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Understanding how the Russian Legal System Works

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Introduction

The legal system of the Russian Federation is a vast and intricate structure, shaped by centuries of tradition and decades of reform. Emerging from the civil law tradition and deeply influenced by its Soviet past, the Russian legal system today stands as a testament to both historical continuity and profound transformation. Since the dissolution of the Soviet Union, Russia has undergone sweeping changes in its governance, legal frameworks, and the very principles that underpin its society. This book is designed to guide readers through the complexities of how the Russian legal system works, offering a comprehensive and accessible reference for students, legal professionals, businesspeople, and anyone interested in the workings of Russian law.

Understanding the Russian legal system is crucial for anyone seeking to interact with, operate within, or simply comprehend the workings of the world's largest country. Russia's constitution, adopted in 1993, established the foundational principles of a democratic, law-based state, outlined the basic structure of government, and enshrined a range of human rights and liberties. From these foundations has grown a layered legal order that encompasses countless statutes, regulations, and institutions—all of which contribute to the administration of justice and regulation of public life.

Central to the Russian legal tradition is its civil law character. Unlike common law systems that rely on case law and judicial precedent, Russia's legal system is based predominantly on codified statutes enacted by legislative authorities. Nevertheless, in practice, decisions of higher courts, especially the Constitutional and Supreme Courts, play an increasingly significant role in guiding the interpretation and application of law. The relationship between federal laws, presidential decrees, government regulations, and the laws of Russia's varied subjects (federal regions) forms a sophisticated hierarchy that shapes the governance of the entire federation.

This book breaks down the essential elements of the Russian legal system. We will explore the sources and branches of law, the structure and role of courts, the functions of legal professions, and the processes through which laws are made and enforced. Particular attention is given to the dichotomy between public and private law—addressing both the relationship of citizens to the state, and the plethora of legal relationships between individuals, families, and businesses. Key facets such as criminal law, civil law, administrative law, commercial arbitration, and the involvement of international law are discussed in depth.

Furthermore, the realities of law in Russia cannot be separated from the persistent challenges it faces—such as ensuring judicial independence, combating corruption,

and responding to societal and economic change. The evolving influence of international legal standards, the pressure of globalization, and the consequences of judicial reforms are all critical to understanding the current and future landscape of Russian law.

In sum, “Understanding how the Russian Legal System Works: A Guide to the Russian Legal System” is intended to be a clear, thorough, and nuanced exploration of Russian law. Whether your interest is academic, professional, or personal, the chapters that follow will equip you with the knowledge necessary to understand, analyze, and navigate the Russian legal environment.

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CHAPTER ONE: The Historical Evolution of the Russian Legal System

The story of the Russian legal system is not a straight line but a winding path, marked by periods of innovation, stagnation, and radical upheaval. To understand the legal landscape of Russia today, one must first journey through the centuries that shaped it, from the early Slavic tribes to the complex tapestry of the modern state. It's a narrative deeply intertwined with the country's political and social history, reflecting the changing nature of its rulers and the enduring spirit of its people.

Our journey begins in the misty past with the East Slavic tribes that would eventually form Kievan Rus'. Before formal codified law, these communities relied on customary norms, traditions passed down through generations that governed interactions, resolved disputes, and dictated punishments. These unwritten rules, often rooted in pagan beliefs and communal consensus, formed the earliest foundations of legal order in these lands.

The emergence of Kievan Rus' in the late 9th century brought the need for more formalized legal structures to govern a burgeoning state. The Rurik dynasty, invited to rule, played a key role in this process. The most significant legal monument of this era is the *Russkaya Pravda*, or "Rus' Justice." This collection, evolving over time in different editions, codified existing customs and introduced new norms, providing a framework for criminal law, procedural law, and property rights. It wasn't a comprehensive code by modern standards, but it was a crucial step towards a written legal tradition, even incorporating elements influenced by Byzantine law and treaties with the Byzantine Empire.

Following the decline of Kievan Rus' and the period of feudal fragmentation, the center of power shifted northeast to Muscovy. As the Muscovite state consolidated its power, so too did its legal system. The focus here was on strengthening central authority and creating uniform laws across the expanding territory. This period saw the creation of important legal codes known as *Sudebniki*. The *Sudebnik* of 1497, under Ivan III, aimed to standardize judicial practice and curb the power of local officials. This was followed by the *Sudebnik* of 1550, under Ivan IV (the Terrible), which further developed legal procedures and criminal law, reflecting the increasing centralization of the state.

The 17th century brought another landmark legal achievement: the *Sobornoe Ulozhenie* of 1649, promulgated by Tsar Alexis Mikhailovich. This was the first comprehensive, printed law code in Russian history, a truly monumental undertaking for its time. It consolidated previous legal acts, including the *Russkaya Pravda* and the

Sudebniki, and introduced new provisions addressing a wide range of issues from state crimes to land law and serfdom. The Ulozhenie solidified the legal basis of serfdom, tying peasants to the land and their landlords, a system that would endure for centuries. Its structure, with chapters dedicated to different areas of law, represented a significant step towards systematization.

The reign of Peter the Great in the early 18th century ushered in a new era of Westernization and state-led reform, and the legal system was not immune. Peter's reforms were aimed at creating a more modern, efficient, and powerful state, and law was seen as a tool to achieve these goals. While not producing a single comprehensive code like the Ulozhenie, numerous decrees and regulations were issued, often borrowing from European models, particularly in areas related to the military, administration, and economy. This period saw a further increase in the volume of legislation and a greater emphasis on the state as the primary source of law.

The 19th century was a period of significant legal development, marked by ambitious codification efforts and groundbreaking judicial reforms. Mikhail Speransky, under Emperor Alexander I, undertook the monumental task of collecting and systematizing all Russian laws since 1649, resulting in the 45-volume Complete Collection of Laws of the Russian Empire. He also drafted a Digest of Laws, a more organized and coherent body of legislation, though its implementation was partial. This systematization was crucial in bringing order to the vast and often contradictory body of existing laws.

The most transformative legal changes of the 19th century came during the "Great Reforms" of Emperor Alexander II in the 1860s. Driven by the need to modernize Russia after the Crimean War, these reforms included the emancipation of the serfs in 1861, a fundamental shift that required a complete overhaul of laws related to land ownership and peasant rights. The judicial reform of 1864 was particularly revolutionary, introducing principles previously unknown in Russia, such as the separation of judicial and administrative functions, the independence of judges (though this was later curtailed), public trials, oral proceedings, and the introduction of jury trials for serious criminal cases. These reforms aimed to create a more impartial and accessible justice system, moving away from the previous secretive and often arbitrary procedures.

However, the progress towards a truly independent and rule-of-law based system was uneven. Counter-reforms in later years of the 19th century and the early 20th century saw some of the liberal principles of the 1864 reforms rolled back. Nevertheless, the late Imperial period saw the development of legal scholarship and a growing legal profession, laying some of the intellectual groundwork for future legal thought, even as the autocratic political system placed inherent limits on legal development.

The 1917 Bolshevik Revolution represented a radical break from the historical evolution of the Russian legal system. The new Soviet government rejected the legal

heritage of the Russian Empire, viewing it as a tool of the bourgeois state. Marxist-Leninist ideology profoundly influenced the development of what became known as "socialist law," which differed significantly from the civil law tradition. Law was seen primarily as an instrument of state policy and the building of communism, rather than a framework for protecting individual rights or limiting state power.

In the early Soviet period, there was even a theoretical notion that law would "wither away" in a communist society. While this didn't happen, the role of law was fundamentally altered. Private property was largely abolished in favor of state and collective ownership, and economic activity was centrally planned, requiring new legal frameworks to manage this command economy. The court system was restructured and often subordinated to the Communist Party, with political considerations frequently overriding legal norms. Despite this, codes covering civil law, criminal law, labor law, and other areas were developed and enacted, though their application was often shaped by ideological directives and the needs of the state.

The Soviet era was also marked by periods of severe repression, where legal procedures were disregarded in favor of political expediency and terror. While there were formal legal structures and codes, the reality of justice was often harsh and arbitrary, particularly during the Stalin era. The concept of "socialist legality" was emphasized at times, particularly after Stalin's death, suggesting a return to a more formalized application of law, but the fundamental principle of the supremacy of the Communist Party remained. The judiciary lacked true independence, and "telephone law," where party officials dictated court decisions, was a known phenomenon.

The late Soviet period, particularly during Perestroika in the 1980s, saw some attempts at legal reform and a renewed emphasis on the concept of a "socialist rule of law" (pravovoe gosudarstvo). This reflected a growing recognition of the need for a more predictable and rights-respecting legal order, partly driven by economic reforms and increased openness. However, these changes were limited within the confines of the existing one-party system.

The collapse of the Soviet Union in 1991 marked the beginning of a new chapter and a fundamental transformation of the legal system. Russia embarked on a path to build a democratic state with a market economy, which required a complete overhaul of its legal framework. The adoption of the new Constitution of the Russian Federation in 1993 was a pivotal moment, establishing the basic principles of the new state, including the separation of powers, fundamental human rights, and the supremacy of the Constitution. This constitution laid the groundwork for a legal system based on civil law principles, moving away from the ideological underpinnings of socialist law.

In the years that followed, a massive legislative effort was undertaken to create the laws necessary for a market economy and a new political system. New civil codes, criminal codes, and codes of procedure were enacted, drawing on both pre-

revolutionary Russian legal traditions and Western civil law models. The judicial system was reformed, with the establishment of a Constitutional Court and the restructuring of courts of general jurisdiction and arbitration courts. The emphasis shifted towards creating a legal environment conducive to private property, contracts, and economic activity, a stark contrast to the Soviet planned economy.

This transition period was not without its challenges. Building a completely new legal system from scratch, while simultaneously undergoing profound economic and political changes, was a complex undertaking. Issues of implementation, legal culture, and the legacy of the Soviet past continued to influence the practical application of the new laws. Nevertheless, the foundational shift from a socialist legal system to one based on civil law principles and a constitutional framework was a defining feature of the post-Soviet era, setting the stage for the Russian legal system as it exists today.

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