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***“I Proved in Court that I am Not a Camel”*: Everyday Law among Businesspeople in Russian Local Communities**

Maria Sakaeva*

Abstract:

While the rule of law has been an important topic of research for entrepreneurship in transition economies, the relationship entrepreneurs have with the body of law remains understudied. This article explores everyday legality among politically affiliated and non-affiliated businesspeople in Russia; that is, the role of laws, written rules, standards, and requirements in their everyday business activities. Drawing on interviews and participant observations in Russian communities, I trace how an individual's political position impacts the ability of small entrepreneurs to navigate paperwork and bureaucracy. Utilizing a sociological approach to explore the behaviour of the law among businesspeople, my research demonstrates that although bureaucracy and written rules affect all entrepreneurs, multiple facets of the law constrain or promote an individual's access to opportunities in different ways. I found that political affiliation strengthens the power to succeed in the bureaucratic game, and to protect one's interests through court appeals. In contrast, non-affiliated entrepreneurs are limited in their capacity to deal with Russian bureaucracy, and to litigate the state using legal procedures. The main conclusion of the research is that political affiliation is the most significant line of differentiation and inequality among small and medium-sized enterprises because it affects their legal knowledge, their strategies for coping with paperwork, and their opportunities to mobilise the law. In addition, the study of small entrepreneurs also shows that in contemporary Russia everyone depends greatly on the power of the bureaucratic machine, rather than on the power of the law.

Keywords: everyday legality, small entrepreneurship, paperwork, bureaucracy, mobilisation of law, post-Soviet studies, Russia

Introduction

A wave of studies from socio-legal scholars has demonstrated how law shapes the everyday lives of ordinary people (Ewick & Silbey, 1998; Valverde, 2012; Hendley, 2017; Dorfman, 2017). My research was driven by the idea that, unlike many other social groups, entrepreneurs face the law and its representatives on an almost daily basis. They are confronted with the law everywhere, trying to bring their businesses into accordance with the numerous requirements of state agencies; they mobilise the law, appeal to the court or litigate state bodies and authorities. The law constantly materialises in the figures of city officials and fire or tax inspectors, but mostly through the numerous laws, written rules, standards, and everything that is called paperwork.

Numerous studies on how entrepreneurs cope with paperwork and bureaucracy have illustrated the effects of the overregulation of private business on the part of the state. In the current academic discourse on entrepreneurship, scholars define state overregulation as the key challenge to the sustainability of small business around the world. However, what 'regulating everything' means

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differs across countries.¹ In EU countries, the policy boom in regulation has seen remarkable growth in the number of regulatory agencies, as more power has been delegated to different regulatory institutions – unelected agencies, market actors, local communities, and NGO's (Gilardi, 2005). In addressing the positive outcomes of new regulatory mechanisms, scholars have also noted the challenges presented by the distribution of power between state and non-state agencies (Levi-Faur, 2011; Scott, 2012).

In authoritarian countries like Russia, the rise of regulation appears in another form – the state becomes the main agent of control and regulation. This means that the main purpose of the state is to produce laws, norms, and standards covering activities subject to accounting and reporting (Paneyakh, 2015, p. 23). The unlimited power of the state increases the vulnerability of entrepreneurs. Their attempts to cope with the rules and requirements of a number of controlling regulatory agencies lead to many negative outcomes, including financial costs and criminal prosecution (Dzmitrieva et al., 2016). Businesses in Russia and in some other post-Soviet states suffer from voluntary bureaucrats (Kurkchiyan, 2013; Polese, 2014, Chepurenko, 2016), private and state predators (Oleinik, 2011; Markus, 2015; Gans-Morse, 2017), and unending paperwork (Paneyakh, 2015; Sakaeva, 2015).

While not all entrepreneurs have the same resources or face the same business conditions, they are usually investigated as a homogenous socio-economic group. My research concerns the comparative analysis of politically affiliated and non-affiliated entrepreneurs in their relationships with the body of law and state agencies that govern their business activities. Most of the studies on small entrepreneurship in post-Soviet states are written from the perspective of the resistance of the weak (Scott, 1989). My examination illustrates that small and medium-sized enterprises (SMEs) in present-day Russia could in fact be capable of coping with bureaucracy and paperwork from a position of power. As I will show, laws and written rules could be a window to opportunity, a foundation for resistance, an object of manipulation, a weapon of defence, and a tool for achieving goals. The main purpose of this comparative analysis of politically affiliated and non-affiliated entrepreneurs is to trace how political capital effects differentiation and enforces inequality between small entrepreneurs with respect to their capacity to cope with paperwork and bureaucracy.

Those members of executive and legislative bodies who continue to work in the private sector after election are described as 'moonlighting politicians' (Gagliarducci, 2009; Geys & Mause, 2013). There has been much empirical research on how political connection can influence a firm's leverage and tax payments (Faccio, 2006), their access to finance and bank loans (Richter, 2010; Szakoni, 2018), and their abilities to apply innovations (Akcigit et al., 2018). Political affiliation in new Russia has also created a type of business with privileges and resources distinct from those with no political capital (Sakaeva, 2019; Szakoni, 2018). While the extant literature on politically connected business has mainly focused on corporations (Faccio, 2006; Richter, 2010), I investigate the role of political affiliation for small and mid-market actors. I look at the ground-level behaviour of SMEs in relation to the body of the law.

The incidence of businesspeople holding elected offices in Russia – in regional and local councils – presents an opportunity to explore how and why politically affiliated and non-affiliated entrepreneurs differ in their relationship to the law. Regional and local legislative bodies in Russia provide ample sources for fieldwork due to the widespread involvement of businesspeople in elected offices (Levin, 2014; Sakaeva 2012; 2019; Rastorguev, 2012). There are two kinds of parliamentary membership in Russian regional and city councils – full-time and part-time. Business activity is forbidden only for full-time members, who are paid a fixed salary. Furthermore, the proportion of full-time lawmakers in regional legislatures has decreased over the course of the 2010s.² Russian federal law on local government has in fact set the share of full-time members in city councils to a maximum of 10%.

1 The metaphor 'regulating everything' was proposed by Colin Scott (2012).

2 For example, in 2012 the parliament of the region where the study was conducted passed a law under which the share of full-time parliamentarians was reduced from 50 to 30%.

Analytically, I rely on an anthropological approach to legality, with its focus on social actors who fit into a socio-legal context, and interpret themselves and others, and evaluate their own actions and the actions of others accordingly (Silbey & Sarat, 1987; Ewick & Silbey, 1998; 2003). Applying political affiliation as the basis of differentiating between businesspeople, I follow the findings of Silbey and Ewick that variable dimensions of social status (gender, race, income, professional occupation) influence legal knowledge, access to the law, opportunities to mobilise the law, and ways of communicating with representatives of the law (Ewick & Silbey, 1998).

The article opens with an explanation of how my research fits into the discussion of the connection between the rule of law and the vulnerability of small entrepreneurs in developing economies. I will then describe the empirical data of my research. As mentioned, the everyday legality of small entrepreneurs is closely connected to and depends on paperwork, through which the overregulated state is manifested. In the third section, I will show how politically affiliated and non-affiliated entrepreneurs perceive and deal with paperwork and bureaucracy. The final part of the paper contains an analysis of the opportunities and constraints regarding the mobilisation of the law³ available to the two types of entrepreneurs. Focusing on litigation with the state through court appeals, I intend to investigate the most common performance of everyday legality among social actors. Stressing the issue of access to the law through court appeals among businesspeople, I contribute to the small body of studies on the rising demand for law in post-Soviet societies (Rojansky, 2014; Markus, 2015; Hendley, 2017; Chepurensko, 2018). This alternative vision challenges a strong belief among scholars and the public that legal institutions and the mobilisation of the law in Russia are still inefficient and distrustful in litigations with the state.

Everyday legality and entrepreneurship: the theoretical foundation of the research

As I mentioned above, having to face the law everywhere is the core differentiating feature of businesspeople compared to ordinary citizens. The significance of the law to entrepreneurship, even in an informal economy, is well-known (Webb et al., 2013). However, the concept of law has been introduced into research on entrepreneurship mostly in order to investigate the line between formal and informal, legal and illegal. Meanwhile, according to anthropological evidence, there is no division between law and not-law (Ewick & Silbey, 2003; Emerson, 2008; Menjívar, 2011). In this section, I will discuss why the use of a socio-legal lens would be fruitful for a better understanding of businesspeople's relationship with the body of the law.

There are three main approaches to exploring the presence of the law in the business sphere, depending on whether researchers use large-scale theories or apply a bottom-up perspective. The first approach is based on institutional analysis, which addresses the issue of the vulnerability of private business under an ineffective state. This approach concerns the debate over the quality of state institutions and the effect of state policy in promoting the rule of law. Examining institutional environments in post-Soviet economies, scholars primarily explore state predation and pressure on businesses (Firestone, 2010; Rojansky, 2014; Rochlitz, 2017).

Supporters of the second approach to studying the role of law in the entrepreneurial sphere move closer to the question of the rule of law. They focus on criminal prosecution and other forms of violent pressure on business exerted by the state, state agents, or market actors. For instance, relying on the number of criminal proceedings against firms, some authors characterise Russia's state policy as economic repression (Nazrullaeva et al., 2013) or criminal regulation (Paneyakh, 2015).⁴ Nevertheless, there is no strong empirical evidence of the widespread criminal prosecution

³ The mobilization of law refers to the process through which adjudicative institutions become involved in the definition, interpretation, and management of conflict. Litigation refers exclusively to the mobilization of courts (Sarat & Grossman, 1975).

⁴ According to the Russian law, noncriminal acts such as errors in calculating taxes or violations of labor legislation are treated as crimes, and thus incur punishments not corresponded to the gravity of the act. (See more Chetverykova & Titaev, 2017).

of business (Dzmitrieva et al., 2016). Moreover, scholars connect the criminal regulation of business with the punitive justice of the Russian court (Chetverykova & Titaev, 2017). Skipping analytical debate on the nature and scope of economic crimes in Russian business, I would support these researchers in their suggestion to look more carefully at the varieties of entrepreneurial behaviour with regards to the law, and its consequences for their sustainability. As Markus has emphasized, our task is to understand what happens when businesspeople face the law and state agents on the ground, not to continue arguing over the predatory appearance of the Russian state (Markus, 2015, p. 62).

The last approach to the relationship of entrepreneurs to the law is framed by the concept of everyday legality. This has developed due to the attempt by socio-legal scholars to find the law in the everyday life of different social groups, and to look at the law as a culturally driven and socially embedded phenomenon (Silbey & Sarat, 1987; Ewick & Silbey, 1998; 2003; Arutiunian et al., 2008; Engel, 1993). There is an increasing amount of studies on everyday legality among ordinary citizens (Emerson, 2008; Hendley, 2017), as well as among specific social groups, such as immigrants (Menjívar, 2011; Valverde, 2012), small entrepreneurs (Kurkchian, 2013), or people with disabilities (Dorfman, 2017). In post-Soviet states, the everyday dimension of social life is applied to broad research topics ranging from everyday governance (Urinboyev et al., 2018) to the everyday life of workers (Morris, 2016).

I take the concept of everyday law as the main analytical framework for this study. I rely on the sociological approach of everyday legality developed by sociologists Ewick and Silbey in their study of ordinary Americans (Ewick & Silbey, 1998; 2003). As they mention, everyday legality is manifested not only in appeals to legal institutions, but every time individuals interpret or construct reality in categories of law; it includes values, perceptions, and cultural practices that people recognise as legal in their daily lives (Ewick & Silbey, 1998, p. 43). Ewick and Silbey found that social status and available resources, also primarily determined by status, significantly influence the perception of laws and legal practices among groups and individuals (Ewick & Silbey, 2003, p. 1334). Since the vital role of political connections in business success in Russia is well-known (Ledeneva, 2013; Levin, 2014; Sakaeva, 2019), I assume that political affiliation performs the function of such a distinction of status between SMEs, and influences their ability to cope with the overregulated state.

All states materialise through documents and bureaucracy (Dery, 1998, p. 678). However, in the current debate about overregulated states, the concept of paperwork takes on special meaning. For example, Mathur in her study of everyday bureaucratic life shows how paperwork influences the implementation of laws in India (Mathur, 2018). Her anthropological research on street-level bureaucracy is about how the state's addiction to paperwork is framed by and adapted to the local context. Following her vision of paperwork as a set of different practices implied by social actors (Mathur, 2018, p. 34), I investigate how the dominance of the documentary influences the behaviour of small entrepreneurs in Russia. A comparison of politically affiliated and non-affiliated entrepreneurs provides strong evidence for the ambiguity of paperwork, for its different meanings, and for its effect on the relationship between businesspeople and officials.

In Russia today, 36 federal agencies are eligible to control, monitor, and supervise private business. The norms and standards implemented by them and by the numerous regional official bodies, their inherent law enforcement capacity, and the structure of their organisations are their power credentials – everything is changeable, unclear, and contradictory (Sakaeva, 2015; Krylova, 2018). Therefore, I stress the issue of paperwork in my discussion of the everyday legality of small entrepreneurs. Much like the scholars who have studied the benefits of politically connected firms (Richter, 2010; Levin, 2014; Szakonyi, 2018), I suppose that the strategies for coping with paperwork depend on the resources available to businesspeople with political posts.

Socio-legal scholars who have studied everyday law in the United States (Ewick & Silbey, 1998) or in Canada (Valverde, 2012) have found a strong link between social status and variations in access to the law. Accessibility to the law could be investigated by analysing how, why, and under

what circumstances social actors varied in their social status, previous experience, and available resources to mobilise the law through court appeals. Litigation with the state through court appeals is an important dimension of everyday legality among Russian entrepreneurs, for at least two reasons. First, navigation within the ocean of paperwork and coping with countless state bodies and officials requires the use of legal mechanisms in disputes, because informality becomes ineffective and risky in contemporary Russia (Sakaeva, 2015; Markus, 2015; Krylova, 2018). Second, since the beginning of the 2010s, Russians in general (Hendley, 2017), and businesspeople in particular (Dzmitryieva et al., 2014; Chepurensko, 2018), have demonstrated an increasing demand for law through litigation with state bodies and officials. In sum, the sociological perspective of legality is essential for my analysis, because I will show how and why multiple faces and characteristics of the law constrain or promote the set of opportunities available or not available to politically affiliated and non-affiliated businesspeople.

Data and method

In the Russian context, the case study approach and qualitative method have demonstrated their validity at the intersection of business and law (Varese, 2009; Oleinik, 2011; Chepurensko, 2018), as well as in business-vs.-politics studies (Sakaeva, 2012; 2019; Levin, 2014; Ledyayev & Chirikova, 2017). In the sociology of entrepreneurship, qualitative studies represent an important contribution to the research on small-scale entrepreneurship around the world (Webb et al., 2013). Given its deep connections with informality, the topic of politically affiliated entrepreneurs is quite sensitive. This means, as Chepurensko notes, “any representative sampling of entrepreneurs using informality cannot be designed” (Chepurensko, 2016). I therefore relied on storytelling and narrative analysis (Ewick & Silbey, 2003).

I designed and carried out a qualitative survey of SMEs with parliamentary membership in Saint Petersburg and the Komi Republic in 2009–2012, while writing my PhD dissertation. The research started with the question of the benefits and opportunities available to those entrepreneurs with parliamentary membership (at regional and municipal levels) – the business activity of those members of local parliaments and municipal bodies who came to politics from business. At first, I was interested in their motivation, their election strategies, and the resources they extract for their firms through political affiliations (Sakaeva, 2012; 2015). Later, analysing the empirical data, I noticed that comments by the entrepreneurs about legal issues would spring up in conversations that were seemingly unrelated to legality, but connected to their relationships with the controlling and regulating agencies, and to their practices for coping with the numerous laws and standards. At the same time, it seemed that they recognised, understood, and paid much attention to the power of the law with regard to their businesses, even if I did not ask them about the law, or they did not fully realise the impact of the law in their everyday practices. I also realised that politically affiliated and non-affiliated entrepreneurs significantly differ in their understanding and perceptions of the law, paperwork, and bureaucracy. Therefore, in 2015/16 I collected additional empirical data, interviewed new informants and made observations at business events.

The present paper is based on two sources of qualitative data – interviews and observations. Between 2012 and 2016, I collected 25 in-depth expert face-to-face interviews. The majority of the interviews were obtained in Syktyvkar, the capital of the Komi Republic.⁵ Material from the city of Perm (6 interviews collected in 2015) has served to clarify the findings from Komi. I began the interviews with questions about the Russian business environment and the quality of state politics in the business sphere. I also asked my informants to share stories of their businesses from the beginning, to describe routine, habitual, and common situations when they, or other entrepreneurs they know, faced the state and its representatives. Within these narratives, I tried to push my informants towards telling me about threats to their businesses and the steps they

⁵ The Komi Republic is located in the Russian European North. The region is characterized by infrastructure difficulties and undeveloped transport connections. SMEs is concentrated in urban areas (about 80%). Trade, retail, and real estate are the most attractive sectors for small entrepreneurs. The Komi Republic is being depopulated: by 2000, the population was down to one million, and by 2013 it was inhabited by less than 880,000 individuals.

took to protect themselves, as well as their strategies for navigating the ocean of state regulation.

Out of 31 interviews, 10 were conducted with former and current members of regional parliaments and city councils who also ran businesses, 10 with entrepreneurs and managers of enterprises with extensive business experience, 5 with members of regional parliaments and city councils or political party functionaries, and 6 with experts (heads of business associations and lawyers). The opinions and views given by the experts have suggested an alternative assessment of small entrepreneurship. In some cases, the categorisation of the informants was not possible. For example, the heads of business associations identified themselves as experienced entrepreneurs rather than experts, as they had moved to their current roles from business.⁶

The majority of my informants entered into business between the 1990s and the mid-2000s. All of my business informants were the owners or directors of officially registered firms. In terms of gender, 7 informants were female and the rest were male. They ranged in age from 35 to 60 years. Many interviewees agreed to be recorded; 5 individuals requested that I take notes by hand.⁷ Of the interviewed elected officials, half were local government representatives.

The second source of qualitative data includes observations and audio recordings⁸ from different public events in which businesspeople, state officials, members of business associations, and experts participated. I collected the data during the business forum of the North-West Federal District, one of the largest federal districts in Russia. The forum was held in Syktyvkar in March 2016. There was also a series of roundtables and public meetings that were held before the forum took place. These events allowed me to explore the opinions of different actors regarding the business environment on the ground, and to collect a number of individual stories about coping with state agents and agencies.

Paperwork as a bureaucratic game: players' limits and opportunities

Given that paperwork is the central aspect of everyday legality among entrepreneurs, the aim of this part of the article is to analyse the strategies used by politically affiliated and non-affiliated entrepreneurs to deal with written rules and bureaucracy. Russian entrepreneurs used to be described in terms of a battle against the domination of documentation and the pressure of the bureaucratic machine (Ledeneva, 2006; Oleinik, 2011). Indeed, the metaphor of war and its many elements – enemies, opponents, fighting, and weapons – were among the main images invoked when my respondents shared their perceptions of the controlling and regulating agencies, or described their experience of paperwork. While navigating through the world of 'papereality'⁹ is connected to the image of war, I should shift to the social studies of bureaucracy.

Different images of the paper-war

The narrative of war as a metaphor for the struggle with bureaucracy and written rules is not new, and not unique to the everyday experiences of Russians. According to Mathur, "paperwork traps all street-level officials" in India (Mathur, 2016, p. 34). This bureaucratic game can be transformed into a war when the participants occupy unequal positions of power. A game becomes a war if the mobilisation of the law requires access to resources of another sort (social ties, finances, administrative resources, violence) (Hendley, 2017, p. 157). However, while not denying the importance of the division of power between social actors and organisations involved in the bureaucratic game and coping with bureaucracy, Dery emphasized that the largest scope of power

6 It is also not possible to distinguish between small and medium-sized business entrepreneurs, because a given entrepreneur could be the owner or director of several different firms, and the sizes of these firms could vary overtime.

7 I relied mostly on the multiple snowball method. I created a snowball sample, never interviewing more than two people from the same network.

8 The audio-recordings ran to about 300 minutes.

9 This definition of "papereality" was suggested by David Dery (1998). Papereality is a world of symbols and new words (papers, rules, documents), a particular form of representation that takes precedence over the things and events represented.

in that sort of game belongs to the written document, rather than to any social agent (Dery, 1998, p. 679).

What does my research on everyday legality among Russian small entrepreneurs add to our understanding of coping with bureaucracy? The crucial difference between politically affiliated and non-affiliated entrepreneurs lies in how they position themselves in the paper-war. Politically affiliated businesspeople tended to define the paper-war as a challenge. They found themselves powerful enough to deal with the documentary requirements; to struggle against an enemy manifested in the state bodies. In many cases, politically affiliated entrepreneurs said they do not spend time waiting for doors to open. However, this does not mean that their lives are easy. The present research demonstrates that previous studies may have overestimated the importance of favourable treatment and networking in easing regulations and facilitating procurement. The overregulated state and general deficit of qualified bureaucrats sometimes undercuts the benefits that accrue from easy access to decision-makers:

For a year, I have not been able to get permission to start building in one settlement [rural county]. I have already made an agreement with the head of the local administration; his deputy is my friend. All of them say: "We are on your side; we are with you." However, it does not work out, because the people who work on the ground are incompetent. (Businessman, retailer, member of city council B., face-to-face interview, 2015).

When talking about navigating through the paper-war, informants from both groups avoided the word corruption and related categories. They either implicitly exclude the topic of corruption, or they say that there is no corruption. Some are actually nostalgic about bribes, which simplified and accelerated transactions. Others do not problematise bribes at all. The politically affiliated informants willingly shared their own experiences of dealing with controlling and regulating agencies through personal networks and acquaintances. They mentioned various figures of power: the chief of police, the head of the city administration or his deputies, the head of the tax inspectorate, the deputy prosecutor, and even the wife of the former governor.

While politically affiliated businesspeople rely on social relations, negotiations, and informality, non-affiliated entrepreneurs waste time on rendering accurate representations of what the bureaucratic machine requires of them. They shared stories about the endless routine updating, revising, and collecting of reports, files, and other written documents. Not surprisingly, their stories are characterised by emotions and a negative assessment of bureaucratic bodies and their representatives. Perceiving the bureaucracy as something ineffective, useless, and meaningless, they expressed a desire for justice from the Russian state.

Thirty people turned to the prosecutor's office. But what was their eventual fate? Did he [the prosecutor] feel better or not? If he understood that he addressed you, you got an ally for yourself, and the one he complained about would understand that this side will always support him. Today, he went underground, tomorrow he needs to get a licence. The day after tomorrow, he needs to get some more help. And he will stumble upon situations that are out of the ordinary. I am not saying that the prosecutor's office does not help anyone, it helps, I know. I have a specific proposal. If a person turned to you, and you helped him, in the future you will still follow his fate, become interested. (Businesswoman, owner of a building company, member of city council L., record from the round table, 2016).

Based on the course of the public discussions, I conclude that entrepreneurs, public figures, and what is more interesting local officials very often address demands for protection and assistance to the prosecutor's office of the Russian Federation, or of the region. Prosecutors are perceived as the only truly powerful representatives of the Russian state.

The role of knowledge and negotiations in paperwork

Many of my informants stressed the low professional level among street-level bureaucrats. It should be mentioned that this is a common feature of state officials in both developed (Valverde, 2012) and transitional states (Mathur, 2016). Mathur identified a set of reasons for the low level of competence among officials in India, and these are also applicable to Russian bureaucrats: street-level officials are badly educated, overworked, and underpaid, and the sea of documentation they have to move through has no limits (Mathur, 2016, p. 13, p. 86).

My research on the practices of entrepreneurs complements the literature on the anthropology of bureaucracy by finding that the poor competence of street-level officials increases the value of the entrepreneurs' previous experience and forces them to improve their own level of expertise and knowledge. In addition, there is another reason that knowledge, previous experience, and professional competence take on special significance for non-affiliated entrepreneurs. Compared to politically affiliated businesspeople and large companies, small and medium-sized firms face a lack of financial, human, and network resources to successfully cope with bureaucracy and written rules; for instance, they are not able to employ qualified lawyers or accountants (Sakaeva, 2015; Chepurensko, 2018).

I found that those who comply with the papereality in Russia have to keep their attention focused on their own behaviour, on the behaviour of the officials, and on summary reports. This considerable need to fix and control everything and everybody while operating under a high level of uncertainty is an incentive to develop multifunctional personal and professional skills. While collecting interviews with non-affiliated entrepreneurs and observing public hearings, I listened to many stories about companies that could not obtain a permit, a certificate, or a licence because of the specific functioning of the world of papereality. In that world, documents do not agree with one another; no officials know what the required file should look like; new sets of rules are frequently implemented; a new head of a state body is appointed and he/she introduces his/her understanding of a particular written document. The following description provided by the owner of a medical equipment store is a typical description of coping with the Russian bureaucratic machine.

When you start making money yourself, you become so greedy. Do you think that I am dumber than others? I myself will do everything to save every rouble [Russian currency], put it into circulation. We prepared all the documents, and it turned out that the requirements had already changed: not just one point, but two points. We started collecting new ones. This paper-war lasted three or four years. (Businesswoman, owner of a medical equipment store, face-to-face interview, 2013)

One of the most unexpected findings of my research is that street-level officials sometimes play on the side of the entrepreneur. In other words, everyone is trying to 'deceive the state'. Both sides of the bureaucratic game – the official and the entrepreneur – can make a deal in cases where the impracticability of norms is obvious because of their excessive nature and the unjustified costs. My respondents gave me the following examples: making plans to reorganise a store, the replacement of windows or doors in a shop, moving a shop or an office into another building. Both sides in the bureaucratic game can ignore the power of the overregulated state if this power also constrains the behaviour of both. The following scenario, described by one of my informants, shows the limitations of the typical view of Russian officials as hostile individuals or corrupted agents (Nazrullaeva et al., 2013; Markus, 2015; Gans-Morse, 2017).

While I did this all for weeks, we came up with a new standard – the trading platform for the merchandise in the store should be no less than a certain area. I visited the head of the department in the city administration. He said: "Well, in the contract, correct this figure to another." He suggested to me how to deceive them! Eventually, they allowed me to do everything. I did not know this boss; I just came to his office. If everything is normal, there is little to explain, and then everything can be settled. Normal people work there, the system

makes them like this. (Businesswoman, owner of an office equipment store, face-to-face interview, 2013)

In summary, I should note that in most of the stories shared with me, the experience of coping with state agencies and bureaucrats is perceived as a trap. As Dery argued, all the players are playing these games with bureaucratic traps (Dery, 1998, p. 681). I also support his idea about the power of the written rules being the most significant factor in the bureaucratic reality, whoever is involved (Dery, 1998, p. 678). However, the question we should ask here concerns the resources and opportunities available to different social actors to help them cope with bureaucratic reality, as well as the varied levels of skill and experience possessed by the players to litigate with official organisations and actors when facing injustice. In other words, the practices for coping with bureaucracy shape the issue of power, which is crucial for the anthropological discourse on law and everyday legality (Ewick & Silbey, 2003). As I mentioned earlier, the unequal division of power and influence between different social groups in Russia is enforced by the overregulated state, which limits the number of legal ways to litigate with the bureaucratic machine. In the next part of this study, I will show why access to the law and opportunities to litigate the state are limited for non-affiliated entrepreneurs compared to those in political posts.

The mobilisation of the law in litigation with the state: Comparison of politically affiliated and non-affiliated businesspeople

As I showed above, there are two main challenges produced by the overregulated nature of the Russian state: its obsession with paperwork, and the impossibility of following all of the written rules and standards implemented by state bodies. Hence, court disputes with state bodies and officials play an important role in the practices of everyday legality among businesspeople. A few studies have shown that, since the 2000s, Russian and Ukrainian businesses do not just voluntarily or forcedly choose legalisation, but in fact actively resort to official mechanisms (for instance, the court) for resolving commercial conflicts or litigating with the state (Markus, 2015; Chepurenko, 2018). My findings, as presented in the final part of the paper, illustrate how and why entrepreneurs with and without political posts differ in their attitudes towards the courts, and in the practices they follow for the mobilisation of the law through court appeals.

In the case of politically affiliated entrepreneurs, their critical perception of the state very often coexists with their personal success in litigation with local authorities and regulating and controlling agencies. They have different reasons to litigate with the state. The first motive is reducing business costs, in particular, by challenging social obligations. One respondent (a member of a city council) talked about his personal experience of litigation with the Pension Fund of the Russian Federation. He described the case in terms of a game, and not of resistance, realising his strength and capacity to 'beat the state'. Describing the relationship between businesspeople and state agencies through the metaphor of a game is common among politically affiliated informants. The game refers to their ability to adapt the varying, ambiguous, changeable norms and laws to their own needs. Being a player means being more flexible and powerful under state regulation.

The following selection illustrates the moral and ethical dimensions of the attempts to litigate the state. There is another, non-material reason for using the law through court appeals: namely, the fight against state agencies in order to create and support a particular reputation, the image of a stubborn fighter resisting the state system.

I tried; I won two court hearings and lost one. I fought for my honest name, believing that I am not a violator, and I managed to prove this in the courts /.../. I proved in the courts that I am not a camel (Businessman, retailer, member of a city council P., face-to-face interview, 2015).

Access to tools of mobilisation under the law is driven by parliamentary membership, as this brings with it access to networks and resources of power. In the case of local communities,

a limited number of authorities, elected officials, judges, and other figures in power promote communication and cooperation between them, simplifying the sharing of different resources (information, networks, knowledge, money, etc.). The network effect of power regimes in local communities is well-known in today's Russia (Ledyayev & Chirikova, 2017).

I found an unexpected link between legality and relationships with the body of law among migrant entrepreneurs. According to Menjívar, by becoming more and better informed about legal procedures through the immigration process, migrants in the USA become more successful at dealing with other contingencies in their lives. The author called this phenomenon 'legal spillover' (Menjívar, 2011, p. 391). Businesspeople with political posts possess greater legal awareness in other spheres of life, even those not connected to their businesses. This means that as they become more conscious of the power of the law, they know how to turn it to their advantage.

The role of the different dimensions of social status (gender, income, race, disability) in an individual's propensity to litigate has been investigated in many American studies (Ewick & Silbey, 1998; Engel & Munger, 2003; Dorfman, 2017). Empirical studies of decision-making in the Russian courts show that the law is not an embodiment of the principle of the rule of law. For instance, judges are more supportive of representatives of high status social groups (Volkov, 2014). Analysing the link between court disputes and political affiliation, I probed not only into why businesspeople litigate with the state, but also why they chose not to. Over the course of the interviews and public discussions, I realised that non-affiliated entrepreneurs employ an avoidance strategy in their disputes with state bodies and officials. They consider the available legal tools to be unreliable, insufficient, meaningless, and useless in litigation with government agencies. An appeal to the law is viewed as an exception, a problem, an action that violates normal life, and diverts scarce resources from a business.

At first glance, such attitudes to the courts could be explained by the well-known lack of trust in legal institutions amongst Russians (Arutiunian et al., 2008; Ledeneva, 2013; Hendley, 2014). However, according to my findings, the mobilisation of the law through court appeals is less available to ordinary individuals than to their politically affiliated counterparts because of prosaic concerns and institutional constraints. The list of negative incentives to litigate the state includes the lack of previous experience, or negative experiences of legal resistance, a shortage of specialist knowledge and information, and a lack of time or money to pay for lawyer's services. Moreover, the demand for the use of legal mechanisms is limited by two procedural peculiarities of Russian legal proceedings. First, institutional constraints on the mobilisation of the law are linked to the duration of the appeals and litigation process: lawsuits could take months or years. Second, a court decision or a prosecutor's order does not always result in re-instatement.

I appealed to the Commissioner for the Rights of Entrepreneurs. So, we are writing an appeal to the prosecutor's office, we have gathered a round table at Rospotrebnadzor [Russian state agency responsible for consumer rights protection]. But there is no control, there is no final result. Do you think this is normal? Regulatory terms - two months for licensing, and then - seven. I go and appeal a chronicle of appeals. And the story is not over (Businesswoman, director of a dental clinic, record from a round table "Reducing administrative barriers", 2016)

The costs associated with avoidance depend on the circumstances under which it arises (Hendley, 2017, p. 71). Many of the respondents reflected on why they had not responded to the decisions made by the municipal administration, or to the absurd requirements imposed by federal control bodies. I support the arguments of other scholars (Paneyakh 2008, Chepurensko 2016) that entrepreneurs are often highly vulnerable and the unlimited power of the municipal and regional officials limits their capacity to even initiate court appeals. Avoidance became the best alternative to litigation because the city authorities interpret the mobilisation of the law as grounds to take action against those who initiate lawsuits. A lawyer who specialises in business cases said:

People who complain that the city administration breaks formal rules... There are actions against them, for example, a land plot is not granted, lease contracts are not extended, and access to municipal contracts is limited. (Lawyer, male, face-to-face interview, 2013).

The image of weak actors illustrated by my empirical data correlates with previous research on small entrepreneurs in Russian regions, who in the 2000s also preferred ‘the way of passive adaptation and silence’ when responding to the inefficiency of state bodies and the opportunistic behaviour of officials (Nikula, 2011, p. 272). However, in contemporary Russia the use of legal tools of protection is limited by the economic dependence of entrepreneurs. I want to illustrate this thesis using the example of a municipal contract system. In many cases, small firms in Russia, especially in rural communities, are dependent on municipal bodies and local administrations for their survival. Through the system of municipal contracts, they order various goods and services, including such disparate examples as snow removal, food supplies and kindergarten enrolment – but then officials often refuse to follow these contracts. In the Komi Republic alone, 2,412 contracts worth the equivalent of 171 million roubles for the period 2015–2017 were not implemented.

My research shows that the opportunity to be heard, and the likelihood of being able to protect one’s interests through the courts is not determined by the content of the legal procedures. The experience of Russian small entrepreneurs with no access to political resources contributes to the socio-legal literature on the connection between power, social status, and the availability of the law. As Ewick and Silbey noted, weak social actors need more than just their will to resist the state and its representatives successfully (Ewick & Silbey, 2003, p. 1333). Being excluded from access to the law as a tool of protection, many of my informants expressed that a claim on the state was their single source of power for true justice. Illustrating the coexistence of frustration and belief, disappointment and hope, my research supports previous explorations of the relationship with the body of law in Russia, according to which avoidance has been, and still is, a widespread alternative to exit (Arutiunian et al., 2008; Hendley, 2017).

Conclusions and directions for future research

I have examined what it means to live in an overregulated state, and how written rules, norms, standards, and everything that is called ‘the law on paper’ are manifested in the everyday experience of small entrepreneurs, who confront the law and its representatives almost everyday day and everywhere. In order to capture the appearance of their everyday legality, I have focused on ways of coping with the paperwork and bureaucracy, including strategies to litigate the state that are realised through regulatory bodies and officials. The attempt to compare politically affiliated and non-affiliated entrepreneurs in provincial Russia also exposes the differing levels of availability and access to the law among socio-economic actors with different statuses, resources, and experience. This sociological approach to exploring the behaviour of law among businesspeople demonstrates that laws and written rules affect all entrepreneurs, but that many aspects of the law constrain or promote the available opportunities differently. As my analysis demonstrates, papereality plays diverse roles and permeates multiple spaces in the lives of entrepreneurs in contemporary Russia. Investigating their strategies for coping with paperwork and litigating Russian state bodies and authorities, I have shown why they depend to a large extent on the power of the overregulated state, rather than on the power of the law.

The cases I have presented here attest to the enduring power of the Russian state in producing, reproducing, and revising laws, written rules, and requirements. A central feature of that bureaucratic game has long been the unstable and unpredictable duration of the rules of the game. Consequently, the position of any small or medium-sized firm in relation to the Russian state remains vulnerable. In this sense, the additional opportunities to reduce the risks and costs available to politically affiliated businesspeople should be regarded as a way to increase business productivity and ensure sustainability. From this perspective, politically affiliated entrepreneurs may be designated as preferred market participants. On the other hand, privileged access to opportunities and resources stemming from access to political capital reinforces inequality among entrepreneurs. In other words, the different capacities of politically affiliated and ordinary

entrepreneurs to litigate against the state sheds light on the link between legality and social inequality. As Ewick and Silbey argued, the differentiated availability of the law among different social groups reflects the structure of social inequality (Ewick & Silbey, 2014, p. 223).

My research supports another statement by legal anthropologists: the narratives of social actors regarding the law and their perceptions of the law are related to their behaviour relative to the law, including their capacity to mobilise the law through the courts (Ewick & Silbey 1998: 56, 128). Research on the mobilisation of the law in post-Soviet states by different types of firms, and for different purposes (e.g. for raiding), is still limited to the framework of criminology and legal proceedings (Rojansky, 2014; Markus, 2015; Dzmritrieva et al., 2016). Alternatively, my research was driven by the need to problematise the lack of attention to the structural limits on and social opportunities for litigation of the state by those social actors who are not professionally related to legal institutions (judges, lawyers, and attorneys).

Unexpectedly, my findings on the behaviour of entrepreneurs in relation to the law also refers to sociological studies of migration, where scholars challenged the 'black and white' conceptualisation of legality and shed light on the ambiguous, mixed, and intertwined coexistence of the limited and permitted effects of everyday legality (Calavita, 2006; Menjívar, 2011). I also did not rely on the dichotomous lens of the availability and non-availability of the law while I was comparing the various ways of coping with paperwork and bureaucracy among politically affiliated and non-affiliated entrepreneurs. Hence, by avoiding such a sharp categorisation, I tried to include the many grey and ambiguous situations that might arise during a bureaucratic game.

The narrative analysis presented in my article demonstrates that the border between law and not-law is flexible; it also reveals the duality of the entrepreneurial consciousness regarding what is permitted and prohibited. Investigating court appeals initiated by ordinary consumers against private providers in the Ukraine, Kurkchian indicated that "opportunistic behaviour is widespread" among small and medium-sized firms, and that their "quasi criminal style is widely tolerated" (Kurkchian, 2013, p. 523). In this sense, there is still a strong need for more investigations into the link between legality and informality in transition economies. By drawing a clear theoretical distinction between formality and informality, numerous scholars have elaborated on the idea of formal-informal substitution in entrepreneurship (Webb et al., 2013). Alternatively, a number of socio-economic researchers studying transition economies have promoted an alternative vision of balancing formality and informality among entrepreneurs (Batjargal, 2007; Kurkchian, 2013; Lin et al., 2015; Chepurenko, 2016).

I attempted to address the capability of small entrepreneurs to decrease their vulnerability by either appealing to the court or utilizing other protective legal tools. Here I follow the idea of Markus, who demonstrated the availability, variety, and flexibility of bottom-up activities to protect property rights in new Russia and Ukraine (Markus, 2015). My research in some sense complements his study because I focus on small business owners instead of the large firms that he investigated. Markus stated that the hegemonic explanation of the role of law through state-centric concepts is not sufficient for the post-Soviet period (Markus, 2015, pp. 9–11, p. 156). In other words, the literature on entrepreneurs' relationship with the law should pay more attention to local practices, rather than only exploring institutional design and central policy initiatives.

The relationship between political connections and business in today's Russia also incorporates the more fundamental question of interaction between private and state actors. Although various benefits accrue to political status, business interests are not necessarily the only – or even the leading – motive for businesspeople to enter politics. Moonlighting politicians who stay in the regional parliament for three or more terms lend credence to the idea that becoming a professional politician is a significant part of their strategy. There is also little attention paid to how business experience affects the ability of a businessperson to act as a politician, or to how politicians with various backgrounds differ in terms of professional quality and human capital. Finally, the widespread presence of businesspeople in the executive and legislative branches of regional and local governments might be a conscious effort on the part of elites to overcome the shortage of

professionals among public officials. This also relates to the link between policy outcomes and the capture of political bodies by business.

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