

# ECONOMIC CRIME IN RUSSIA

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**KLUWER LAW INTERNATIONAL**

THE HAGUE / LONDON / BOSTON

Library of Congress Cataloging-in-Publication Data is available.

ISBN 90-411-9782-6

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Published by Kluwer Law International,  
P.O. Box 85889, 2508 CN The Hague, The Netherlands

Sold and distributed in North, Central and South America  
by Kluwer Law International,  
675 Massachusetts Avenue, Cambridge, MA 02139, U.S.A.

In all other countries, sold and distributed  
by Kluwer Law International, Distribution Centre,  
P.O. Box 322, 3300 AH Dordrecht, The Netherlands

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Printed and bound in Great Britain by Antony Rowe Limited

## Dirty Business, 'Normal Life', and the Dream of Law

Caroline Humphrey

### I. INTRODUCTION

This paper explores the idea of law, that is the expressed wish for a fair and universal law, among entrepreneurs in Russia. It will be argued that this call is not just a reaction to current problems but reveals a desire for a particular kind of future for the country.

In Russia in the 1990s the law has both marched before economic practice, aiming to transform it according to market principles, and it has chased behind, attempting to catch up and stop activities considered harmful or wrong. The transformative role of law was most prominent under Gaidar<sup>1</sup> in 1992, when the government realized that privatization in the Soviet aftermath was not creating a 'rational, healthy market' but what Yegor Gaidar called '*nomenklatura* capitalism'.<sup>2</sup> By this he was referring not so much to the presence of former Soviet officials in the privatized industries, as pointing to the persistence of characteristic practices or rules of the game. In *nomenklatura* capitalism the aim was simply to 'add property to power', that is to add a legalized money income to the directors' existing *de facto* control of both resources and the workforce. The old habits resisted rational reorganization, not to mention hard-budget constraints, and the directors propped up ailing firms by accumulating arrears both to the state and to one another in Soviet-like crony arrangements.

What were the rules in this market – open, written, economic, market, subject to the law of free competition, or, as before, secret, conducted by telephone, administrative, constrained by power relations, and oriented to the state-bureaucratic machine?<sup>3</sup>

<sup>1</sup> Yegor Gaidar (b. 1956) has a doctorate in economics from Moscow University. From November 1991 he was Vice-Premier of Russia and led the Russian government during 1992 when he started the radical economic reforms often known as 'shock therapy'. He left the government in December 1992. He has been president of the Democratic Choice party and now is prominent in the Right Cause movement along with Anatoly Chubais.

<sup>2</sup> By '*nomenklatura*' Gaidar refers to industrial directors, ministerial officials, Generals of the KGB, the secretaries of province and district Party committees, etc. Y. Gaidar, *Gosudarstvo i Evolyutsiia* (Izdatel'stvo Evraziia, Moscow, 1995), pp. 103–40.

<sup>3</sup> *Ibid.*, pp. 163–164.

Gaidar tried to reform this situation by economic measures (limiting inflation, liberalizing prices) but he also aimed to use the law to transform mentalities among Russians in general so that millions of new owners of small businesses could emerge and penetrate the monolithic enterprises. His goal was to separate property from power, to create the conditions for 'normal life',<sup>4</sup> and the issuing of share vouchers, new licensing and tax laws, and changing the law on private international trade were all aimed in this direction.

Now Gaidar's attempt to create small business and thus transform Russian mentalities was seemingly paradoxical, because the existing entrepreneurs in the early 1990s were renowned in Russia for their lawlessness, and indeed ordinary workers still thought of them in Soviet terms as 'speculators' and generators of crime. Today, in the late 1990s, Gaidar is widely assumed to have failed: *nomenklatura* capitalism is still in place and economic actors of all kinds regularly evade the law. Furthermore, there are notorious cases of government officials and delegates to the State Duma engaging in illegal activities,<sup>5</sup> and big business dominates the economy while remaining largely outside the law. Yet this article will argue that Gaidar's Quixotic attempt was not altogether misplaced, for it is precisely among small businesses that we see expressed a real need for a generally applicable law that will be observed. Sachs and Pistor have suggested that the existence of these new demands<sup>6</sup> for law and order cannot be equated with a constituency for the rule of law, since all the entrepreneurs want is protection of their *own* property rights and it would be 'quite a different matter to subscribe to the rule of law which vests others with similar rights.'<sup>7</sup> This paper will suggest to the contrary that the demand of small businessmen is for a universally applicable law and that this is integrally tied to the desire for a 'normal life'. The insistence on the idea of a normal life shows that the issue is not just a matter of protection of economic interests. If, as some argue,<sup>8</sup> a moral consensus is necessary before the rule of law can function, we should investigate what are the normative ideals that might form its basis (a question to which I shall return at the end of the paper).

## II. THE STATUS AND IDEA OF LAW

The situation facing Gaidar demonstrates the dilemma of the status of law during a radical transformation of the political-economic direction of a society. After 1991, activities that had been criminal only a few years ago, such as speculation, were

<sup>4</sup> See n. 2 above, p. 117.

<sup>5</sup> Under the Constitution of 1993, State Duma delegates were exempted from prosecution with the result that a number of individuals subject to criminal investigation have stood for election to the State Duma. M. Newcity 'Russian Legal Tradition and the Rule of Law' in J. Sachs and K. Pistor (eds), *The Rule of Law and Economic Reform in Russia* (Westview Press, Boulder, 1997), p. 42.

<sup>6</sup> Commercial banks and 'stake holders in Russia's priced assets' are mentioned as other constituencies demanding law and order, Sachs and Pistor, 'Introduction' *ibid.*, p. 19.

<sup>7</sup> *Ibid.*

<sup>8</sup> T. C. Owen, 'Autocracy and the Rule of Law' in Sachs and K. Pistor (eds), *The Rule of Law and Economic Reform in Russia* (Westview Press, Boulder, 1997), p. 37.

suddenly not only made legal but supported by the government, while practices that had been commonplace and ideologically approved, such as dismissal of workers for political reasons, became illegal. (This reminds us that despite their best efforts to come up with an objective and absolute definition of 'crime' valid for all times and places, criminologists have been unable to do so.<sup>9</sup>) It is, however, not so easy for people to change their values quickly, even if the government decides on a new course. Furthermore, Gaidar was faced with a particular impasse that blunted the best weapons of reform from the top: the people of Russia were accustomed to differentiating their own moral values from those embodied in laws. In other words, the state law as such lacked legitimacy.<sup>10</sup> Put crudely:

In relation to law the Soviet system was built entirely on the arbitrariness of power, and it actively opposed itself to the basic principle of western law-based society, universal equality before the law. It is from this that legal nihilism appeared among ordinary people. Stealing from the state became the norm, although formally this was a serious crime; lying to officials became normal, insofar as the officials themselves were interested in neither the truth nor the law; suspicion of those in power became a means of survival, since the powers could always remove life without warning and without understandable reasons. Despite all this, the majority of ordinary Soviet citizens accepted the system and tried to survive in it. But there also existed a significant category of people – both the most honest and the absolutely dishonest – who placed themselves outside this system.<sup>11</sup>

For Soviet times, it could be argued that a 'nihilist' attitude to the law did not necessarily imply a rejection of the Russian state socialist system, since the law was in practice always subordinate to other political operations. It is not just that Soviet law-making was tactical and instrumental in practice; Bolshevik thinking categorized law as less pure in a socially transformative sense than the direct exercise of morally-justified power. This varied at different historical periods and contexts but included leader's decrees, workers' tribunals, the use of terror (as distinct from law<sup>12</sup>), administrative measures of the Party, and forced participation in great projects of the state. Repressive and punitive as this was, we know nevertheless that millions of people were inspired by, and responded to, the stark grandeur of the exercise of Communist state power.

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<sup>9</sup> F. Sack, 'Conflicts and Convergences of Theoretical and Methodological Perspectives in Criminology' in E. Ewald (ed.), *New Definitions of Crime in Societies in Transition to Democracy* (Forum Verlag Godesberg, Bonn, 1994), pp. 7–34.

<sup>10</sup> Michael Newcity has argued that popular attitudes of mistrust and cynicism towards the law have deep roots in Russian culture going back long before the Soviet period. See Newcity, n. 5 above, pp. 41–53.

<sup>11</sup> M. Dikselius and A. Konstantinov, *Prestupnyi Mir Rossii* (Bibliopolis, St. Petersburg, 1995), p. 227.

<sup>12</sup> P. H. Solomon, *Soviet Criminal Justice under Stalin* (Cambridge University Press, Cambridge, 1996), pp. 447–459.

Soviet inspirationalism is relevant to the present article if we follow the argument of an interesting paper by Kharkhordin.<sup>13</sup> Kharkhordin maintains that the quasi-religious notion of the Bolshevik vocation assigned a role model for Soviet civilization. In this, the effective functioning of the inspired individual depended on initiative and self-reliance (*samostoyatel'nost'*) in order to bring to reality the mystical Communist truths. Holding a view similar to Gaidar of the post-Soviet economic landscape (divided between the great industrialists, with their corporatism, and small entrepreneurs), Kharkhordin argues that the cultural value of *samostoyatel'nost'*, taking new forms, could transform the scene. Small entrepreneurs are already imbued with the desire for independence, but the religious, almost Lutheran, notion of *samostoyatel'nost'* could also come to inspire 'converts' to market capitalism among the older generation:

In contradistinction to the younger entrepreneurs, who grew up as individualists, the majority of these older entrepreneurs initially adhered to Communist beliefs to a greater or lesser extent. Thus, they experienced the change to a modern notion of *samostoyatel'nost'* as a deep personal drama. I would further hold that among these converts the former strongly motivated Communist ascetics are the ones needed for core positions in the state bureaucracy and new economic structures. ... *Samostoyatel'nost'* is still predicated on a quasi-religious faith in revealed truth. This new truth now frequently is some kind of grassroots Hayek-style doctrine of the inherent value of capitalism as a civilization promoting human freedom and *samostoyatel'nost'*.

Kharkhordin is inspired by Weber's *Protestant Ethic and the Spirit of Capitalism*. His paper shares with Gaidar the idea that there are characteristic economic cultures in Russia, but it adds the more anthropological insight that while these are differentiated, people involved in them hold alternative perspectives on what are at some level *shared* values, like self-reliance.

These are valuable contributions, but they operate through the binarism (the 'old' corporatism to be transformed by the 'new' spirit of the market) which is intrinsic to programmatic national political argument.<sup>14</sup> Since 1993–1994 when these authors were writing, it will be suggested here that it has become evident first, that a binary logic can no longer do justice to the economic landscape, and second, that new 'shared values' have come to dominate public discourse, in particular the idea (or ideal) of law. In brief, that we can better understand current economic culture by proposing six, not two, categories of actors:

- State administrations themselves as economic players
- Resource-rich utilities (electricity, oil, gas, transport, etc.)

<sup>13</sup> O. Kharkhordin, 'The Corporate Ethic, the Spirit of *Samostoyatel'nost'* and the Spirit of Capitalism: Reflections on Market Building in Post-Soviet Russia' (1993) 9 *International Sociology*, pp. 405–429.

<sup>14</sup> M. Hertzfeld, *Cultural Intimacy: Social Poetics in the Nation-State* (Routledge, New York and London, 1997), p. 15.

- State and recently privatized large industries
- Small entrepreneurial businesses
- Private enforcement agencies and rent-seekers ('the mafia')
- Workers

Each of these has characteristic practices and has evolved their own 'rules of the game'. The Russian economy is not in fact chaotic, even though it is often described this way by both Russian and foreign observers, for there is a kind of order – that is, the order of customary ways of doing things – in each of the collectivities of people that are the real, localized manifestations of the six categories outlined. These days, to judge from an investigation of a wide range of economic actors carried out in summer 1998,<sup>15</sup> the call is no longer to 'self-reliance' and 'the free market', but to different values, to 'law', 'fairness', and a 'normal life'.

However, why should anyone call for law (*zakon, zakonodatel'stvo*) if customary and usual ways of operating are already in place? The rest of this article will attempt to explain why, although the need for law is invoked by almost everyone, it is the small business people who really mean it. In the present situation, the actual practice of law is still tangled with government; it is fragmented, confused, over-elaborate, and almost impossible to conform to with the best will in the world. It is still rightly seen as instrumental, as it was all through Soviet times, and it has become an element in the regional barter economies, i.e. a barterable thing with a different value for different actors. The demand for a universally observed law, before which all citizens would be equal, is thus – if not quite utopian – certainly an appeal referring to the future. Thus the call by the 'lawless' Russian entrepreneurs is like a reverse mirror-image of the rhetoric of the 'lawless' Cretan sheep-thieves described by Hertzfeld,<sup>16</sup> who bemoan the current necessity of using legal processes to decide matters where once the traditional word of honour sufficed. My materials suggest that Russian entrepreneurs have no nostalgia for 'old ways', if only because they feel trapped by them on all sides. Instead, as many Russian writers have observed, it is the future that has glamour, which is an old, old cultural move in Russia.<sup>17</sup> The greater the distance between the 'distorted' (*urodlivyi*) practise of law<sup>18</sup> and the ideal of law, the more the entrepreneurs call for it to be reformed. This is not only because it is they above all who count the price of the difference, but also because they see how capricious attitudes to law engender a dysfunctional, 'abnormal' way of life.

<sup>15</sup> Surveys of business people's attitudes were carried out in summer 1998 in Moscow Oblast and the Buryat Republic. Interviews were conducted with directors, lower managers and workers in a variety of enterprises, including a large former-state-owned rubber goods factory, a decorating materials firm, a computer retail business, a heating-oil provider, a pork producer, several entrepreneurs trading a variety of goods (wood, metals, food), a bakery, a food trader, and several agricultural firms. Administrators in district bureaus and the pensions fund were also interviewed. The author is very grateful to Galina Manzanova and Helen Koptina for their essential help in providing these rich materials.

<sup>16</sup> Hertzfeld, n. 14 above, p. 8.

<sup>17</sup> Y. Basina, 'Krivoe zerkalo Evropy' (1997) 2 *Pro et Contra*, pp. 92–112.

<sup>18</sup> This expression was used by several business people about the present situation.

### III. BUSINESS LIFE AND ITS EVERYDAY ENCOUNTERS WITH LAW

Much of the customary order of small business works entirely beyond the law, being not even mentioned in any legislation. Notably, this refers to the intense negotiations between firms about who will pay what, when will they pay, and which discounts will apply, most of which is done orally and in person. Even if contracts have a written legal appearance, everyone knows that they can be overturned without effective sanction from the judiciary. Defaults, deception, selling faulty products, and cheating (e.g. watering products such as rice or sugar to make them heavier) go unpunished by the law. However, what the traders complain about most is not that inter-enterprise law remains ineffective, but rather that tax and customs law is unreasonably extortionate: this forces businessmen to act illegally and places them in a potentially 'criminalized' position in relation to the state.

This situation arouses a kind of existential anxiety. Although the Soviet experience gave rise to deep cynicism towards the government and Communist Party, there are few people who reject the notion of the patriarchal state in principle – that is, the idea of how a state 'should be' as a repository of probity and the arbiter of right action. The corollary of this attitude to the state is that private conscience is not generally seen as sufficient to generate public morality by itself. Indeed for many businessmen it could not do so. They imagine a binary opposition between 'the state' and 'capitalism' in which the latter is identified with the private, the selfish and the amoral. One manager said, 'I understand that capitalism differs from our socialism in one main thing, the brutality (*zhestokost'*) of relations.'<sup>19</sup>

Creating a tax income for the state is not seen as problematic in principle by entrepreneurs in Russia. What arouses anger is that the state does not respond as it should: state pensions contributions do not arrive in time, promised 'transfers' seem to disappear, hospitals are drastically underfunded, and so forth. It is significant that ordinary people like pensioners often say that they feel 'cheated (*obmanutyimi*) by the state',<sup>20</sup> which reveals how the state is reified and the relation with it is indeed seen as a bargain. Business people share these views but they seem more likely to deconstruct 'the state' and blame particular parts of it for corruption:

Look at export licenses. It all began in Soviet times when you had to pay a bribe. Now all licenses are given to friends. The coal mine for example [this mine is a state enterprise, C.H.], they have a license and salt money away abroad for themselves and their bureaucrat friends. A bit of that money is exchanged for food, Dutch butter, full of harmful chemicals, and that food is brought back to Russia and used to pay the miners. It's shameful. And they justify this by saying it is all the fault of the economic reformers.<sup>21</sup>

<sup>19</sup> Trading manager of NIIRP factory, Moscow Oblast, 1998.

<sup>20</sup> For example, pensioners of a former state timber trading company said that, having worked twenty years in the company, they were now cheated (meaning they did not receive pensions), Nikolaev 1998.

<sup>21</sup> Director of a computer trading firm in Ulan-Ude, Buryatia, 1998.



Entrepreneurs of course primarily consider of the costs to themselves of such a situation,<sup>22</sup> but their statements almost always extend to the wider economic scene:

It's absurd. For a private entrepreneur to set up business, he has to go through 11 structures, and each one has to be paid for their licenses (*patenty*). But if he is not yet working, he does not have the money. For the simplest application form or stamp he asked for money. Last year in our Republic 6,000 firms were set up, but only 1,500 of them can work. The government gives no help, though it is constantly pushing everyone to set up business. That's why we have chaos (*bardak*) everywhere. But we have to live by these laws the government dictates.<sup>23</sup>

The same trader said:

There is money, but it is held back. I personally think that all this barter is a result of corruption. This is ultimately the fault of the state, which instead of paying for the goods it needs from us with money, operates by credits (*zachety*) against tax.<sup>24</sup> If the state paid us in money, we would use money too. As it is, this situation only gives rise to the criminalization of all society.

It is not that law has entirely ceased to be practised. There are court cases, people pay fines and some go to jail. However, court decisions frequently cannot be implemented and therefore there exists an extended imbroglio of dubious transactions that might, or might not, be prosecuted. Here, in effect, the implementation of the law becomes a thing to be bartered. This is particularly the case with tax law. A firm in the provinces which owes taxes is generally not prosecuted but ordered to pay its tax debt by means of transferring goods to some other firm to which the administration owes a debt.

How does tax law affect small entrepreneurs? The extraordinarily high rate of taxation in Russia is widely held by business people to be counterproductive. One Buryat dealer in computers described the vicious circle: 'Costs are increased, products become noncompetitive, profits lessened, and therefore less tax is paid; the whole economy suffers, so the government hikes up taxes further ... and it becomes an endless circle.'<sup>25</sup> The burden is impossible:

In fact, we should pay more than one ruble of tax for one ruble's worth of production – the firm could not survive. In other countries I believe they pay 12 to 15 different taxes. But here in the last year or two, we counted up, we

<sup>22</sup> For business people bribery is unavoidable and a serious cost (it has been estimated that small businesses in Russia paid a minimum of USD500 million per month in bribes during 1998). A significant aspect of this is that respondents say nevertheless that the money on bribes is well spent: the costs of lack of access, having to pay the real customs duties, and so forth, would be far higher. *Argumenty i Fakty*, Sept 1998, No. 36, p. 9.

<sup>23</sup> Director of a general trading firm in Ulan-Ude, Buryatia, 1998.

<sup>24</sup> A typical example of how this works in provinces where the 1998 decree forbidding such deals is not applied is: Firm A does some work for the government, such as rebuilding a school, and receives a tax credit which is greater than its own tax owed. Firm A then goes to Firm B and offers, 'We'll cover your tax and you give us X amount of food in return'. The workers of Firm A thus receive food in lieu of wages, and Firm B has its tax paid.

<sup>25</sup> Director of general trading firm 'Bat-Les', Ulan-Ude, 1998.

were due to pay over 100 different taxes! This year there are a few less, but all the same we cannot do it.

As a result, firms choose which taxes to pay, and in the case of payment, whether to pay directly or to 'cover' the tax by a credit (*zachet*). The decision to pay or not depends partly on the cost to the trader of making the arrangements,<sup>26</sup> partly on personal relations with tax officers (see Chapter 9),<sup>27</sup> and partly on how seriously the tax office pursues a given tax. A trader said:

The pension fund is very complicated to get round, because it functions as social insurance and it is forbidden not to have insurance – taxes that are for the maintenance (*soderzhaniye*) of an institution, well ... they are more severely implemented. It's very easy to have your property confiscated and there are big fines (*peni*), so we try not to hold back on payments because that would come out more expensive. But other local taxes, like the tax on profit ... well, no one pays that. Ha, ha. Usually people don't have profits anyway, since all profits are hidden.<sup>28</sup>

The distinction made here between pension and profit taxes suggests, it would appear, the existence of certain shared values in Russia. In the negotiation between the tax office and the businesses it is agreed by both sides that pensions, or more generally provision for the old and weak, should be taken seriously and if possible paid in money rather than credits. As Herzfeld points out,<sup>29</sup> however, such 'common ground' is always negotiated from different points of view, and in any case it is not solid enough to prevent traders from feeling unease (even while they make use of it) with the utter 'bargainability' of the tax law.

Given that tax offices in Russia have the right to sequester bank accounts directly, small firms concoct elaborate subterfuges, it seems, just to break even. For individual deals they register falsely low profits in their books and give the appearance of transferring smaller amounts of goods than they actually do. Barter is wonderfully suited to such ploys, since 'prices' (exchange ratios) can be shifted up or down and are less visible and public than cash market prices. Large companies also make use of each other's money substitutes (*veksels*, promissory notes, and scrip) for payment, thus avoiding various taxes due on money held and transferred. The use of such instruments is legal, even though they can be a means of tax avoidance and deception (the illusory nominal value attached to them is often 'realized' by means of shell firms). Small firms usually avoid the use of *veksels* and find themselves in the situation that they are constantly waiting for one or another debt to be paid.

<sup>26</sup> Decisions on substitutions by credits, for example, take into account the costs of such operations for traders. In the distant provinces arranging credits for federal taxes is only worth it for large sums because of the expense of the journey to Moscow to set up the deal.

<sup>27</sup> 'Usually no-one can get round income tax (*podokhodyi nalog*)', said one Buryat trader in 1998, 'But I have a friend in the tax office who allows this'.

<sup>28</sup> Director of office equipment trading centre, Ulan-Ude, 1998.

<sup>29</sup> Herzfeld, n. 14 above, pp. 3–4.

So the general situation is that small entrepreneurs are not only in debt to one another and to the tax office, but also hide several illicit deals that would incur yet further tax were they to be discovered. This is a cost, because it makes it unlikely a firm would turn to legal means for redressing wrongs done to it. To recover debts, especially those involving money, businesses have recourse to 'criminal elements' (the mafia). 'Of course this is wrong', said one trader. 'And it is expensive. But since the law does not work, what can we do?'<sup>30</sup>

This is one aspect of what the businessman quoted above meant by 'criminalization of all society', though he was more directly referring not to himself but to the effect of the whole system on manual workers. Ultimately, the workers are the ones to suffer most (though indirectly) from the system of tax credits and barter, since, in regions like Buryatia, they are paid money only as a last resort and, therefore, they are 'forced' in the opinion of local businessmen to steal from their factories and farms. If *direct* confrontation with the tax system is found most among those running firms, since the corporate sector is proportionally much more heavily taxed than individuals, nevertheless business respondents made several unsolicited diatribes about the wider social decay seen in the spread of extortion and expropriation.

An example is the accusation that even tax officers take part in such acts. 'There are some firms which are not in debt to the tax office!' exclaimed the trader who had earlier talked about workers thieving. 'Which ones? They are the ones where the tax officials simply come and grab goods in lieu. Sometimes they take more than the tax due. And what do you call that? So those firms then get prepared – they even stock up on things the officials want, things like tights or toiletries.' Note the gender aspect of this situation. As Busse (Chapter 9) points out, the tax offices are normally staffed by low-paid women. A local government administrator acknowledged that this practice went on, and she added that the tax inspectors expropriate, for example, food at wholesale prices but they redistribute it to their own staff at higher retail prices. All this is noted down and the food received is deducted from the tax officials' wages (but the administrator did not say where the value that is the difference between the wholesale and retail prices, a ratio of some 3:4, ends up).<sup>31</sup>

Thus, business firms are not the only economic actors to suffer from the battle over taxation. Administrations can end up in dire straits when they themselves 'trade' in taxes. This happened, for example, when the Buryat government in the mid-1990s tried the experiment of allowing agricultural enterprises to pay tax in products rather than money. The administration set up a corporation to receive the tax-products, realize them as money, and pay in the tax. Superficially this was a success – the farms' rate of tax returns suddenly went up from 43 per cent to 88 per cent of their dues – but the administration found itself unable to dispose of mountains of low-quality vegetables, fodder grains, etc.<sup>32</sup> Government departments extricate themselves from such situations by changing the law forthwith.

<sup>30</sup> Buryatia, 1998. The lack of effective legal protection for witnesses to crime is another factor increasing the hold of racketeers and gangs. A. Aslakhonov, *Demokratii prestupnoi ne byvaet* (Institut Massovykh Kommunikatsii, Moscow, 1994), p. 125.

<sup>31</sup> Buryatia, 1998.

<sup>32</sup> Interview with agricultural administrator, Selenga District, Buryatia, 1998.

However, such abrupt changes have a wider socio-economic cost. A time delay is attached to these changes, such that even the government administrators may know that the old law has gone but not be sure about what new one has replaced it. Frequent changes in the law affect the way of life of business people perhaps more than most. The great energy conglomerates are so powerful that they operate in effect beyond the law. The large production industries and farmers are tied to their resources and techniques whatever happens in the law, whereas entrepreneurs, at least in part, have to use the law to make profits. Moreover, taxation law is, of course, by no means the only type around which they have to navigate; traders are directly affected by changing export controls, laws on alcohol production and sales, or laws reflecting ethno-political fears, such as those limiting the registration of Caucasian traders in the Russian Federation, or laws restricting Chinese or Turkish 'infiltration', which end by affecting business more generally.<sup>33</sup> Abrupt legal changes make it impossible for business people to plan ahead; this drives them into habits of *ad hoc* decision-making, and at least some entrepreneurs say that this uncertainty is the most serious cost of all for them in developing their business.

To summarize, this section has suggested that the law, as it is practised directly and pervasively, affects how small business is conducted and encourages activities that the entrepreneurs themselves see as dysfunctional and corrupting. How does this relate to their call for a 'normal life' and a universally observed law?

It should be recalled who the entrepreneurs are from the social point of view. Some are doubtless survivors of the black-marketeers of Soviet times and the dubious cooperatives of the *perestroika* era, but a large number are young educated people who took to business in the early 1990s because they could not find employment. They are (or were) engineers, mechanics, lecturers in political economy, or doctors specializing in neurology.<sup>34</sup> If these people desire a 'normal life,' what does that mean? Clearly a normal life is an ideal, and not the same as the habits and norms that have emerged in actual business activity. The demand for a new kind of law reflects a desire for something far off, holistic, coherent and perhaps unrealizable. Nevertheless, its sources, this paper suggests, are grounded enough. To discover them we should look primarily to entrepreneurs' self-interest, that is to the understanding of the functionality of a disinterested law for realizing the profit of individuals, and secondly to the cultural notions of a 'normal life', that is to the demand, which in the end must be a political demand, for the creation of conditions that would allow normal life to come about.

#### IV. A 'NORMAL' LAW: A DREAM OR A STRUGGLE?

These two sources are connected, and to see how, this paper returns again to Kharkhordin's article. The theory that zealous administrators would convert from

<sup>33</sup> C. Humphrey, 'Traders, "Disorder", and Citizenship Regimes in Provincial Russia' in M. Burawoy and K. Verdery (eds), *Uncertain Transition: Ethnographies of Change in the Postsocialist World* (Rowman and Littlefield, Lanham, Boulder, New York and Oxford, 1999), pp. 405–429.

<sup>34</sup> These are real examples from amongst the traders in the Buryat survey.

quasi-religious belief in Soviet ideals to equally devoted implementation of monetarism now seems far-fetched, but Kharkhordin pointed to another, more promising vector of change. He was the first to note the ubiquity of appeals for a normal life among entrepreneurs. It was difficult to clarify what the expression meant (his respondents frequently took the idea as self-evident), but the best approximation was simply getting the fruits of one's labour in a reasonable activity. Kharkhordin remarks that the idea of life for individual reward sounds banal. 'However, attributing banality to it is profoundly mistaken. In so doing, one takes for granted the values of Western civilization and fails to compare these statements of entrepreneurs with the values of the Soviet civilization.'<sup>35</sup> Kharkhordin sees this as a shift from charismatic sacrifice for a higher cause, the Soviet model, to a mundane individual achievement. My sources suggest, rather, a shift from an alienated subjectification in late Soviet times to the ideal of honest work for oneself, but in either case we are talking of a paradigmatic transformation. For example, a factory manager considering entering entrepreneurial business ruminated as follows:

I consider Communism brought harm to our country. It made our country destitute, a kind of freak, it spoiled the people, brought about alienation, passivity, everything. No, I don't approve of the past at all. So when *perestroika* started I was very positive about it. But seeing what is happening now, I wholly disapprove of it. I don't support the reforms that are going on now in any way. Because, these are not reforms, these are not transformations of society. They are some kind incomprehensible drifting, you don't know where to, you don't know why. And I particularly don't like it that an honest person in Russia now lives badly.

Well, I don't take bribes, I don't use my position to get personal advantages, I am a normal, law-abiding person. I try to carry out my work, I try to do my thing honestly (*chestno*), so there should be a result. I don't want to be a rich person, I don't want to be poor. I just want to be a normal (*normal'nym*) person. I just would like to work ... at my own work ... so ... [long pause] ... put it like this, so I could be my own person (*samim soboi*).<sup>36</sup>

A 'normal life' is thus linked to a sense of selfhood, and at the same time to ethical values such as honesty, reward for merit, and working to good effect. The notion of a 'normal life' seems to be one of those ideas that are shared by Russians of all conditions, but it is significant that there are variations on this idea, variations that could be called different aesthetics of normality. For those still engaged in work for former state enterprises, to become an independent entrepreneur is a radical step and such an existence appears to them incompatible with the notion of 'normal life'. Here can be seen a certain ethic, a passivity and an asceticism that seems derived from Soviet values:

<sup>35</sup> Kharkhordin, n. 13 above, p. 19.

<sup>36</sup> Manager in rubber goods factory, Moscow Oblast, 1998.

We don't have the conditions for the honest conducting of business. Therefore, I don't ... well, I don't want to go private. I don't want to own anything. I don't want to be rich. Wealth is connected with criminality. Well, you could be rich, but not for long, you'd be dead. Or, you could be rich and live, but then you'd need to make a huge constant pay out for protection. They [entrepreneurs] have their own world, their own system. And honestly, I used to live in Moscow, and when I visit Moscow now I often feel a kind of ... shame, awkwardness, for all that is going on. ... I think that if I were a rich person, I wouldn't be comfortable. If I am going in a Mercedes and you are still going by bus, I would not feel good. I don't want to be a rich person – that is not real wealth, that is a lack of comfortableness. So I prefer to go on foot, and my car ... that one out there in the yard, well, it is the very cheapest you can get ... I wouldn't even have a car, but to go by bus all the time really is difficult.<sup>37</sup>

Such hesitation contrasts with the responses from people who have taken the step and become entrepreneurs. The concept of what the ideal law might look like also differs. People in state employment, who also call for legal reform, tend to oppose law to spontaneity (*stikhiinost'*),<sup>38</sup> and express hopes that the heavy hand of a responsible central government will reassert law as a means to impose order and control. For entrepreneurs, on the other hand, the possibility of a normal life is associated with economic reorganization and the enabling of spontaneous activity. Legal reform is linked to rational assessment of its advantages to business.

There should be a group of laws, clear laws about exactly how much we should pay. And those laws should not keep changing. Now we have so many duplicated laws; there are federal laws and then local laws. Some sort of local laws. They are completely unjustified. There are so many, you couldn't understand. At the level of the Buryat Republic, the city level, the district level. And so on. There are so many limitations. Nothing will work till the whole system is changed and they establish precise (*chetkie*) laws. Everything will follow from that. If the entrepreneur knows exactly how much percent of his turnover or his profit he should pay – even if it is 50 per cent – and he knows that during the next two or three years this will not change, then on that basis he will be able to work out some kind of policy.<sup>39</sup>

It is important to take into account the aesthetic of active entrepreneurial life. This is unabashed by wealth ('If you ask any businessman does he want goods or money, of course he'll say money. I want money, [laughs], and quickly!').<sup>40</sup> It is also not afraid to talk straight ('In Russia, the economy is absolutely not a market economy and it is also absolutely not democratic')<sup>41</sup> and insists on the necessity of individual effort:

<sup>37</sup> Ibid.

<sup>38</sup> The head engineer of the Bichur Administration of Agriculture, for example, said that an organization set up to control barter in the district should be 'lawful, not spontaneous', by which he meant that it should be set up by the state, not independently. Buryatia, 1998.

<sup>39</sup> Entrepreneur, aged 36, a historian by training, in the firm 'Bat-Les', Buryatia 1998.

<sup>40</sup> Trader in small timber and foods firm, Buryatia 1998.

<sup>41</sup> Director of computer trading firm, n. 21 above.

The economy should be organized in a normal way. Now the government has to try to maintain half the population that doesn't want to work, and still they expect to receive ... In Russian there is still the concept of *poluchka* (receivings), not a wage but specifically a *poluchka*. He visits the workplace, sits a little, receives his bit, and all is quiet. Yes, he doesn't get much, but then he didn't do any work. There is just the idea to do as little as possible and get as much as possible. That must change.<sup>42</sup>

Entrepreneurs have clear ideas about the need for *systematic, universal* change, at the top as well as the bottom.

Why do our banks keep failing? It is because they suffer from bad debts, and what can they do when it is the great firms and the political leaders themselves who do not pay back? Those people just say, 'What can you do with me?' If a leader knew he would sit behind bars, then, I'm sorry, but he would start thinking about whether to take a credit or not. Why don't they make such laws on debt? I think it is because it is the lawmakers themselves who don't pay their debts. So they would be making a law against themselves. From this, we traders suffer.<sup>43</sup>

To conclude, this chapter has attempted to show how small entrepreneurs in Russia maintain ideas of a 'normal economic life'. Such a life is clearly distinguished from the 'distorted' practices they actually engage in. Yet these practices have not extinguished various moral values, not least those new ones grounded in the idea of justifiable self-interest. The law is seen as the key to attaining a normal life, and this means not just reform of laws, but a change in the status of law in society such that it becomes respected and universally observed. Thus the call for law and order is not limited to self-interested protection of business people's property rights, as Sachs and Pistor argued, but indeed extends to the implementation of the rule of (a new) law. To understand why traders think this way it is essential to expand analysis from a dualistic opposition between '*nomenklatura* capitalism' and entrepreneurship to the full range of economic actors, including government agencies. This is because trading activity, and hence the experience of entrepreneurs, consists in operating through the links and gaps in the whole economic field. The small businessmen want radical reform not because they think they suffer disproportionately from the existing tax system – in fact, they know they suffer far less than workers – but because they perceive the interlocking nature of the economy with politics and power. Yet there is little evidence of resignation among them. Rather, the audacious quality of the aesthetic of entrepreneurship suggests that perhaps the idea of fair law and a normal life could turn from being a dream into a struggle for its realisation.

Therefore, this paper is suggesting that the call for a 'normal life' is to make a commitment to the possibility of a future new society. The evidence is that

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<sup>42</sup> Vice-manager in computer trading firm, Buryatia 1998.

<sup>43</sup> Trader in food products, Buryatia 1998.

entrepreneurs believe in an order of society that could be lived in decently and believe that they personally could take part in it. However, this is also an issue of agency. On the one hand, there is the legacy of the Russian (and particularly the Soviet) habit of dissimulation,<sup>44</sup> one form of which is the practice of declaring high moral goals while all the time actually living – and making no effort to change – a quite different life. On the other hand, it is because questions of the social good are bridged with their own active interests and a bold sense of knowing what is right that one might speculate that entrepreneurs may move to a more active and hence more political stance.<sup>45</sup>

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<sup>44</sup> For an extended discussion of this idea see Kharkhordin, n. 13 above.

<sup>45</sup> Grateful thanks to Alena Ledeneva, Oleg Kharkhordia and Frances Pine for their comments on a draft of this chapter.