

The Crisis of Russian Legal Education in Comparative Perspective

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Introduction

In Russia, legal education has a great influence on the public sphere. Many political and public leaders are law schools graduates. As beneficiaries of a legal education, they should promote values of justice and social rights, and the rule of law. The irony is that despite being governed by lawyers for many years (for example, Alexander Kerensky in 1917, a graduate of St. Petersburg University; Vladimir Lenin from 1917 to 1924, expelled from Kazan University; Mikhail Gorbachev from 1985 to 1991, graduated from Moscow State University; Vladimir Putin from 2000 to 2008 and 2012 to present, graduated from St. Petersburg University; Dmitry Medvedev from 2008 to 2012, graduated from St. Petersburg University), Russia is still trying to ignore the rule of law.

The crisis in legal education has been a subject of discussion over the past few decades in different countries and jurisdictions. In Russia, many have also begun to speak about this crisis and since the late 1990s, this dialogue still continues. It affects both the education of and the practice of law. But one must consider the situation alongside universal tendencies: Are these problems really only Russian, or are there similar difficulties elsewhere?

Legal education in the United States also seems to undergo reform every ten to fifteen years.¹ Recently, and even earlier, the American media dazzled with headlines about problems in the lawyer training system. A typical article on this subject in *The New York Times* begins with the words “American legal education is in crisis.”² President Barack Obama, who taught for more than ten years at the University of Chicago Law School, and who understands the

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1. See, e.g., Harold J. Berman, *The Crisis of Legal Education in America*, 26 B. C. L. REV. 347 (1985); Kyle P. McEntee, Patrick J. Lynch & Derek M. Tokaz, *The Crisis in Legal Education: Dabbling in Disaster Planning*, 46 U. MICH. J. L. REFORM 225 (2012); Arthur Kinoy, *The Present Crisis in American Legal Education*, 24 RUTGERS L. REV. 1 (1969); Julius Cohen, *Crisis in Legal Education*, 3 U. CHI. L. REV. 588 (1948); Karl Llewellyn, *The Current Crisis in Legal Education*, 1 J. LEGAL EDUC. 211 (1948).
2. Editorial, *Legal Education Reform*, N. Y. TIMES, Nov. 26, 2011, at A18.

problems of higher education first hand, has proposed radical measures that have been rejected by the academic community.³ Americans were “bombarded with news articles, lawsuits, conferences, and scholarly treatments of the ‘crisis in legal education.’”⁴ A number of critics, inside and outside of legal academia, proclaimed the death of the current American system of legal education.⁵

Similar criticisms are voiced in Europe⁶ and other countries, including Russia.⁷ Teachers and students around the world face changes from active reforms and revisions of traditions and settled techniques. Former approaches seemingly no longer meet existing requirements, and now is the time for a search for a new mission, and exploration of the place and role of legal education in a changing world.

Yet in different countries, this process has proceeded differently. In analysing these changes taking place worldwide, it is important to take domestic conditions into consideration. Many of the issues facing the Russian academy are uniquely Russian in origin and character, and accordingly, proposed solutions must take account of such national features. It is unlikely any universal model exists for improving all legal education systems. Given all of the above, it is more correct to speak not of the problems or crisis in legal education, but of the challenges that need to be faced and overcome.

What is the Nature of the Crisis?

Russian lawyers say that universities are turning out graduates who are not prepared for life. The most “advanced” law schools started solving this problem by involving practicing lawyers in the educational process. Special academic chairs in faculties were created, particular practical courses were being popularized, and so forth. But this approach is equivalent to extinguishing a fire with a bucket. First, such courses often are insufficient due to the limited pedagogical training of the lecturer. Second, most often they turn into platforms for advertising specific employers and recruiting fresh young law students. Of course, such changes are better than no changes at all, but this approach does not solve enough. The low standards of university teachers’ vocational training leave much to be desired. Without any special incentive, qualified personnel are scarce.

3. Tamar Lewin, *Task Force Backs Changes in Legal Education System*, N.Y. TIMES, Sept. 20, 2013, at A16.
4. Carrie Menkel-Meadow, *Crisis in Legal Education or Other Things Law Students Should Be Learning and Doing*, 45 MCGEORGE L. REV. 133 (2013).
5. Paula Monopoli, *Gender and the Crisis of Legal Education: Remaking the Academia in our Image*, MICH. ST. L. REV. 1746 (2012).
6. Jo Shaw, *European Union Legal Studies in Crisis? Towards a New Dynamic*, 2 OXFORD J. LEGAL STUD. 231 (1996).
7. Maria Grigor’eva, *IUridicheskoe obrazovanie perezhivaet krizis [Legal Education is in Crisis]*, ROS. GAZ. Mar. 20, 2007, at 14 (Russ.); Nikolai Kropachev & Evgenii Khokhlov, *IUridicheskoe obrazovanie v Rossii: vibor puti [Legal Education in Russia: Choosing a Path]*, 2 PRAV. 235 (2003) (Russ.).

This crisis and its underlying causes are found not only in legal education, but also in the system of university education generally. In Russia, students begin the study of law at the undergraduate level, and so, the problems of university education are the problems of legal education. And the western-style education, with its strong historical influence of Christian culture, is no longer effective in our multicultural, globalized world and does not reflect other religions and traditions.⁸ This nineteenth-century based model of higher education has exhausted its opportunities for growth.

Education assumes the transfer of information first, and then the transfer of skills. But access to information in the modern world is no longer a prerogative of universities. In the modern world of open and available information, universities no longer have a monopoly on information. Today, a library is only necessary to obtain access to unique sources, ancient materials and so forth. Textbooks in the traditional sense have lost their value: they contain widely available information, become out-dated quickly, and quite often even disorient the student. But it is a different story with regard to skills. Everything depends on a teacher's qualifications and abilities not only in transferring information, but also in developing skills to students. Yet in most cases, universities insufficiently assess these competencies.

As a result, universities, including those with law programs, have turned into brands, based not on quality, but on history, ratings, and its general reputation in society. Furthermore, universities now spend considerable amounts of money on building their image. Getting a higher education is now standard practice, and obligatory to starting a career. Choosing a higher educational institution frequently depends not on quality, but on the brand of the university. It is not just knowledge that is in demand, but diplomas of a specific brand. Wherever there is demand, there will inevitably be supply. As sad as it may be, diploma, not knowledge, becomes the promise of a successful start to a career.

The mission of higher education has thus completely metamorphosed in recent years. Unfortunately, universities have not acknowledged these changes and continue to function mainly within the "information transfer" paradigm. Educational aggregators and platforms like Coursera can serve that function. In the era of free access to information, there is no longer any special need for enormous numbers of universities in the classical sense. For this reason, Harvard University and the public universities of California provide significant financing for the development of remote platforms of education (not only in English, but also in other languages, including Russian). Similar technologies can help meet the demand for information and "brand" diplomas. Therefore, the forecasts for a sharp reduction in the number of universities appear to be quite reasonable. However, society in general is not ready for it, and corporate lobbying will not allow it to happen in the near future.

8. See CHRISTOPHER DAWSON, *THE CRISIS OF WESTERN EDUCATION* 117 (2010).

The situation regarding legal education is even more critical. Legal education requires the teaching of legal skills, and legal skills, as distinct from the transfer of legal information, can be only be provided by a qualified teacher. But university education, as a whole, is not specialized and can provide only a generalized knowledge of the law. The student with a general knowledge of law but without skills in a particular area of law is not ready to practice law. But who must teach students these skills? The university cannot physically provide the specialization in practice. Its task is to provide a general knowledge and, above all, to teach these students to effectively engaged in self-training in the specialized areas of law they intend to work in. In this context, training practical skills “on the job,” not at university, is seen as the correct method.

Under such conditions, there may be value in having small educational centers provide training in highly specialized fields that classical universities cannot provide. These smaller private educational initiatives gain value in providing skills training in those specialized areas of law that are simply inaccessible to classical universities. The same trends can be found in the field of science, as well. Qualified scientific examination and research in general are often provided only by small centers functioning in the private sector.

In sum, a diminishing role of universities in education and research activity may be inevitable in our new information society. Fundamental changes in all areas of higher education are needed, and these changes must begin in the quantity and structure of higher education institutions, educational techniques, and the qualifications and status of the teachers.

European Roots

It is important to note that the Russian educational model has European roots. The history of modern Russian legal education starts in the eighteenth century with the first Russian university founded in 1755 in Moscow (it is known now as Lomonosov Moscow State University) with three faculties: law, philosophy and medicine. The first professor of law was Philipp Heinrich Dilthey, who was invited from Vienna University and served as the only professor of law for ten years. The first Russian professors of law, Semen Desnitskii and Ivan Tretiakov, studied abroad in Glasgow, Scotland and began teaching courses in 1767. Since Desnitskii and Tretiakov could lecture in Russian, the number of law students increased appreciably.⁹ Russian universities in the eighteenth and nineteenth centuries were established following the Western example. Some of the first professors of law, invited from abroad, taught in foreign languages. In addition, of course, were local professors, but almost all of them were trained and defended their theses abroad (in Germany, England, etc.). Russian legal writings in the nineteenth century were very close to the European, especially to those in the French and German academy.

9. See WILLIAM E. BUTLER, *RUSSIAN LAW* 30 (2003).

It is difficult to overestimate the European influence on domestic legal research and education, but there also was a period of original development. While in the West, the idea presiding over legal education is the supremacy of the law, the idea dominating Soviet legal education is an instrumentalist's use of law and the purpose of Soviet legal education is to train people how to use law to obtain the objectives of the Communist Party and government.¹⁰ Consequently, the Soviet period saw efforts to develop its own standards of legal educational activity and scientific research.

In the 1990s Russia experienced a resurgence of interest in European education development. It was a period of challenges and onerous responsibilities¹¹ affected by both Communist and pre-revolutionary (1917) influences.¹² In the 2000s there was some "sobering up" from "the Western romanticism" leading to the permanent contradictions between Westerners and Slavophiles in almost all spheres of Russian public life including in education as well. One consequence was the next cardinal shift of development.

Overview of the Legal Education System

Russia has six types of higher education institution: national university; federal university; national research university; university; academy; and institute. Institutions may be state-run or private. Law faculties exist in every type of institution. There are also institutions that provide only legal education, such as Kutafin Moscow State Law University, Ural State University, and International Law Institute. Schools are not officially ranked, but unofficially the leading law schools are Lomonosov Moscow State University, St. Petersburg University, Higher School of Economics as well as Kutafin Moscow State Law University.

Graduates from a secondary general school may apply for admission to a higher education institution. Entering law school is possible under the records of the Unified State Examinations. There are three types of law programs and degrees: specialist (five years of study); bachelor (four years of study); and master (two years of study). While the traditional model of legal education was a five-year degree program (specialist), after which the student receives the "specialist in law" diploma, the bachelor's-plus-master's program (four plus two) is widespread since 2011. Finally, there are two postgraduate law degrees: candidate of law and doctor of law. The postgraduate degree structure was established in 1934 and remains as a remnant from the Soviet era.

Legal education is regulated by the "Law On Education" of July 10, 1992 (N 3266-1) and the "Law On Higher Postgraduate Professional Education"

10. G. M. Razi, *Legal Education and the Role of the Lawyer in the Soviet Union and the Countries of Eastern Europe*, 48 CAL. L. REV. 776, 794 (1960).
11. Peter Sahlas & Carl Chastenay, *Russian Legal Education: Post-Communist Stagnation or Revival?*, 48 J. LEGAL EDUC. 194 (1998).
12. Anatolii M. Lomonosov & Royston W. Makepeace, *Legal Education in Russia—Present Challenges and Past Influences*, 31 L. TCHR. 335 (1997) (Russ.).

of August 22, 1996 (N 125-F3). In 2003, the Post-Soviet Russian Federation signed the Bologna Declaration and joined the Bologna Process.¹³ A goal of the Bologna Process is to establish communal higher education standards and qualifications throughout Europe and create a European Higher Education Area with compatible and coherent systems of higher education. Under the Bologna Process, educational changes have taken place, including the development of a three-cycle degree system, quality assurance of education and mobility aimed at creating the European Higher Education Area.¹⁴

The Bologna Process

It is paradoxical that, in Russia, both the reasons for and possible ways out of the “education crisis” are connected with the Bologna Process. Some experts believe that recent reforms of Russian education have only intensified the destructive phenomena¹⁵ and nullified the advantages of the domestic system. Others consider that only full realization of the principles of the Bologna Declaration will allow Russian education to overcome its crisis and be modernized according to the international standards.¹⁶ This extensive public discussion on the application of the principles of the Bologna Declaration in Russia completely fits into the logic of Russian historical development of law and legal institutions.¹⁷

Yet in other parts of Europe, the Bologna system is also perceived ambiguously; many of its principles are criticized, and not all of its provisions have been included in the various nations’ legislation.¹⁸ As in Russia, Europe at first believed it had found a way out of a crisis situation through the Bologna Process. Thus, from the beginning, the Bologna Declaration principles were not unambiguously perceived positively anywhere. Despite this ambiguity, Russia continues to diligently enforce the scheme, the disadvantages of which were recognized more than ten years ago.

13. The Bologna Process started with the signing of the Bologna Declaration in 1999, which established communal higher education standards and qualifications. So far fifty countries have signed the Bologna Declaration.
14. A goal of the Bologna Process is to create a European Higher Education Area with compatible and coherent systems of higher education throughout Europe.
15. Viktor Sadovnichii, «*Oboloniati*» li Rossiia? [*Will Russia Be “Bologned”?*], 19 VUZOVSKIE VESTI 5 (2003) (Russ.).
16. N. Novikova, *Bolonskii protsess i visshie iuridicheskoe obrazovanie* [*The Bologna Process and Legal Education*], 2 PRAV. 248 (2003) (Russ.).
17. Michael Newcity, *Why is There no Russian Atticus Finch? Or Even a Russian Rumpole?*, 12 TEX. WESLEYAN L. REV. 271, 301 (2005).
18. Johannes Riedel, *The Bologna Process and Its Relevance for Legal Education in Germany*, 2 EUROPEAN J. LEGAL EDUC. 1 (2005); William A. Woodruff & Andreas Bucker, *The Bologna Process and German Legal Education: Developing Professional Competence through Clinical Experiences*, 9 GERMAN L. J. 575, 613 (2008).

Indeed, the founding of the Russian master's degree in law was introduced as a result of the principles of Bologna Process. For example, in Lomonosov Moscow State University, the first bachelor's program graduation and mass admission of graduates to a legal master's program is taking place only this academic year. Other key higher education institutions have also put in master's programs. But in general, the situation is depressing. Many master's programs are just the artificially extended fifth year of a former specialist program stretched out over two years. Interesting and thoughtful programs are the exception rather than a rule.

Problematically, this new two-level program puts the bachelor's graduate (four years) in a dilemma: the bachelor graduate can (after four years) either get a job as a legal assistant and not pursue a master's program, or to get a job as a legal assistant and pursue the master's program by not attending the classes. No other option exists because if a student does not get a job at the end of his fourth year, his career chances decrease. Only farsighted employers employ master's graduates with the trappings of university knowledge but without the experience. In truth, both the master's diploma and work experience are necessary. But combining both without impinging on either work or study are impossible. As a result, we have a situation in which a master's degree is, in fact, only "for show." Students do not need it, and teachers do not know how to fill it. And while the years of education have increased with two years being carved out of one, no new personnel are hired.

In sum, it turns out that the change to a two-level system bears little relation to improving the quality of legal education in Russia. It is a specific geopolitical project to join in the international competition in the educational sphere, but with the result of giving competitive advantages to those universities carrying out educational activity in English.

Indeed, in carrying out the transition to the two-level system, Russia automatically becomes a participant in the international competition where the master's degree is a key link. I should emphasize that there are many positives here. But there are two key elements, without which, participation by Russia in that competition becomes useless and even harmful: 1) language of education; 2) quality of education.

In this era of globalization, English has become the lingua franca of law and of the world academia in general. International competition in legal education now is taking place, primarily, at the level of master's programs. Students get the minimum basic higher education in the form of a bachelor's degree at a national level, and thereafter they have an option. And such choice, given the conditions of English prevalence, is mainly to pursue English-language law programs. There is nothing reprehensible in this. It is possible and even necessary to rejoice in the strengthening of academic mobility. The problem is that, in such conditions, higher education institutions in the USA, Canada and other English-speaking common-law countries have the dominating advantage. The share of foreign students studying in master's law programs at universities in North America, Europe and Japan is frequently much greater

than the share of those who study general disciplines. Moreover, in many continental countries (Sweden, Holland, Israel, Japan, China) the training is conducted in English. Legal master's programs in English are spread worldwide.

By contrast, the number of foreign students in Russia is minimal, and the reason is not quality, but rather, the language. As a result, more and more non-English-speaking countries have started offering master's programs in English. Although it is naturally hard for them to do so, the goal of effective participation in the international educational competition drives them. Examples of this are the Scandinavian countries, Holland, China, Japan, and Israel. There are also good examples of transnational master's programs (Unfortunately, in Russia we do not have such programs in the field of law). And so, the problem with this new focus on master's program is that it must compete with English-language based masters programs in other countries.

Then, there is the challenge of quality. In Russia, we have only just started the master's program, and there are very few really good programs. As a result, what do we have? We joined the international competition absolutely unprepared and without any means for effective participation. So far we have nothing to offer at the level of legal education that could be interesting for foreign students, or, at least, something that could hold Russian students who wish to receive master's preparation abroad.

An additional problem of today's Russian educational model is the lack of choice. The "bachelor's-plus-master's" scheme is now imperative and does not present itself as a choice. Russian students must be given a chance to decide: either five years, or four plus two years. Of course, attractive master's programs must be developed that would be in demand not only in Russia, but also abroad. But they do not yet exist, and master's preparation has not found itself in our country—it has not found its niche in our educational system. Thus, the only option is the formalistic one by simply lengthening the last year of a specialist program. Naturally, this approach only emasculates the idea of a master's course. This is the root of the extremely negative attitude to master's programs in the Russian academic environment.

Quantity vs. Quality

The plethora of Russian law schools is the Achilles' heel of Russian legal education. The number of law schools has risen to 1200 with 800,000 law students but only half of law school graduates work as lawyers. The former Soviet Union had only fifty-two law schools. Despite this, few law schools close each year. Certainly, other countries face similar problems—namely China and the U.S.¹⁹ From my point of view, unofficial accreditation and rating are capable of bringing order to this chaos to some extent. The advantage of unofficial accreditation and ratings over state accreditation, which is based on

19. Carl F. Minzner, *The Rise and Fall of Chinese Legal Education*, 36 *FORDHAM INT'L L.J.* 335, 352 (2013).

formal criteria only, is the following. Unofficial accreditation and rates can be based on informal criteria and carried out by the scholar-experts familiar with the problems of the modern higher education institutions from within. The purpose of such accreditation is not to define the minimum requirements of pedagogical and research activities, but to assess the work of law schools in general—to define its role in legal and public life of the country or specific region.

The Association of Lawyers of Russia has succeeded in creating a transparent and independent mechanism of assessment, and an accreditation process carried out in 2011-2012 on this basis was rather effective. More than 150 universities voluntarily applied to participate, but only about one hundred were ultimately accredited. Law schools prepared for this accreditation more thoroughly than they did for the state accreditation. The result of this accreditation was astonishing as only slightly more than one hundred higher education institutions out of 1200 in Russia conformed to certain minimum requirements and some regions of the Russian Federation had no conforming institutions. On the other hand, such figures should be expected, as there cannot be many of the higher education institutions providing quality education, and in such context it was a positive result, demonstrating the competent organization of the accreditation procedure.

Another positive result has been identification of law schools that do not advertise themselves, but dynamically develop without any external support, that have unique programs and try to occupy their own specialized niche. Ultimately, this accreditation process by the Association of Lawyers of Russia revealed the fundamental problem in Russian legal education—that is, the lack of highly qualified pedagogical personnel rather than the lack of physical facilities. In one region of the Russian Federation, there is only one doctor of jurisprudence.

Eliminating low quality schools is a priority now. It is necessary to create conditions such that law schools offering poor quality of knowledge will be unprofitable or impossible. Quality but not quantity is the main challenge for the Russian legal education system. And that must be done through market competition rather than state enforced decisions. Students must receive quality training within the system, but we mustn't create the facilitating external conditions by administrative and political methods. Consumers will always choose the quality, and if they suddenly begin to choose more recently created programs over the classical higher education institutions, then that is a matter of quality over quantity. Because of the universities' conservatism, it may be difficult for them to react to changes in modern demand, and much depends on the efficiency in management of each particular educational institution. Therefore, it is important that reducing the number of law schools does not turn into an additional tool of competition in the sphere of legal education.

The other aspect of this problem is recent speculation about the recession of interest in the lawyer's profession in Russia. Yet, Russia has never had a surplus of lawyers. On the contrary, their number is much lower than in

many countries, not only in the West, but also in Asia. Yet, admissions to leading Russian law schools are still among the highest; the number of people interested in receiving legal education has not decreased in the past twenty years. It is more accurate to talk about a recession of interest in low-quality legal education. The need for high-quality lawyers, on the contrary, increases as the number of high-quality law schools capable of providing it decreases every year.

Professors: Conflict of Generations

As noted above, the quality of education depends on the qualification of the teacher. The decrease in teachers' professionalism is a key obstacle to modern legal education, and the solution to this problem has to become a priority. Updating teaching materials, introducing modern information technologies, continuously changing curricula and educational standards—none of that can solve the problem of the quality of education, which has the teacher at its core. In many respects, a law graduate's level of training, professional competencies, and ethical principles all depend on this single factor.

The decrease in professionalism of the modern law teacher results from many factors, and the main one is the lack of financing. The report of the Civic Chamber of the Russian Federation notes that lack of financing has led to the decline in education quality in ninety percent of Russian universities; that their level has dropped to the level of pre-university colleges; and that Russia thus has become a country with an average to low-quality mass higher education, where “the elite starts being imported from other countries.”²⁰ In the 1990s, the wage level in the system of higher education dropped to \$100 per month and the status of the profession plunged dramatically. The motivation to teach almost disappeared. Replacement of personnel either stopped completely or began to be carried out by means of insufficiently trained teachers, such that scholars from Saint Petersburg State University began to call them “the masses with academic degrees, but neither real scholars, nor little qualified teachers.”²¹

While the historic socialist system (which valued political conformity) has been replaced by new qualified scholars, it did not strongly affect the quality of education in the 1990s. The main pedagogical load continued to be placed on professors and associate professors who had come to the profession during the Soviet period amid very different financial and social conditions. Thus, while in the 1990s and the beginning of the 2000s, the quality of teaching was kept at a rather high level, in compliance with the Soviet standards, the law teaching profession is growing old (the age of PhD (Candidate of law)

20. *Obrazovanie I obshchestvo: gotova li Rossiia investirovat' v svoe budushchee?* [*Education and Society: Is Russia Ready to Invest in its Future?*] OBYCHESTVENNAIA PALATA ROSSIISKOI FEDERATSII 65 (2007) (Russ.).

21. Kropachev & Khokhlov, *supra*, note 7.

increased from 44 to 51, DSs (Doctor of law), from 54 to 62)²² and increasingly dominated by women (“women in certain cases make up 83,5%”²³). Oleg Kutafin, then rector of Moscow State Law University, in 2005 correctly noted that “the best professionals slowly die, and new replacement which we can provide, we practically don’t provide.”²⁴ The results of this phenomenon are just making themselves felt now. This generation started in the 2000s when the salary was stabilized, thanks to the rising importance of budgetary financing, educational, scientific, and administrative work. Overcoming the crisis in legal education is possible only by means of the activities of this generation of teachers, their intellectual and administrative vigor, and their ability to estimate the real position of the Russian law schools adequately.

Although today’s funding for higher education is several times what it was in the 1990s, it still falls short of the European and American amounts, and teaching salaries compare poorly to the earnings of other Russian legal professionals. The position of law professors during the Soviet times was attractive not only because of the status, but also because the salary was commensurate to other legal professionals. So, one important reform today is to lift the salary levels of law professors.

Naturally, the key to success is not only an increase law faculty salary, but also to change the culture of the legal academy. Currently, there is practically no competition among scholars at the universities. The career trajectory of the teacher is defined by tradition and almost excludes any deviation. Its main stages are: three years of postgraduate study; defense of the thesis; receiving the academic status of the associate professor; defense of the doctoral dissertation; receiving the academic status of professor. According to settled tradition, there should be a gap of no less than ten to fifteen years between the defense of the theses, and failure to follow this course (and such exceptions, naturally, do happen) attracts collective condemnation. The main danger of this tradition is that it results in a lack of teacher motivation to continually improve professional skills and carry out research and scholarly endeavors. The motivation is present only during the aforementioned focal points of the pedagogical career. Therefore, solving the teacher professionalism problem can only be achieved through the creation of a healthy, constantly competitive environment, and which naturally, does not exclude the need for additional financing, which would also strengthen competition.

22. Viktor Sadovnichii, *Obrazovanie, kotoroe my mozhem poteriat’* [*The education we might lose*] 37 (Ozon, 2d ed., 2002) (Russ.).

23. Tat’iana Kastueva-Zhan, “Blesk i nishcheta” visshego obrazobaniya v Rossii [*The “Sparkle and Poverty” of Legal Education in Russia*] 14 (Institut Francais des Relations Internationales, 2006) (Russ.).

24. Iuridicheskoe obrazovanie v Rossiiskoi Federatsii: perspektivi i problemy, Slushania Komiteta Soveta Federatsii RF po pravovym i sud’ebnym voprosam [*Legal Education in the Russian Federation: perspectives and problems Hearings in the RF Federation Council Jurisprudence and Judiciary Committee*], Feb. 21, 2005, at 16 (Russ.).

Chaos of Dissertations

Recent years have revealed dissertation scandals generally connected to plagiarism, and the area of legal education is not immune. The paradox is that the number of theses defended is three times higher now than it was in the USSR, and ninety per cent of those who have defended their theses do not continue research activity thereafter. Some actions were introduced to combat false dissertations: such as reducing the use of dissertation councils, active use of an anti-plagiarism system, a selective recall of the academic degrees awarded earlier, and so forth. But it is obvious that such actions do not touch the essence on this issue.

To explain the chaos in this sphere, it is necessary first to define people's motivation for earning academic degrees. While in the past, in the USSR the comparable incentives were vocation, career, and financial rewards. Today, the advanced law degree is important not only for the possible financial rewards, but also for the increased status. The advanced law degree has become an element of the status of the lawyer practicing in public authorities, courts, notaries and other legal professions, and it recently has become an indicator of professional success.

The main problem then is not plagiarism, which makes up a small percentage of the total number of false dissertations, but rather, the unhealthy desire for the status of possessing an academic degree that has introduced incompetence and poor quality into this sphere. It was fairly noted "soon there will be no governor without a doctor's degree in the legal or economic sciences. I sometimes wonder: how it is possible for a person who has a serious business occupation to write a candidate thesis in two years at first, and then six months later—the doctoral thesis?"²⁵ It is only possible to solve all the dissertation problems by eliminating the unjustified desire for status, eliminating incentives for a scientific degree as a "title possession." It will allow the revitalization of the dissertation sphere in general and more effectively combat plagiarism and custom-made scientific works.

Finally, the main problem of low quality thesis may be that academic legal research of today has little impact on practice. Formally, everything looks fair, if not excellent. A scientific and advisory council advises every public agency; the government provides considerable financial resources for scientific research, gives grants, etc. But there is almost no real influence on practice. In the law-making practice, scholars' critical and reasoned opinions are rarely taken into account; it happens only as an exception, not as a rule, and the formation of scientific and advisory councils does not guarantee a scientific approach to the work of a particular public agency. Legal science has almost lost the connection with the practice, a frightening situation that exists today as a result of the above stated problem. Academic research has

25. *Id.*

not been stimulated from the outside; the research themes are formulated by the educational system itself. This leads directly to the stagnation of academic thought, and to the lack of new research themes and methods.

Isolation of the Legal Academia

Finally, the main problem with Russian jurisprudence is its isolation from other countries. Despite an almost thirty-year period of domestic universities cooperating for international expansion, international activities are reduced to an exchange of students, delegations and some jointly organized conferences. In the field of law, almost no true joint degree educational programs or scientific projects exist.

Again, the key challenge is the language of research and education. In global legal practice, lawyers communicate in English, not in Russian. Non-Russians do not learn Russian specifically for working in law. The reaction to this problem have either been: blindly pretending that research in Russian is popular abroad, or claiming that openness is not needed, taking the example of the French and German experience. The difference, however, is that French and German law are centers of the Continental law system, which has been adopted worldwide. Thus, many lawyers will read legal articles in French or German. Russian law does not dominate the world scene now; it is very seldom adopted, and then only in countries in the Commonwealth of Independent States, the organization of post-Soviet member states. Therefore, an analogy with the French and German education systems is inapplicable.

The highest interest in Russian law was noticeable only in the beginning of the 1990s, when foreign researchers wanted to understand the essence of the “independent” socialist system of law, and businesses sought to understand the national “rules of the game.” Now this interest has practically become naught, and the world does not practice law in Russian. Moreover, jurisprudence came to be perceived as a framework not exclusively rooted in the nation-state, but affiliated with a global economic and societal order.²⁶ It is important to assess the situation objectively and to try to find Russia’s own niches in the world market of higher legal education. This is one of the key challenges. If we shut our eyes to it, the Russian system will become provincial and will not be of any interest to the international legal community.

Such a position is accurately traced in fundamental normative documents of the recent time. The decree of the President of the Russian Federation of Dec. 28, 2013, No. 967, “About measures for the strengthening of the personnel capacity of the Russian Federation,”²⁷ very much reminds one of Peter the Great’s (1682-1725) orders to send children of boyars in training to England

26. THE INTERNATIONALIZATION OF LEGAL EDUCATION: THE FUTURE PRACTICE OF LAW 6 (William van Caenegem & Mary Hiscock eds., 2014).

27. Ukaz Prezidenta RF “O merakh po ukreplenu kadrovogo potentsiala Rossiiskoi Federatsii” [Russian Presidential Decree “On Staff Potential Strengthening Measures”] No. 967, Dec. 28, 2013. <http://pravo.gov.ru/proxy/ips/?docbody=&firstDoc=1&lastDoc=1&nd=102170366>.

and Holland. Providing financial grants to Russian citizens for training abroad, this document actually recognizes the insolvency of the domestic education system. The decree of the Russian President of May 7, 2012, No. 599, "About measures for realization of a state policy in the fields of education and sciences"²⁸ (further—the Decree No. 599), and the following Order of the Government of the Russian Federation of Oct. 29, 2012, No.2006-r, "About the approval of the Plan of measures on the development and increase of competitiveness of leading universities in Russia among the world scientific and educational centres,"²⁹ (further—Order No. 2006-r), generally orient the development of Russian higher education according to Western standards, including additional financing for this "reorganization" as well.

This problem concerns scholars as much as practitioners. Only a few Russian legal scholars are known abroad. Only a handful of them write papers that are published in foreign academic periodicals. The consequences of this are zero indexes of citations in the international rating agencies. This does not evidence the poor quality of Russian research, but it does evidence its insulated nature. Domestic legal research is quite often original and methodological sound and its theoretical worth is not less than that of leading foreign research. So the problem is not quality, but isolation. Almost all pre-revolutionary Russian scholars, producers of the classics of Russian law, were fluent in several foreign languages and published not only in Russia, but also in Europe. Their works were readable; thus foreign students studied them. For example, foreigners studied Paul Vinogradoff³⁰ and Nikolay Korkunov.³¹ If Scopus and Web of Science indexes were applied back then, the ratings of our compatriots would not be worse than the ratings of the authors of many European classics.

Jurisprudence, unlike many other sciences, has a nationality; the legislation of each state is original and has no parallels. Nevertheless, modern integration processes tend to consolidate various legal systems. Such tendencies also demand a change in the research approach. It is necessary not only to study national law, but also to increase a share of supranational and multidisciplinary research, and to increase activity in international research projects. Certainly, Russian education also has a national character with almost all law schools

28. Ukaz Prezidenta RF "O merakh po realizatsii gosudarstvennoi politiki v oblasti obrazovaniia i nauki" [Russian Presidential Decree "On government education and scientific policy implementation measures"], No. 599, May 7, 2012, <http://kremlin.ru/events/president/news/15236>.

29. Rasporiazhenie Pravitel'stva RF "Ob utverzhdenii Plana meropriiatiit po razvitiuu vedushchikh universitetov, predusmatrivauiushchikh povishenie ikh konkurentnosposobnosti sredi vedushchikh mirovikh nauchno-obrazovatel'nikh tsentrov" [Russian Governmental Decree "On Approval of the development plan of leading universities that plan to increase their competitive abilities among the world's leading scientific and education centers], No. 2006-p, Oct. 29, 2012, http://www.consultant.ru/document/cons_doc_LAW_137181/ceach9a565a0af31acca960c251d72c0fed6bd16/.

30. See PAUL VINOGRADOFF, *OUTLINES OF HISTORICAL JURISPRUDENCE* (1920).

31. See NIKOLAI KORKUNOV, *GENERAL THEORY OF LAW* (1909).

teach mainly Russian law. In the era of globalization, this is a disadvantage rather than an advantage. In many countries, of both the continental and common law traditions, educational programs are now being updated in connection with the strengthening of non-national subjects and international subjects.³² It is naturally wrong to reject national law and to study only foreign law; one must find the balance in a ratio of teaching national disciplines and the international or standard subjects. No such balance exists now in Russia. Russia has only a 0.5% share in the world market of higher education.³³

Saying that Russia is losing this competition would be incorrect, because Russia simply does not participate in it. Every year, more and more Russian students pursue master's degrees in foreign higher education institutions. Ignoring this tendency would be a mistake, so Russia must change its approach to developing master's programs. Currently they most often focus on one discipline. Such programs are non-competitive and do not meet the requirements of the Russian and foreign markets. Real multidisciplinary and international master's programs are necessary.

Legal Academic Periodicals

Despite predictions about the decline of the era of law reviews,³⁴ the number of academic legal journals is rising every year. The configuration of the international legal academic periodical press was created long ago; the system works rather effectively, and rules are not going to change for new players. Domestic legal periodicals are not quoted in the international ratings of citations at all. Only the *Russian Legal Journal* is recognized by Scopus and Web of Science at the moment. We may criticize these databases and treat the idea of rating differently, but it is officially recognized by the Russian Ministry of education (Decree of the President of the Russian Federation No. 599 and the Order of the Government of the Russian Federation No. 2006-р).

Russian academic legal periodicals can be divided into three categories. The first is university law journals. They are published with the financial and editorial support of the particular higher educational institution. Such journals are usually called *The Law Journal of a certain university* or the *Law Review* series, but not always. The second specializes in specific branches of the law. They are generally published with the assistance of certain corporate groups. The third is general legal periodicals. There are only a few of them. Examples are the magazines *Zakon*, *Black Holes of Russian Legislation*, and so forth.

32. Larry E. Ribstein, *Practicing Theory: Legal Education for the Twenty-First Century*, 96 IOWA L. REV. 1649, 1664-65, 1670-72 (2011); Alberto Bernabe-Riefkohl, *Tomorrow's Law Schools: Globalization and Legal Education*, 32 SAN DIEGO L. REV. 137 (1995); John A. Barrett Jr., *International Legal Education in the United States: Being Educated for Domestic Practice While Living in a Global Society*, 12 AM. U. J. INT'L L. & POL'Y. 975 (1997).

33. Tat'iana Kastueva-Zhan, *supra* note 23, at 9.

34. Fred Rodell, *Goodbye to Law Reviews*, 23 VA. L. REV. 1936 (1938).

Modern Russian legal academic periodicals have some problems. First, they have a sporadic, incomplete character. The highest-quality periodicals are issued with the assistance of particular universities and they do not normally publish works scholars from other universities, meaning that the scholarship in any particular issue reflects only a small sampling of scholars. Additionally, the focus for these periodicals is limited initially by the host university's specialists in the particular branch of the law. Indeed, only a few general legal periodicals exist, and only a handful of them are high quality.

The second problem is low editorial standards and ethics. Too few magazines implement preliminary written reviews of the published articles by third-party experts. There is no "blind reviews" at all, with rare exceptions. Many periodicals take payment for the publications, resulting in poor quality of the published works. Quite often the quality suffers not only in the contents, but also in the appearance of publications, as periodicals do not adhere to any one style in their appearance.

The third problem is the limited use of modern publishing standards. Most magazines have not evolved beyond the standards of the 1980s. Only a few use digital object identifiers, international standards of citation, normalized transliteration, and so forth. Only a few periodicals have modern websites that allow researchers to cite to electronic versions of publications. For example, keyword search and author search are practically absent.

The fourth problem is the limited availability of Russian periodicals in electronic format. Key international aggregators of legal periodicals do not contain Russian legal periodicals at all. It is difficult to overestimate the value of such systems in modern legal research. Today, such systems are the basis of any research project; in rare cases does one require traditional library sources. The Russian periodical press does not consider such changes. Periodicals are generally available by a direct subscription only, and rarely in electronic format.

The fifth and the main problem is that modern legal academic periodicals do not solve the problem of the closed-off nature of Russian scholarship. Russian periodicals are inaccessible to foreign audiences, because of the lack of distribution channels and few foreign scholars can read Russian. As already stated, in our globalized world, professional lawyers communicate, unfortunately, not in Russian, but in English. No one would begin to learn Russian solely to research Russian law. Therefore, Russian-speaking periodicals are initially orientated to the Russian-speaking audience only: to Russia and the former Soviet states. For example, no Russian authors or periodicals are represented in the top-cited legal articles from 1985.³⁵ The above problems reveal that modern domestic legal academic periodicals do not conform to international publishing standards generally, and, above all, do not solve the main problem—the closed nature and isolation of the Russian scholarship.

35. Fred R. Shapiro & Michelle Pearse, *The Most-Cited Law Review Articles of All Time*, 110 MICH. L. REV. 1483, 1489-1503 (2012).

Immediate solution to these problems is impossible; considerable work on updating almost all the spheres of the Russian legal publishing area, including organizational, financial, personnel, is required. But creation of a high-quality journal, considering and excluding all above problems, has to be the first step. At present, the domestic market for legal periodicals is limited to editions in Russian. At the same time, as it responds to the realities of globalization, the Russian legal system demands full scientific dialogue between Russian scientists and their foreign colleagues and recognition of Russian scholarly legal research and its authors in the academic world. Russia must create a national law journal in English to help explain the current state and development of its law. Its task, in fact, is to open Russian law to the world, including its features, advantages, and shortcomings. Similar periodicals exist in many states: the *German Law Journal*, *Israel Law Review*, *Mexican Law Review*, *Hong Kong Law Journal*, *China Law Review*, and so forth. Such a journal can be effective only at the inter-university level, which unites the interests of all legal higher education institutions in advancing knowledge of Russian law on the international scene.

The *Russian Law Journal* is one of the first Russian legal academic journals in English. The *Russian Law Journal*, started in the summer of 2013, united on its editorial board representatives from such leading Russian legal centers as Lomonosov Moscow State University, Kutafin Moscow State Law University, St. Petersburg State University, and the Higher School of Economics. The journal is not identified with any one higher educational institution; rather, it is an inter-university project representing the all-Russian inter-university platform designed to advance domestic scholarly legal research abroad. In a November 2013 roundtable before the RIA Novosti mass media agency titled “*Russian Law Journal: Uncovering Russian Law for the World*,” the magazine and 12 leading legal higher education institutions in Russia signed a framework agreement of cooperation. Later, other Russian and foreign higher education institutions entered the journal’s “support group” as well. Now, the *Russian Law Journal* is the only Russian legal journal indexed by many international research databases (for example, Scopus, Emerging Science Citation Index, Web of Science, HeinOnline, DOAJ, EBSCO Legal Collection, WorldCat, East View, etc.). Moreover, the journal often partners with and organizes significant international and Russian legal forums and conferences.

The *Russian Law Journal* was conceived and realized as a high-quality modern academic legal periodical free of all the aforementioned problems of the Russian periodical press. Its purpose is to promote Russian legal theories abroad, increase the recognition of domestic legal scholars, and improve the prestige of Russian higher educational institutions in general. The *Russian Law Journal* could be the first step for Russian legal academia in overcoming its isolation. It can create a full-fledged expert platform for discussion among Russian lawyers and foreign colleagues.

Legal education vs. Legal Practice: Crisis of Supply and Demand?

Though the legal profession does not participate in its own governance,³⁶ legal education is often criticized by practicing lawyers, particularly for what is seen as its excessive focus on theory and the failure to adequately prepare graduates for work. This has also been, indirectly alluded to in recent legislative acts. For example, the official regulatory document, known as Decree No. 599, demands the strengthening of the practical component of legal education. In this regard, two questions were asked: (1) whether the graduate is ready for practical work, and (2) whether, indeed, the main task of the legal education is to prepare the graduate for work.

Practical training of students in Russia consists of three components: pre-work practice, practice-orientated courses, and training in legal clinics. American President Barack Obama, addressing the reform of American legal education, suggested devoting the whole third year of training to practical preparation: "In the first two years, young people are learning in the classroom. The third year, they'd be better off clerking or practicing in a firm even if they weren't getting paid that much."³⁷ Similar proposals for training future lawyers and strengthening the practical aspect of their education have been expressed previously in the United States³⁸ and other countries. It is surprising that such proposals are voiced in a country in which the education system is admittedly the most practice-orientated in the world. But all the same, the graduate is seen as unready for practical work. What's most surprising is that similar proposals were made in Russia a long time ago, during the Soviet period.

Pre-work practice, which starts in the second year of education in Russian law schools, embodies Obama's ideas. But today, pre-work practice has become a formality: It seldom provides skills for practical work. What the students do is office work with legal work only in exceptional cases. Few of them get the real experience in law. The task at this point should consist not in adding hours to practical preparation (as there are enough in the curriculum), but in establishing more interaction between institutions of higher education and places of practical training. The number of practice-oriented disciplines at Russian universities is quite limited. Recently, several higher education institutions have made moves toward increasing students' interaction with practicing lawyers. Most often this entails extracurricular readings or the creation of special chairs.³⁹ It is a positive development.

36. Jane Picker & Sidney Picker, *Educating Russia's Future Lawyers - Any Role for the United States?*, 33 VAND. J. TRANSNAT'L L. 28 (2000).

37. Peter Lattman, *Obama Says Law School Should be 2, Not 3 Years*, N. Y. TIMES, Aug. 23, 2013, at B3.

38. Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34 (1992); George L. Priest, *The Increasing Division Between Legal Practice and Legal Education*, 37 BUFF. L. REV. 681 (1988).

39. For example, in Higher School of Economics there are special chairs of the law firm White and Case and Federal antimonopoly service as well as a chair of Practical jurisprudence.

Legal clinics comprise the third component of practical training of the Russian lawyer. These clinics appeared in the mid-nineties and were considered progressive educational technology. Historically, Russia's first legal clinic was established at Kazan University in the 1840s, at the initiative of Professor Dmitry Meyer.⁴⁰ All the necessary opportunities exist to improve the practical part of legal education in Russia without introducing new disciplines. No legislative changes are necessary; all that is needed is to effectively enforce all the mechanisms that exist now but are not working properly.

Teaching practical skills is not regarded as the main objective of the university. Large and serious employers do not need law graduates "brought up" on drafting contracts or other limited area. They need experts with a broad perspective who have fundamental preparation and are capable of making nonstandard decisions and, if necessary, effectively engaging in self-education and improving skills. In Russia, only the classical universities traditionally provide the fundamental preparation that can qualify such professionals.

Each of the different types of educational institutions—colleges, institutes, academies, universities, and so forth—has its own mission and occupies its own educational niche. Obviously, some specialized educational institutions other than classical universities must be engaged in training practitioners for certain types of legal activity. The USSR had universities and specialized institutes that adopted this principle. Universities offered a general education and institutes endorsed a practical approach. Such an approach exists in many countries. It is important to keep fundamental education at classical universities, to provide the correct combination of practical and theoretical preparation and not to allow an imbalance in favor of any of those components.

Legal education must not be a highly specialized preparation. The lawyer has to think systematically, to be able to make a correct, pondered, considered decision, without being limited to analyzing the precept of law. The competencies, skills, and education acquired at university are often not needed after graduation. Abolishing fundamental education with an eye to strengthening a narrow practical component can have very serious negative consequences.

Conclusion

It is known that an iceberg has two parts: the visible parts and the underwater parts. Russian legal education also has the visible, well-known problems and those that are not so obvious, but real, the assessment of which is possible only from within system. The obvious problems include a surplus of law schools, low wages, incompetent teachers, and low-quality dissertations. But they should be considered to be the consequences rather than the causes of the crisis.

40. Fyodor Dudyrev & Victor Malkov, *IUridicheskie kliniki v Rossii: vozvrashchenie cherez 150 let (Legal Clinics in Russia: A Comeback after 150 years)*, 4 GOS. I PRAVO 61, 62 (2002) (Russ.).

The fundamental reasons for the crisis are insufficient numbers of highly qualified scholars in the universities, the absence of a competitive environment in present-day law schools, and a lack of real demand for a scholarly approach and research in business and public administration. The solution is simple—enhancing competition in both legal research and legal education. Importantly, we must remove the rose-tinted glasses and stop engaging in unreasonable propaganda and automatic suggestion aimed at convincing our students and Russian society at large that there are no problems and that the system is not broken. We must assess the current situation sensibly and adequately to seek solutions and struggle against stagnation.