 M1 61 M: It's not a threat – it won't be taken that way. I guarantee that the firm will fly to you. ...

R3 M1 58 F: Our people [Russians] don't know these legal details. As a general rule, our people are not legally literate. ... We believe what we are told. ... We want to believe in other people's humanity. Plus we don't have time [to investigate the law]. ...

R7 M1 61 M: If you have an agreement [*dogovorennost'*] – if everything is settled, and then something is done inappropriately, then write up a complaint. That firm will ruin itself over you.

R3 M1 58 F: This is all rubbish.

R7 M1 61 M: Here's what I have in mind – people in Russia are not accustomed to fighting for their rights even a little bit. Right from the start, we say – that's okay – it's only a few kopecks – it doesn't make sense to pursue. ...

R2 M1 57 F: What do you mean by fighting? I don't like this. We shouldn't have to fight for something that we already paid good money for.

A review of Russian contract law confirms that R7_M1_61_M is right. Oral contracts are enforceable under Russian law if there is evidence to support them. As he suggests, the best evidence would be some sort of signed receipt, indicating that work was completed. No construction job is ever considered complete in Russia until an “act” [акт] is signed acknowledging it. Thus, it is likely that all of the focus group participants who believed that they were unable to make claims because they lacked a written contract were, in fact, entitled to pursue their claims. What is more fascinating is how the construction firms use this misapprehension to their advantage. I did not have an opportunity to speak with representatives of the firm in question. It is possible that they were not taking advantage; it is possible that they were just as misinformed as their clients. The hostile reaction of the other focus group members to R7_M1_61_M's explanation of how the law really works demonstrates how deeply held this belief in the magical power of written contracts is. In the other groups, there was no one who challenged this conventional wisdom.

Felstiner, et al., emphasize the potential for relational damage when hypothesizing as to why so many disputes never proceed to the claiming stage. In Russia, however, concerns over potential damage to relationships were not relevant for most of those who did not claim. When it did arise, the relationship at question was not with the construction firm or the workers. Both firms and workers were considered to be a dime a dozen. Nor was there any broader concern about being perceived by others as a trouble-maker. This is understandable in Moscow, where its size makes residents largely anonymous. Saratov also proved large enough to forestall this concern.²⁵ To the extent a fear of relational damage was relevant, the relationship at issue was

²⁵Fears of being seen as a troublemaker loomed larger in the focus groups I conducted in two small towns (Shumerlya and Kushevka) during the summer of 2008. Young people, in particular, were concerned about getting such a reputation, fearing that it would make it impossible for them to get a job.

with the people who originally recommended the workers or firm. Although almost every focus group participant had gone through their friends to locate workers, only a few people raised this as a reason for not claiming.²⁶ More often, people said that revealing that the job had gone badly would not negatively impact their relationship with the recommender.

But a full two-thirds of the focus group participants who were prepared to blame were also prepared to claim. At this stage, the Muscovites live up to their reputation as being more pushy and demanding. While 68 percent of the Moscow “blamers” were “claimers,” this figure was only 54 percent for Saratovites. Claiming took one of two forms in this Russian context. Either they sought some sort of remedy from the workers or firm or they pursued an administrative complaint. Only two claims – both originating in Moscow – blossomed into lawsuits. Both came through the administrative route.

For those who sought recourse from those who had done the work, the claiming process often began with a request that the mistakes be corrected. Occasionally such requests fell on deaf ears²⁷ but, in most cases, some effort was made to fix the problems. Rarely was the job done satisfactorily the second time around. Some then dropped their claim and redid the work themselves, reasoning that haranguing the workers was not worth the trouble.²⁸ Others demanded some form of restitution, either in the form of a lower price for the job or reimbursement from the workers. R1_M2_50_F wanted to “punish” the Tadzhik brigade who had misled her as to their construction skills, but settled for making them redo the repair work on her windows and got them to pay for a window that they broke. She blamed herself for the situation because she had

²⁶A good example is R6_M1_43_M. He found workers through a friend. When he was dissatisfied with their work, he did nothing because he did not want to risk destroying this friendship. Also relevant to his decision was the fact that he had no contract with the workers. A more extreme example is R8_M3_31_M. He found workers through the friend of a friend. He had only an oral contract. The renovation of his bathroom was done while he was away for 3 months. He returned to a flooded bathroom. He did nothing, explaining that he had no interest in fighting and that he did not want to embarrass his friend. He even took some of the blame on himself because he had not been present during the work.

²⁷One Moscow respondent (R1_M3_31_F) had very different experiences in dealing with established firms. When she called the firm she hired to put in a metal door to report that the installers had left a significant gap between the door and the floor, the firm refused to send workers to fix the problem. She came up with a makeshift solution herself. On the other hand, when the lock on the door failed after three years, that firm honored its guarantee and repaired the lock promptly.

²⁸One Moscow respondent (R8_M2_47_M), who was disappointed in the work of the Ukrainian brigade he had hired, demanded that they return to retiling the bathroom to his satisfaction. They returned for some time, but soon disappeared into the wind. He chastised himself for not including their passport information in the contract, which would have allowed him to locate the workers. A woman from another Moscow focus group threw up her hands in frustration when the repair of the repairs fell short, saying “I tried to fix the problems only with my own hands. I took care of things. After all, who could I complain to?” She had not hired a firm, but several individual workers by their specialties.

stuck with them even when it became apparent that “they were not professionals.” She did so on the grounds that other workers might be even worse. This sort of self-help remedy was fairly common, though not always accompanied by self-flagellation. As I noted earlier, women were more likely to blame themselves. R1_M2_50_F was divorced, so handled the workers on her own. By contrast, when the brigade hired by R4_S6_55_F to enlarge the front hall of her Saratov apartment mistakenly knocked down a wall, she called her husband home from work. He ordered them to fix the problem and, when he was dissatisfied with their efforts, he fired them and refused to pay them the full amount agreed upon. His status as an active military officer probably affected the workers’ willingness to go away quietly. R4_S6_55_F described her husband as “stern” and said that he “would not pay them for doing nothing.” Her husband then took over the project and hired new workers and supervised them closely and the project was completed to their satisfaction.

Only occasionally did a fear of relational repercussions play a role. A good example is R8_S5_22_F. She and her mother undertook a major renovation at their three-room Saratov apartment, replacing the wallpaper and evening out the ceiling. The work cost substantially more than originally contemplated and took six months, which was much longer than they anticipated. More importantly, they were disappointed in the quality of the work. They asked that some of the work be redone but, when it was still subpar, they did not press further. R8_S5_22_F explained that she worked as a bookkeeper for the brigade leader and so was uncomfortable doing more. Yet in another case from the same Saratov focus group, the fact that R6_S5_26_F had hired a family friend to do her repairs did not affect her behavior. She noted, “it seemed to me that he delighted in creating chaos in my home. ... He was happy about all the dirt. ... We paid him less, and a great deal less, than he asked for.” When others asked her opinion about him, she responded, “Oleg is capable, but I cannot recommend him.” Thus, a pre-existing relationship could, but did not always, stifle complaints.

Of all of those who claimed via a non-administrative route, only three – two in Moscow and one in Saratov – invoked the possibility of formal legal action. The two Moscow respondents threatened the possibility of litigation when they were dissatisfied with the responses of the firms to their complaints. R6_M3_31_F located a firm via the internet to install an air conditioner in her apartment. She had trouble with the workers from the moment they showed up. They “rebelled” when she insisted that they complete the work in a single day, as the contract provided. Though they grumbled, they did the work. They refused to test the units or to clean up after themselves. After they left, she discovered that one of the units did not work and that they had left a hole in the wall. She called immediately, but got the run around. When they sent a repairman, he proved unable to get the unit working. She then revised her demand. Arguing that the unit had never worked properly, she asked for a replacement. Again, the firm dithered, accusing her of having somehow damaged the unit. Things dragged on for over a month. As she said, “as long as I was unwilling to threaten court action, the air conditioner was not going to be replaced.” Once she upped the ante, the firm replaced the unit. Such threats only work, however, when they are perceived as credible. The other Moscow respondent who threatened litigation when a large-scale renovation of her apartment went off the rails, taking twice as long as

anticipated and costing three times more than originally planned, did not seem to take her own threat seriously. In response to a question from the moderator, she said: “we threatened to go to court, but who is frightened by that nowadays?” Instead, she felt that only when she and her husband started to ride herd on the project more closely did the workers settle down. Neither of these Moscow respondents consulted with lawyers before making their threats. By contrast, the Saratov respondent who threatened litigation (R2_S3_33_M) worked through a lawyer when he was displeased by the construction of his dacha. The workers used inferior bricks, which made the house more expensive to heat. The lawyer, however, was a school-mate of R2_S3_33_M’s, who helped out free of charge. The lawyer succeeded in negotiating a settlement by which the construction firm agreed to compensate R2_S3_33_M for the higher cost of the heating unit. As with R6_M3_31_F, the construction firm took R2_S3_33_M’s threat of litigation seriously and felt themselves to be vulnerable due to its workers’ mistake.

A second route to claiming is through an administrative complaint. The situations in which this sort of claiming arises are different. Typically they involve some sort of repair that has been undertaken (or should have been undertaken) by the state (or a quasi-state agency), in the form of the housing commissions. They have various names, but are typically referred to as the ZhKU (Zhilishchno-Kommunal’nye Uslugi or Housing-Communal Services). These commissions are a vestige of the Soviet past when almost all housing was owned by the state and was managed by housing commissions. Although much of the Russian housing stock has now been privatized, these ZhKU persist. They are expected to maintain the buildings and to ensure a steady supply of energy and water. As Table 3 documents, they are notoriously unpopular. Many view them as remote and dis-interested. This was especially true among the participants in the Saratov focus groups, reflecting the survey results reported in Table 3.

There was an interesting discussion in the final Saratov focus group as to whether complaining to the ZhKU is worthwhile. R5_S6_40_F told the group what happened when she lost hot water supply in late December 2005. She called her ZhKU to complain, but was put off until after the Russian Orthodox Christmas, which falls on January 8th. She told the group, “The plumbers from ZhKU only feed us with promises. When you call, there is some old woman [babushka] who sits there and tells everyone that all the workers are out on a call; just wait. ... I was in a panic; I was crying.” When the moderator asked her whether she thought about complaining further, it provoked the following exchange:

R5_S6_40_F: What? Complain to the chairman of the ZhKU? I don’t know whether this would have resolved the problem. ... One time in the past I had a skirmish with her. And nothing happened. I decided to spare my nerves. We had a situation where the faucet was stopped up and we had no water at all. I then went to see her three times, ... but she did nothing.

Moderator: Did the other residents also have no water?

R5_S6_40_F: Yes. Each of them resolved the problem in their own way. Some of them also went to see the chairman. Maybe the problem was resolved because our neighbor on the fifth floor is maybe a procurator [prosecutor] or a lawyer and

her boss called and bitched them out.

R7 S6 21 F: For me, not having water – this is a tragedy. Maybe I could survive without gas or electricity – whatever – but not water. I would definitely bug the chairman. Why wasn't there any warning – why wasn't there an announcement! And then I'd expect a personal call from the chairman: "Svetochka, you'll have water in two days."²⁹

R5 S6 40 F: It's not clear what method would be most realistic in this situation. Probably, no one sues these organizations [ZhKU]. It's useless.

R2 S6 39 F: We've become accustomed to solving problems as they arise. We had a very similar situation – also before New Year's – the local tv station even came. We have only partial utilities – only cold water. Water started leaking, though not streaming. We called ZhKU. No one came. Everyone was out on a call. The next day, once again everyone was out on a call. We called the emergency services. They came at 2am. We have small children. They were drunk and started singing. Then they asked us to make them some tea. What did they do? They broke the pipe and temporarily plugged it with a piece of wood; then they told us to call our own repair service. We waited about a week. We then got in touch with the local television station. Our situation was shown on tv. ... After that, the workmen showed up and installed a new pipe and two faucets, all at no charge. But we still gave them a bottle of vodka out of gratitude. [She then went on to share another problem with the chimney of her building and her frustration with the ZhKU.]

R1 S6 45 F: Did you think about suing the ZhKU?

R2 S6 39 F: I am a single mother ... I have no money for going to court. I can't prove anything to anyone. The chairman [of the ZhKU] has office hours once a week for two hours. I'd have to hang around and wait for him. He's a young guy – much younger than me. ... I've come to the conclusion that the leadership of Saratov has decided that the dregs of society live in communal apartments.³⁰ But I'm simply divorced from my husband. It's not necessarily true that bad people live there – we're not bad people. ... No one pays attention to us.

²⁹I have changed the name, but have preserved the form of the name. Svetochka is a familiar form of the name Svetlana. Typically it would be used only by friends or family. There are similar familiar versions for all of the popular names for Russians.

³⁰Housing shortages were endemic during the Soviet period. To ease the situation, large apartments were divided up to accommodate several families. Typically, each family would have a single room and all the families would share the kitchen and bathroom. Boym (1994:121-165) shares what it was like to live in these crowded spaces. A virtual museum of the communal apartment is available at <http://kommunalka.colgate.edu/> (last accessed on August 28, 2008). With the advent of the market, many of these communal apartments have been bought up by the "haves" within Russian society and been returned to their pre-revolutionary splendor. But some remain and, as R2_S6_39_F suggests, the residents tend to be the "have nots."

The frustration with the ZhKU is palpable. Neither of these women who sought help from the ZhKU received it in a timely way. Both found other ways to solve their problems when the ZhKU turned a deaf ear to their problems. The first woman, R5_S6_40_F, managed to find a friend to fix her problem. Had R5_S6_40_F not found a friend to help her, she would have waited for the ZhKU workers or perhaps might have hired a third party. It would never have occurred to her to take the problem to the media, as did the second woman (R2_S6_39_F), though they were about the same age. The media was able to shame the ZhKU into living up to its obligations. In another incident related by R2_S6_39_F, she went to see her local deputy to complain about the poor condition of the roof when the ZhKU kept postponing needed repairs. The others in the group were clearly surprised by R2_S6_39_F's persistence and activism. At first glance, R2_S6_39_F did not seem like the type to be go down this road. As she herself noted, she is a single-mother. She has a high-school education and was working as a hairdresser at the time of the focus group. She had some experience with the courts as a result of her divorce, which was quite contentious. Her inventiveness in claiming seemed to stem from her belief that she had nothing to lose and no one to rely on but herself. Litigation was a not a viable option for her, not only because she did not have enough money to hire a lawyer, but also because her prior experience in the courts had undermined her trust in the institution. R2_S6_39_F's behavior shows that desperation can be a powerful motivating force.

From a legalistic perspective, claiming culminates in litigation. As the foregoing indicates, in Russia, as elsewhere, most injurious experiences are either abandoned or resolved short of litigation. From my sample, only two of the 41 claims ended up in court. Both were from Moscow (meaning that two of the 26 Moscow claims ended with a lawsuit). The facts that underlie the two cases are similar. Both arise from ill-fated capital repair projects undertaken by ZhKU. R7_M1_61_M was dissatisfied when mold began to grow on the wood that was brought into his apartment.³¹ By contrast, R2_M2_52_F was initially pleased with her repairs, but after two years, problems developed with the linoleum that had been installed. Though both ended up in court because they were unable to reach a settlement with their ZhKU, their motivations were quite different.

In many ways, R7_M1_61_M is atypical. He actually enjoys litigation. Since retiring, he has initiated a number of lawsuits, always representing himself. As I noted earlier, he freely shared his newly-found legal expertise with the other focus group participants. In his own case, he took a number of actions when negotiating with ZhKU that seemed aimed at infuriating them, including sending a petition to the procurator asking that he initiate a criminal case against the ZhKU.³² As he said, "I was corresponding with all the bosses." The lawsuit dragged on for five years. R7_M1_61_M grumbled a bit about the toll on his health, but boasted about how it cost

³¹R7_M1_61_M previously came to our attention, when he lectured his fellow focus group members about the substance of contract law (see pp. 17-18).

³²When the procurator did not respond as he had hoped, R7_M1_61_M sent a petition to President Putin, thereby revealing more of his character.

him nothing to bring this lawsuit. He told the other members of the focus group that the problems were ultimately remedied. It was not clear whether this was due to the outcome of the lawsuit, or whether he had simply outlasted the patience of the ZhKU representatives.

By contrast, R2_M2_52_F was a reluctant litigant and, for her, litigation was an expensive proposition. To establish that the work done was flawed, she had to pay over 20,000 rubles (about \$1,000) to a licensed inspector. Then she had to hire a lawyer. She sought compensatory damages of 700,000 rubles (about \$35,000) and “moral” (or punitive) damages of 50,000 rubles. The lawyer warned her that it would be a long haul, but she still complained about the endless delays, saying that “one time the other side failed to show up. The next time everyone showed up, but the judge had two cases carried over from the previous day. We all left with nothing for our troubles.” She used up her vacation days in court. Even so, she did not regret her decision. She felt it was more a question of principle than of money. She was angry that the ZhKU was unwilling to acknowledge its responsibility.

Explaining the Evolution of Disputes in Russia

The details of these two cases that ended up in court illustrate the critical role of personality. The specific facts of R7_M1_61_M's case are indistinguishable from many others and are likely less compelling than many of those who did not go to court. But his love of the fight and the spare time he had thanks to having retired combine to make him an ideal candidate to pursue his dispute to the end. Yet there were several other pensioners who participated in the focus groups. None of them had taken up litigation as a hobby. By the same token, the earlier discussion of naming and blaming highlight the propensity of those who eschew conflict to opt out of disputes with their contractors, even when the damages suffered are patent. The fatalism that the Russian experience seems to breed also plays a role. This character trait seems particularly prevalent among women and was more pronounced in the Saratov groups than in the Moscow groups. Though the unintentional oversampling of women in Saratov may have skewed the results, the question of whether Russian women are more passive in the disputing context deserves further attention.

The different reaction of the various pensioners to the same stimuli suggests that the generational hypothesis is less persuasive than I had expected at the outset. The very fact that the only two lawsuits were filed by people in their 50's, who are clearly part of a Soviet generation, indicates that those who lived through the “bad old days” do not necessarily shy away from mobilizing law and legal institutions when it serves their interests. At the same time, there were a number of focus group participants who came of age in the Soviet era who fit the stereotype and who would not go to court under any circumstances. A good example is R9_M2_47_M who, after listening to the story of how his fellow focus group member (R2_M2_52_F) ended up in court, responded:

The fact is that law doesn't work here. If an ordinary swindler takes an advance, knowing full well that his firm can't do the job, the firm will find some sort of

justification – its lawyers will litigate it with you for years. It will be more expensive for you than them. As the saying goes, don't fight with the strong and don't sue the rich. This saying wasn't thought up by some group of scholars or politicians, but by ordinary people. ... You'd have to be a complete idiot to sue – better to be smarter. Put together a brigade with recommendations from friends and acquaintances.

Nor did I find that younger people who had no memory of the Soviet legal system as adults were uniformly more prepared to mobilize law. A comparison of two of the participants in the younger group in Moscow is instructive. Recall R6_M3_31_F (see pp. 20-21) who provoked the firm that erred when installing her air conditioner to replace the unit by threatening to file a lawsuit. The same group included a woman, R9_M3_35_F, who seemed quite similar on the surface. Both were about the same age and had prestigious management jobs; both had university degrees; both had been to court in the past. But for R9_M3_35_F, this was an experience that she was determined never to repeat. Much like the women in Saratov, she spoke of her dislike of conflict. She explained why she chose not to pursue a dispute over a kitchen renovation that hadn't turned out as planned:

I simply had no strength. That's how [the project] turned out. I understood how to complain. But I just don't feel like screaming and threatening every time. ... I have a sick child. I have problems at work and things don't always go smoothly with my husband. And in our country, going to court wastes your nerves. I know what it takes. I've been through it before. You can put together a pile of papers, but the money still ends up with the firm ... This is why I don't believe in courts. ... You don't end up with any money in the end. ... Moral [punitive] damages don't begin to compensate. The bottom line is that the game is not worth the candle.³³ It's better to call and bitch someone out. Then you can live peacefully.

Thus, members of the post-Soviet generation are not necessarily more open to using the courts. At least R9_M3_35_F was willing to defend herself with the contractor, if not to initiate a lawsuit. At the opposite end of the spectrum, people of all generations exhibited a complete unwillingness to do anything. In the second Moscow focus group, which was a mixed-age group, this passivity, which dovetailed with their fatalism, was exhibited by women as young as 24 (R2_M2_24_F) and as old as 50 (R6_M2_50_F).

These negative views about the Russian judicial system suggest that the reluctance to pursue disputes to the apex of the pyramid may stem from a deep distrust of the courts. The polling data certainly supports this hypothesis. Most of the scholarly literature contends that this distaste for courts stems from the alleged corruption and politicization of the courts that persists as a legacy from the Soviet era. Though the focus groups were replete with criticisms of the courts, the sorts of comments made were mostly generic and not specific to the Russian case. Participants railed against the time and money needed to go to court. Many echoed R9_M3_35_F's sentiments about how emotionally draining litigation can be. One Moscow woman (R4_M3_37_F), who had endured a lengthy battle supporting her father's ultimately futile

³³This is a Russian saying that conveys the meaning that it isn't worth the effort.

efforts to win his job back, commented that “one needs nerves of steel to appeal to the courts.” She was gun-shy about going to court again, as were a number of veterans of the Russian courts. But that hardly makes Russia unusual. Litigation is difficult everywhere. It is rarely anyone’s first choice as to how to resolve a dispute. The focus group discussion undermines the claim that Russian courts are somehow uniquely problematic and inherently unuseable. While it is true that, for the most part, these focus group participants did not use the courts, the reasons were similar to those voiced by people the world over.

By this, I am not arguing that Russian courts are pristine, but rather that their politicization and corruption does not reach to the sorts of mundane cases that would have been brought by these focus group participants. The specter of corruption was a much more visible presence in the focus groups that dealt with personal injury. Many people who had been involved in traffic accidents spoke of the choice they had to make as to whether to bribe the police. Several also spoke passionately of their belief that the judges in their case had been swayed to ignore the law, either because the other side was politically connected or because they had been paid to do so. All of this supports a vision of Russia as having a dualistic legal system, where mundane cases are handled according to the law, but where there is an acceptance of outside interference, either to serve the political or economic interests of those with power. Moreover, ordinary Russians seem to appreciate this distinction and are able to adapt their behavior accordingly.

My instinct as to the role of peripheral lawyers in the evolution of these home repair disputes in Russia was born out. In contrast to Felstiner, et al.’s, description of the U.S. case, lawyers did not act as transformational agents for most of those who pursued their disputes. The only person who consulted a lawyer at the outset – R2_S3_33_M – did so because the lawyer was an old friend (see p. 21). His willingness to seek the advice of a lawyer did not connote a respect for the legal profession more generally. Like many of his compatriots, he had little faith, noting that “we know all too well how they are taught in legal institutes – who teaches there – whose money is in play. We live here; we know everything. Therefore simply to go a lawyer that you don’t know and who has a diploma – that’s a bad idea.” Others supported him, saying that one should only hire a lawyer that has been recommended by a trusted friend. Another reason cited for not turning to lawyers for help was their cost. Several told of friends who had paid large sums to lawyers, but had gotten no discernable results. Once again, these sorts of sentiments are familiar to socio-legal scholars; they are not specific to Russia. In many other countries, however, people take counsel from lawyers, even though doing so is expensive, because they find value in this advice. Put differently, they find the legal system to be impenetrable without a learned guide. Perhaps the fact that most Russians do not view litigation as a viable option contributes to their diffidence toward lawyers.

If lawyers do not serve as transformational agents, then what factors are at play in the evolution of disputes? Felstiner, et al., emphasize fear of relational damage in explaining why the vast majority of disputes dissipate. Relational costs are not irrelevant in the Russian case, but play a more minor role than in the U.S. case. Where it was at issue, the key relationship was not

between the disputing parties, but between the injured party and whoever had recommended the firm or workers who carried out the home repair project. Most of the focus group participants sought advice from friends, co-workers, and neighbors when undertaking home renovations. Connections (*svyazy*) have always been critical in Russia. In the Soviet era, having a strong web of connections or *blat* allowed people to negotiate around the restrictions of the planned economy, not just in the sphere of home repair, but in the more important areas of consumer goods and medical care (Ledeneva 1998). Indeed, connections were more important than money in the Soviet system, where the perennial shortages and the fixed prices meant that money could not necessarily provide access to goods or services. When someone allowed a friend access to their personal network, this was understood as a precious gift. Even if it did not work out as the friend had hoped, he would never do anything to undermine the original relationship. In present-day Russia, *blat* persists, albeit in a slightly different form (Ledeneva 2006). Connections remain a valuable currency, but with the introduction of market incentives, money has become important. The question of when money trumps connections and vice versa is much debated. Among the focus group participants, several refrained from expressing their displeasure fully to those who had worked for them because they did not want to cause problems for their friends or co-workers who had originally recommended them. The fact that so few cited this as a concern is a mark of how much things have changed since the collapse of the Soviet Union in the early 1990s. I suspect that the size of the venues for the focus groups played a role in minimizing this factor. Both Moscow and Saratov are large enough to support multiple vendors of almost any good or service, which lessens the value of one's connection to any particular vendor.

Another factor identified by Felstiner, et al., as having the potential to shape the evolution of disputes is the receptivity of the legal system to the underlying claim. Irrespective of the seriousness of the injury, as perceived by the affected party during the naming process, if the substantive law does not recognize the injury, then his ability to press for a remedy may be compromised. After all, even if the affected party has no plans to appeal to the courts and is seeking only to have the work redone to fix the problems, the other side's behavior may be colored by its awareness of the lack of legal remedies. This dynamic was at play in the focus groups. As I detailed in the discussion of claiming, the participants believed that they could not take their claims to court if they did not have a written contract. In all of the group, participants expressed regret at not pushing for a clear written contract at the outset. Some did not even have a written estimate (*smeta*). Echoing sentiments heard in many other countries, the participants spoke of feeling that they would be signaling a lack of trust for the firm or workers if they asked for something in writing. R8_M1_43_F, who was one of the Moscow women discussed above who did not actively pursue her claim because she had no contract, blamed herself for not paying more attention to the legal niceties at the outset. She explained, "If everything isn't properly formulated, we have only ourselves to blame. ... Probably we're not trained to do this ..." Many said that they would insist on a contract in their next home repair project.

Not all of the participants were sure that having had a contract would have helped them. Some argued that a contract would only help if they were prepared to take the dispute to court. And most were not, as evidenced by the comments of R1_S5_45_F (her reluctance to claim was

discussed above, see p. 14).

In what way can a contract protect me? I can appeal to the court if something doesn't suit me. But I totally don't want to do that. I can't even begin to understand the procedural rules. It's unpleasant; it's both my money and health. I'm not going to court. I can't even imagine myself in court. It's a question of time, nerves, and health.

The sense among the participants was that having a contract was a necessary, but not sufficient, condition to ensuring a smooth home repair experience. Some worried that contracts can be a trap; that they look fine on the surface, but often contain loopholes that protect the contractors at the expense of the home owners. The same Moscow woman who blamed herself for not taking more care at the outset, R8_M1_43_F, commented: "in every contract, there are submerged reefs and one has to navigate around them." Along the same lines, some doubt was expressed as to whether people like them, without any legal education, could make sense of contracts. There was a lively exchange about this in one of the Saratov groups:

R5_S3_37_F³⁴: You know, we don't know our rights. Some people might draw up a contract, but you'd need to take it to a lawyer who can study the contract and tell you where the problems are. I don't understand any of this. I sign the contract blindly. If I was to take every contract for every insignificant repair project to my lawyer, then I won't have enough money left to do the repairs.

R1_S3_38_F: I think you've put your finger on the heart of the problem. Here [in Russia] you don't need to have legal education or a lawyer friend to be convinced of the correctness of the contract. The heart of the problem is our laziness. We lack the desire to read the contract, to dig into the substance of the matter, to think about the consequences. ... But above all, the problem is laziness. No one ever bothers to read the contract. This is our own fault. The other side writes it and tells us – please read it carefully. But it's easier for us to say – I trust you.

R5_S3_37_F: When I read a contract, I don't understand anything that is written.

R1_S3_38_F: Because you don't read it carefully. When the contract is presented to you, you probably have no time. You could say – ok, let me study it. If you read it carefully, you would understand everything. But if you take the easy way out, then you get what you deserve, like most of us.

For those who study contractual behavior, this sort of exchange is familiar. But in Russia, as elsewhere, people's beliefs about the viability of a claim or about their own ability to understand the terms of contracts are important because they shape behavior, even when they are baseless.

This last exchange, as well as many of the other comments of the focus group participants, brings the question of Russian legal culture to the fore. A theme that ran through all of the focus groups was the lack of knowledge about law and the legal system among the Russian citizenry.

³⁴This woman previously came to our attention (see pp. 11-12) as someone who was unwilling to name her injury.

Typically it was expressed as a low level of “legal literacy” (*pravovaya gramotnost’*). Those unfamiliar with contemporary Russia might assume that information about substantive law and about the procedural rules that govern the courts are inaccessible to the populace. This was the case during the decades of Soviet power. But for the past few decades, Russians have been inundated with information. Copies of statutory codes and commentaries to statutory codes are easily available at bookstores and libraries. If the legalese of these materials makes them frightening to laymen, then there are also a plethora of books in the vein of “law for dummies,” that assume no prior knowledge. In addition, the Russian-language web contains a wealth of information about law, including a free LEXIS-like search engine.³⁵ There are also websites that provide form contracts for almost any purpose, including home repairs.³⁶ Thus, transparency is not the problem. But it was a problem in the Soviet era when access was tightly controlled. It may be that people have not yet adjusted themselves to the new conditions. The more likely explanation, given that these new conditions have been present since at least 1990, is that Russians have chosen not to pay attention to this information, which lends credence to the laziness explanation put forward by R1_S3_38_F.³⁷ To be fair, many Russians were hit hard by the economic dislocation that accompanied the transition to the market in the 1990s. In all likelihood, they were preoccupied with keeping their heads above water and had little time to keep up with the never-ending changes in the legal system. Yet the economy has been relatively stable under Putin and, as the focus groups reveal, legal literacy remains low. Perhaps President Medvedev’s campaign to fight what he has described as “legal nihilism” will make a difference, but few Russians are optimistic. There is simply no tradition of paying attention to these matters. By contrast, there is a long tradition about complaining about how law does not adequately protect citizens that ties into the fatalism that underlies Russian culture more generally.

One final factor that appears to have affected the willingness to push one’s dissatisfaction from naming through blaming into claiming is location. As Table 2 demonstrates, the likelihood of naming is fairly equal as between Moscow and Saratov. But as we proceed up the pyramid of disputing, Muscovites emerge as more contentious. They were more likely to blame and to claim

³⁵The introduction of market incentives gave rise to several search engines along the lines of LEXIS. Konsul’tant plus (<http://www.consultant.ru/online/>) is available free of charge and provides easy access to legislation, regulations, and judicial opinions. Two others legal search engines, Kodeks (<http://www.kodeks.ru/>) and Garant (<http://www.garant.ru/>), require a subscription.

³⁶Some websites have been set up by lawyers and require payment to access form contracts. Others provide form contracts at no cost. *E.g.*, <http://www.dogovor.partnerstvo.ru/>, accessed on August 30, 2008; <http://biz.lpros.ru/10.htm>, accessed on August 30, 2008

³⁷In their November 2007 survey on the work of the courts, VTsIOM asked Russians how they got information about the courts. Respondents were free to pick all the answers that applied to them. The most common answer was central television (42 percent), followed by talking with friends and relatives (26 percent). Only 2 percent said they got their information via the internet. “Otsenka deyatel’nosti sudov v Rossiiskoi Federatsii.” <http://wciom.ru/novosti/otkrytye-proekty/ocenka-deyatelnosti-sudov-v-rf.html>, accessed on July 21, 2008.

than were their Saratov counterparts. To some extent, the glitches in recruiting for the focus groups in Saratov may be driving these results. The Saratov groups were made up almost entirely of women.³⁸ More importantly, the projects undertaken by these women were less substantial than the projects of the Moscow focus group participants. Both of these factors may have contributed to the apparent reticence of the Saratov participants. But assuming that the variation is genuine, a number of explanations may be at play. Explanations that are grounded in the perception that governmental institutions, including courts, are thought to be staffed by the cream of the crop in Moscow, suggesting that Moscow institutions may enjoy greater legitimacy than those in the periphery of Russia are not terribly compelling. After all, only two Muscovites took their claims to the courts. Most of the claims were resolved through negotiations between the injured party and the firm or workers who carried out the project. This forces us back onto the conventional wisdom about Muscovites, which holds that they are more sophisticated and less willing to take guff from anyone. Muscovites tend to look down on their country cousins, and those many of those who are not from Moscow have internalized this second-class status. This explanation of the regional variation is not terribly satisfactory. These differential outcomes deserve further analysis.

Conclusions

What can be concluded about the willingness of Russians to mobilize law to defend their interests? The focus on home repair projects provided a window into the process by which disagreements between ordinary Russians evolve into full-fledged disputes. Home repair problems rarely attract the attention of the rich or politically powerful, which largely eliminates the fear of judicial manipulation as a motivating force. Instead, we can concentrate on the choices made by Russians who are disappointed by the outcome of their home repair projects.

While the focus group methodology renders any conclusions necessarily tentative, the analysis permits a ground-level view of Russian reality and provides a basis for further research. At first glance, the results seem to confirm the common wisdom about the resistance of Russians to using law on their own behalf. After all, only two of the focus group participants took their disputes to court and just a handful more threatened litigation as a means of encouraging settlement. But a closer look reveals that many more of the participants took law into account in formulating their strategies. They may not have always done so explicitly. Indeed, they may not even have been aware that law was part of the equation for them, but it was. More often than not, law was a factor that discouraged them from pursuing their disputes. For example, for all of those who failed to claim or who put forward a half-hearted claim because they had no written contract, law acted as a brake on their behavior. Likewise, for those who did not want to press forward because they had no stomach for litigation, law was relevant. While the end result is

³⁸Whether Russian women are less conflict oriented cannot be definitely established on the basis of this small sample, but the extent to which they self-identified as conflict-resistant suggests a hypothesis that is worth pursuing.

what the social science literature would have predicted, namely a reluctance to go to court, the reasons are not as simple as the literature suggests.

Indeed, in many ways, the basic contours of the disputing pyramid revealed by the research is quite similar to that found in other settings. When faced with problems, Russians are generally prepared to name their injury and to blame the person or firm who caused the harm. When it comes to claiming, however, Russians become more skittish. This fits with what has been observed elsewhere. People are naturally more reticent when the process requires them to interact with the wrongdoer. Often it is easier to “lump” the dispute than to pursue it. Opting out is more likely – in Russia as elsewhere – when the injury suffered is considered insignificant, due either to the small amount at stake or the triviality of the inconvenience suffered. What seems unusual about the Russian case is the tendency of Russians to shift blame from the contractors onto themselves. Their rationale that they share blame because they failed to monitor the workers closely enough or because they fed them too well (or not well enough) seems rather flimsy and may hide a reluctance to confront. From the available data, this tendency to eschew conflict seems correlated with gender, but whether that will stand up to more rigorous research remains to be seen.

Perhaps the most surprising finding is the unimportance of relationships in explaining the ratcheting up of disagreements into disputes in Russia. Russia is a country where connections have long been thought of as a currency more valuable than money. Most people took advantage of these connections to locate the workers or firms they used for their home repair projects, asking friends, relatives, and/or co-workers for recommendations. Those who were satisfied with their home repair experiences attributed it to the strength of the relationships they established with the workers. But few of those who had problems expressed any fear of damaging their relationships with workers. Any concern with preserving connections focused on the potential danger of undermining relationships with the original recommenders. At the same time, when problems arose, few cited a fear of damaging these pre-existing relationship as a factor to be considered when deciding whether to pursue the dispute. This may reflect both the diminishing power of *blat* and the fungibility of construction firms. There is no doubt that if similar research had been carried out during the Soviet era, respondents would have been much less casual about the potential damage to their networks. The rise of the market has caused construction firms to sprout up like mushrooms, rendering them somewhat inter-changeable.

The legendary Russian fatalism, which has seen them through centuries of tsarist rule and decades of Communist domination, colors the attitudes and behavior of Russians in the legal realm. As Kurkchian (2003:30) has argued, “the *negative* myth of the rule of law is dominant.” Russians expect the worse and are always surprised by positive outcomes, both with regard to legal disputes and more generally. Given that, the willingness of so many of them to go after their contractors in the wake of disappointing home repair projects is perhaps the biggest surprise of the research.

Table 1: Attributes of Focus Groups

	N	Mean age	Gender	Education	Prior court experience?
Moscow Group 1	10	49	M = 50% F = 50%	Univ = 90% High Sch = 10%	40%
Moscow Group 2	10	46	M = 30% F = 70%	Univ = 80% High Sch = 20%	40%
Moscow Group 3	11	31	M = 45.5% F = 54.5%	Univ = 100%	45.5%
Saratov Group 1	9	34.2	M = 22.2% F = 77.8%	Univ = 22.2% High Sch = 77.8%	22.2%
Saratov Group 2	9	30.9	M = 0% F = 100%	Univ = 40% Unfinished HS = 22.2%	22.2%
Saratov Group 3	10	37.6	M = 0% F = 100%	Univ = 20% High Sch = 80%	70%

Table 2: Overview of Evolution of Home Repair Disputes

	Total N	Naming (as % of Total N)	Blaming (as % of Naming)	Claiming (as % of Blaming)
All Groups	84	71 (84.5%)	62 (87%)	41 (66%)
Moscow Groups	49	42 (85.7%)	38 (90%)	26 (68%)
Saratov Groups	36	29 (83%)	24 (83%)	15 (54%)

Table 3: Satisfaction with Housing Administration

To what extent are you satisfied with the quality of housing-communal services (ZhKU) (heating, water supply, technical services of the housing fund) that you receive at your permanent housing location? (Results reported as percentage of total respondents)

	April 2005	August 2007		
		Russia	Central Okrug (Incl. Moscow)	Volga Okrug (Incl. Saratov)
Completely satisfied	7	12	20	8
Mostly satisfied	25	40	47	45
Mostly unsatisfied	39	29	21	31
Completely unsatisfied	25	14	10	10
Hard to say	4	5	2	6

Source: Survey conducted by VTsIOM. Available on-line at:

<http://wciom.ru/novosti/press-vypuski/press-vypusk/single/8667.html> (last accessed on August 26, 2008).

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