

**Politicized Justice in Emerging Democracies: A Study of Courts in Russia and Ukraine. By Maria Popova. Cambridge: Cambridge University Press, 2012. 197 pp. Notes. Bibliography. Index. Tables.**

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Some works are a credit to their craft. Such is Maria Popova's *Politicized Justice in Emerging Democracies*, a treasure of qualitative research. The target of her inquiry is judicial functioning in post-authoritarian states. To investigate what factors promote the development of independent courts and what factors undermine it (2012:2), Popova conducts what anthropologists will recognize as controlled comparison of courts in post-Soviet Russia and Ukraine in the late 1990s and early 2000s. Going beyond high-profile cases--the Khodorkovsky, the Tymoshenko-- Popova selects two kinds of politically sensitive cases, electoral registration and press defamation, to focus on the lower courts. Digging further, Popova collects background information on litigants in over 1,000 disputes. In this research and through her interviews with officials, lawyers, and litigants, the qualitative richness shines. Among studies of "law on the books" versus "law in action," a staple of law and society research, Popova's work will stand as a valuable contribution. Chapter 6 alone, on informal practices, breaks compelling new ground in our understanding of post-Soviet judicial work, detailing from the standpoint of participants some of the "backstage" mechanisms that determine "front stage" judicial holdings.

Popova is a political scientist, and qualitative method is only a co-star of her production. Outside of chapters six and seven--on politicians' capacity and willingness to pressure the courts--qualitative data are used in service of quantitative analysis. Anthropologists turned off by reductionist-seeming number-crunching will appreciate her Herculean efforts to use qualitative data to understand the 800 defamation suits and 252 electoral registration disputes she sorts and analyzes. The resulting calculations of victory probabilities for pro-government litigants lead to her counterintuitive finding: a pro-government litigant is less likely to win a suit in electorally-uncompetitive Russia than in electorally competitive Ukraine. She formulates a "strategic pressure theory" which states that political competition "*hinders* rather than *promotes* the maintenance of independent courts" (2012:3, emphasis in the original).

To professional rule-of-law promoters, Popova offers three conclusions and one suggestion. First, although "legacies"--"telephone justice," *ex parte* communications, and other practices alleged of Soviet times--matter, the disparity between Russia and Ukraine shows that the past informs but does not control the present (2012:173). Second, an independent judiciary cannot be created through institutional engineering (2012:173). The implication is that the rarity of the rule of law outside of "old consolidated democracies" is not merely due to post-Soviet recalcitrance or incompetence in adopting institutional innovations. Third, struggle between

political factions does not necessarily have positive effects on rule of law, which she equates with judicial independence. Political competition "eggs on, rather than restrains, power-hungry politicians" and their use of the courts (2012:173). This is the kind of helpful dissociation Popova offers, here de-coupling "rule of law" from "democracy," if the latter means competitive, unpredictable elections. Her closing suggestion is that rather than focus on the judiciary *per se*, rule-of-law promoters attend to fostering "democratic institutions" such as institutionalized parties and free press (2012:174).

This strong normative bent, the quantitative analysis, and taking terms at face value square with the aesthetics of her home discipline. However, Popova's scope--looking at interrelationships with non-judicial institutions, looking into details of control over judges' pay and symbolic capital like invitations to conferences--avoids the compartmentalization that sometimes frustrates anthropologists with political science. While some of the qualitative data are reminiscent of what an anthropologists of law would expect from a good courtroom ethnography (for example, Sally Merry's *Getting Justice and Getting Even* (1990)), this work is not a courtroom study, nor does it use extended case method, ethnography of speaking, or other analytics familiar to anthropologists of courts. In fact, a commendable strength of this work is that it looks beyond the dynamics of a single court to patterns across a national jurisdiction. Anthropology could stand more of this.

The anthropologist often wants more context and inquiring into categories, and this is where Popova leaves room for anthropology to do its work. The book might be seen as thin on analysis of historical context. Its cases come from a time of attempted strong-arm presidency-building by Kuchma, and domestic critique thereof, in Ukraine and stealth takeover of multi-party democracy by the intelligence services and other social formations behind Putin in Russia. How Popova would characterize these processes--as anomalous, straight-line trajectory, oscillating, or what have you--are important because she is interested in using her results to understand the present and future. Popova calls the period "post-authoritarian" and these polities, "emerging democracies." Both of these characterizations seem off. Continuities carry through her description of the courts; whether the U.S.S.R. was authoritarian or not, whatever time it is now, it is not post-. Likewise, neither an "undemocratic" past nor a democratic future are obvious. So emergent, yes; but "emerging democracies," perhaps not.

The major omission from her conceptualization of the state is what Ukrainian and Russian observers of the 1990s called "financial-industrial groups" [FIGs] or "clans" (*klany*). What about oligarchy? She mentions oligarchs but leaves out oligarchic formations. Assumed categories of public and private arising out of the epistemic background of liberalism frame her inquiry. These categories seem particularly suspect in light of the formative milieu of state socialism, shaped as it was by their erasure. In her vignettes of small-potatoes electoral manipulation in out-of-the-way places, the reader recognizes an aspiration to thoroughness and monopolization that marks *klany*. The cases also point to the importance of the "rule of law" in the minds of persistent violators: they strive, in a post-rupture period of re-making fundamental rules, to control the seats of the rule-makers. If rule of law is conceptualized as both ideology

and practice, perhaps Popova would have found Ukrainian or Russian office-holders or judges lacking on only one score.

In other words, Popova has left room for an epilogue. Rich fields await: an exploration of parliament in the case of Ukraine and the executive branch in the case of Russia; an expanded vision of fields of competition in the former and self-censorship in the latter; and an inquiry into general categories like "Ukraine" and "Russia." Disciplinary aesthetics assert themselves: the anthropologist is left wishing for an ethnography of justice in the context of rupture. One would be lucky to have as thoughtful and thorough a researcher take on that task as Maria Popova. That is the challenge her work leaves anthropology.