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**WHO DEMANDS COLLECTIVE  
ACTION IN AN IMPERFECT  
INSTITUTIONAL ENVIRONMENT?  
A CASE-STUDY OF THE  
PROFESSIONAL COMMUNITY OF  
ATTORNEYS IN RUSSIA**

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## **WHO DEMANDS COLLECTIVE ACTION IN AN IMPERFECT INSTITUTIONAL ENVIRONMENT? A CASE-STUDY OF THE PROFESSIONAL COMMUNITY OF ATTORNEYS IN RUSSIA<sup>3</sup>**

**Abstract:** We analyse the professional community of attorneys in Russia in order to understand their potential for collective action in an imperfect institutional environment. In 2013 we conducted a survey of 372 attorneys in 9 regions of Russia. Two main hypotheses are tested: 1) lawyers with strong ethical values have higher demand for collective actions; 2) the negative experience of clients rights violation by law enforcement officers can motivate attorneys to support the foundation of a strong professional association. Also we suggest that attorneys' professional community with bona fide members at the core could be an instrument for an estimation of the quality of law enforcement in Russia.

**Keywords:** collective actions, professional community of attorneys, legal ethics, lawyer associations, quality of law enforcement system, violations of the rights of defendants.

**JEL Classification:** K49, D71, L84

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## **Introduction**

After perestroika and the collapse of the Soviet Union, two opposite processes could be observed in Russia. On the one hand, the market transition implied the development of legal regulation and the formation of legal institutions accompanied by a growing demand for legal services (this demand was manifested in a dramatic increase in the number of students enrolling for law degrees). On the other hand, given the weak state and the degradation of the law enforcement system, which was unprepared to deal with the new realities, most economic entities ignored legal requirements (e.g. in the form of large-scale tax evasion, barter and non-payments) or tried to manipulate legal norms (as was the case with the legislation on bankruptcy and joint-stock companies). The consequence of these two processes was the increase of the attorneys' community in size with simultaneous obvious decline in professional standards (manifested in the growth of corruption at universities and the phenomenon of "trade in diplomas").

After Vladimir Putin came to power in the 2000s, the restoration of the state led to the strengthening of the law enforcement system and increased risk for legal noncompliance. However, non-homogeneous staff and a distorted pattern of incentives (caused by the closed nature of the law enforcement system and a lack of public control over it) resulted in a systematic tendency of accusatory court decisions, violent pressure on business, corruption, mass-scale violations of human rights, and a lack of progress in the fight against crime.

The attempts to reform the existing system (on-going legal reform, the reform of the Interior Ministry, the separation of the Investigation Committee and the Prosecution Office) have so far produced no tangible results. The key issue connected with the law enforcement and judicial system reform is their objective evaluation in an absence of independent courts and genuine political competition, and the extremely limited influence of free mass media. Public opinion polls concerning the performance of law enforcement bodies does not provide a reliable picture of the situation as the population at large rarely has to deal with the courts and the prosecution authorities, and any real encounter often has dramatic implications.

We suppose that a professional attorney corporation could be the subject of changes in the legal community in present-day conditions. Attorneys as a special professional group regularly interact with various representatives of law enforcement bodies but are at the same time formally independent from them. The question is to what extent this professional community is ready to become a platform for creating an external evaluation of the law enforcement system and practices. In our survey of 372 attorneys conducted in November-December 2013 in nine regions of Russia, we proposed a mechanism of this sort of "external evaluation" and assess the main incentives for collective action in the attorneys' environment, as such a mechanism can only be launched within a professional community by the efforts of its members.

## **Theoretic approaches to the research of the attorney professional community**

Research of the legal community traditionally proceeds within the framework of the concept of professionalism. This emphasises the privileged status of lawyers equipped with special formal knowledge, ethical standards and a developed professional community [Brante, 1988]. Some researchers note that professional groups follow a "third logic" [Freidson, 2001] distinctive from the logic of the market and the logic of bureaucracy. Interestingly, business associations occupy a similar marginal place between the state and the market [Schneider, 2004] [Yakovlev, 2010], whose mission is to look for a balance between the tasks of the authorities and the interests of

entrepreneurs. Professional groups such as attorneys and physicians also create this sort of association for the protection of their interests [Parsons, 1939], [Halliday, 1987], but at the same time the concept of professionalism does not reduce to the idea of collective action.

Sociologists considered the nature of attorneys' work in terms of a "contract" between society and professionals, in accordance with which the former party provides high status and privileges and the latter undertakes to abide by professional ethics [Evetts, 2003: 400]. This tacit contract is necessary as neither society nor professional groups are capable of controlling the quality of professionals' work in full measure [Saks, 1995]. This is why the issues of professional ethics and its control are key to any professional community, including attorneys.

Abbot distinguishes three conventional levels of professional control: individual, informal, and formal [Abbot, 1983: 861]. Each of these control mechanisms is implemented by entities important for any profession: university, professional community, and the state, respectively. This is precisely why we consider it extremely important to follow the professional paths of Russian attorneys, as their university, work experience, and relationships with other parts of the professional community (above all, law enforcement bodies) determine the views on professional ethics they adhere to.

The specifics of legal ethics provide for the existence of legitimate justifications for seemingly opposite ideological positions [Parker, Evans, 2007: 13-27]. On the one hand, an attorney can present himself as an impartial servant of the law. Presumably, such ethics are more characteristic for judges and prosecutors. On the other hand, a lawyer may work for an individual client and, like a doctor, do everything the client would do for himself if he had the necessary expertise. This approach is traditionally attributed to attorneys. In addition, some lawyers may act from positions of public morality attempting to improve legislation in accordance with the principles of humanism. Such views are generally embraced by the few most prominent and authoritative representatives of the community (e.g. judges of the constitutional court).

At the same time, pursuing the goal of studying the Russian community of attorneys, we cannot presume that this theory will work in practice. However, we proceeded from the thesis that the professional community is not homogeneous. It is divided on the basis of both professional specialisation and ethical principles. From the point of view of the sphere of activity, the legal community in Russia is traditionally categorised into lawyers, private attorneys, international lawyers, public notaries, officers of the Interior Ministry and the prosecution bodies, as well as judges and their staff [Mishina, 2010]. The third logic is characteristic of different representatives of the legal community in different measure. The prosecution offices and the courts are largely exposed to bureaucratic logic. This is evidenced by steady "telephone justice" practices [Paneyakh et al., 2010] and the critical role of president of the court. Volkov and his colleagues [2012] provide numerous examples of the hierarchical practice of court decisions. The heavy-handed system of reporting persisting among law enforcement officers and judges [Paneyakh, 2014] is a manifestation of the fact that the formal level of control of professionalism in those groups prevails over informal peer control or self-control through abidance by ethical standards. Formal regulations in those segments overrule all other considerations, and bureaucratic logic is thriving.

Private attorneys and lawyers at commercial companies are closer to market logic and act from positions of maximising their benefit [Johnson, 1981]. Unfortunately, Russia presently has no research to substantiate or refute this thesis. The community of attorneys is of interest in this context because it lies exactly between the logic of the market and the logic of bureaucracy. On the one hand, attorneys are not appointed by higher-ranking officials, and, on the other hand, their work rules out the possibility to sell their expertise as services [Bear, 1961: 976]. The example of attorneys can be used to see the mutual relations between ethical standards, informal professional standards and formal regulations.

The classification of the community of attorneys on the basis of the attitude towards matters of professional ethics does not coincide with its professional segmentation. A number of foreign surveys highlight the following types of lawyers: those concerned about the public benefit, oriented to corporate values, and aiming at personal benefit [Tapp, Levine 1974], [Mindes, Acock, Trickster, 1982], [Overman, Foss, 1991]. These motivations can be characteristic of law enforcement officers and attorneys. The crucial issue is the interrelation of these ethical views inside each professional community. Legal departments of universities play a prominent role in this respect [Erlanger, Klegon, 1978], [Mertz, 2007], [Kazun, 2013] as they form certain normative patterns among future professionals.

Launching a survey of the community of attorneys, we expected to establish the dynamics of these values and their dependence on the biographical and professional characteristics of the attorney. The status of attorneys between society and the law enforcement system makes their opinion extremely important for understanding the problems and development prospects of the entire legal community. There is an opinion that lawyers in Russia have traditionally been on the fringes, in a sort of isolation [Poludniakova, 1987], whereas prosecutors and judges occupied a central position. The accusatory tendency in the administration of justice makes full acquittal of their clients practically impossible—the share of acquittals in Russian courts has not exceeded 1% for over 20 years now [Volkov et al., 2012]. It is interesting, however, that a similar situation is observed throughout the entire post-Soviet space: in Latvia, Poland, Ukraine, Georgia, and Bulgaria. [Troshev, 2012].

These problems could and should be addressed by a strong professional association including the majority of members of the attorney community and be capable of efficiently lobbying their collective interests at the level of the state (similar to the American Bar Association). The specific position of Russian attorneys consists in the operation of a whole number of professional lawyer associations, but it seems that so far they have not been fulfilling these functions.

In this context the approaches used by a number of researchers for analysing the formation of business associations in developing countries are useful for studying the development of the an attorney community in Russia. Specifically, [Locke, 2001] shows using the case of Brazil and Southern Italy that business associations can ensure community coordination, contribute to the strengthening of trust between the main players and the establishment of a dialogue with the state even if market and state institutions are weak. With this end in view, business associations should cover three main phases: formation of demand within the community, support from the state in return, and an increase of the association's authority and independence in response to the support received. As we shall see, professional associations of attorneys in Russia are currently close to the second phase of this process. The development of a truly authoritative professional

association is possible only with collective action aimed at strengthening the trust toward the professional community.

### **Attorney professional community in the Soviet Union and in Russia**

The professional corporation of attorneys in Russia has a long history. The status of attorney at law performing the functions of a defence counsel in a court trial was introduced as part of the judicial reform in 1864. After the October revolution in 1917, the Bolsheviks decided that the new communist society had no place for the legal profession. Therefore a 1917 decree of the Council of People's Commissars "on the Court" abolished the institution of the bar in Russia. However, as early as 1922 the Provision on the Bar Council returned the defence attorney to the judicial process. Moreover, attorneys were granted the right to create associations.

In the Soviet Union, attorneys could provide their services only to private individuals, which explained their specialisation primarily in criminal and family law. They were largely independent of the party bureaucracy system, which gave them a unique status of a "free profession" [Mrowczynski, 2012]. From the point of view of professionalism described above, autonomy is crucial for professional projects as professionals can obtain high social status and efficiently pursue their interests [Larson, 1977]. Attorneys in the Soviet Union enjoyed such high status. In addition, attorneys had opportunities for informal income [Mrowczynski, 2012: 106], which strengthened their position in Soviet society even more. According to the Provision on the Bar adopted in 1939, attorneys had a right to pool into associations organised on the basis of the regional principle. In keeping with the Provision, a person with higher legal education, a graduate of a law school, or a person with three year's experience working at a court or the prosecution office was eligible to practice law as an attorney. Such requirements are very important within the framework of the concept of professionalism for the formation of a strong community enjoying privileged status. During the pre-war period, the requirement of obligatory higher legal education was not set even with respect of judges. In 1946, 14.6 per cent of judges in the Soviet Union had higher legal education [Pozdnyakov, 2013: 105], the share of attorneys with a university degree in 1947 was 41.7 per cent [Razi, 1960], which means significant professional superiority of attorneys. Therefore, attorneys were the elite among the legal community up to the collapse of the Soviet Union.

With the beginning of perestroika bar associations started losing their positions as entry barriers to the profession radically declined [Barshcevsky, 2000]. The Russian attorneys did not become formally organised into a single association until 2000 (whereas in Poland it was organised much earlier [Mrowczynski, 2012]). The Soviet Lawyers' Union was created in 1989, but only lasted until 1991. The collapse of the Soviet Union was followed by considerable a dilution of the attorneys' community as it was joined by a large number of lawyers from the prosecution offices, courts and other agencies. The rapid growth of the legal community started in the last of the Soviet years, in 1965 universities were annually preparing only 6900 graduates in law, while in 1980, 40 legal departments and 4 legal universities prepared 16,700 graduates [Feldbrugge, Berg, Simons, 1985: 473]. During these 15 years the total size of the legal community in the Soviet Union has actually doubled (from 100,000 to 200,000 lawyers with higher education).

In 1970, the Soviet Union had 15,000 attorneys (i.e. one attorney per almost 16,000 residents) and 40,000 legal advisers. In 1980, 20,000 attorneys were practicing law in the Soviet Union (13,000 residents per attorney) and 70,000 legal advisers [Feldbrugge, Berg, Simons, 1985: 473].

The growth of the attorneys' community in the 1970s and 1980s proceeded at a much slower pace than the growth in other segments of the legal profession, which speaks of the relatively closed nature of the attorneys' community in those years.

According to different estimates, the ratio of attorneys in the Russian Federation in the 1990s (taking into account the population decrease as compared to the Soviet period) grew 4-5 fold [Mrowczynski, 2012]). An important change in lawyer activity after the collapse of the Soviet Union was the opportunity of working in the commercial sphere. An increase in the number of private companies brought about a need for qualified lawyers. The emergence of the market has become a driving force for increasing financial incentives for joining the profession, which entailed an even more rapid growth in the number of lawyers and legal departments at universities.

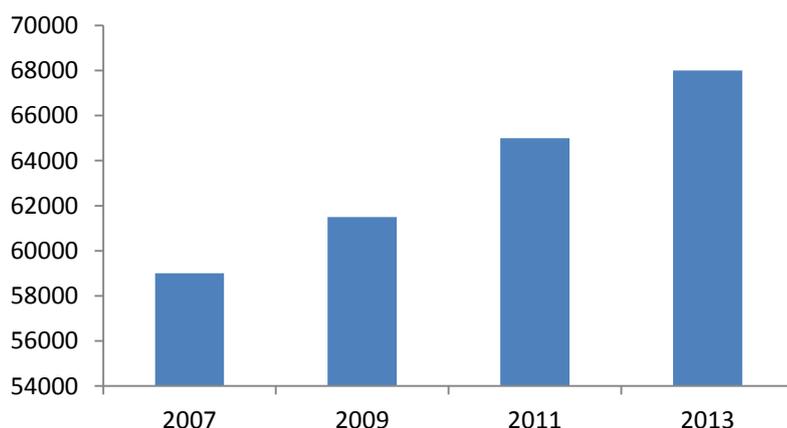
According to the Association of Lawyers of Russia, 166,000 students were annually receiving legal education in Russia as of 2009 (which is 10 times more than in the Soviet Union in the 1980s). Although far from all graduates work within their specialty, this excess of new specialists results in a devaluation of diplomas and a gradual dilution of the boundaries of the legal community.

The reform of the legal practice market by the adoption of the Federal Law on Legal Practice and Advocacy in the Russian Federation on 31 May 2002 led to the formation in 2003 of the Federal Chamber of Lawyers with compulsory membership for all attorneys in its regional branches. The merger of the Russian Law Society and the Law Society of Russia in 2005 resulted in the creation of the Association of Lawyers of Russia.

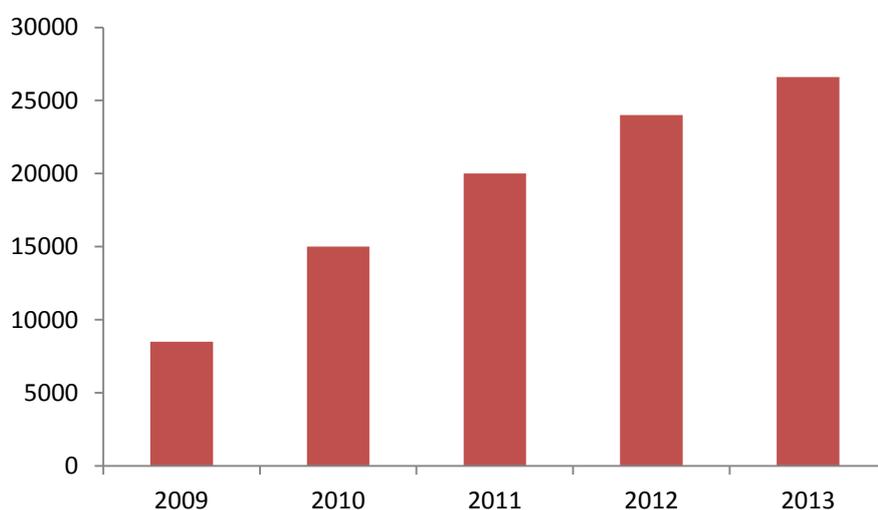
### **State of the attorneys' professional community in contemporary Russia**

Despite the membership of a number of high-ranking officials in the Association of Lawyers of Russia (including Russian President Vladimir Putin and Premier Dmitry Medvedev), according to the data for 28 October 2013, there were only 2,030 attorneys among its members (i.e. amount 3 per cent of the total). At the same time, there is 2.5 per cent annual growth in the number of attorneys registered in Russia during the past five years and growth in the number of lawyers who are members of the Association of Lawyers of Russia, although this does not account for the number of attorneys.

### Dynamics of the number of attorneys in Russia (according to data of the Federal Chamber of Lawyers)



### Dynamics of the number of members of the Association of Lawyers of Russia



Although the absolute number of attorneys in Russia is growing, the proportion of the number of attorneys to the size of the population is slightly below the figures for European countries. A comparative evaluation of the number of attorneys is complicated by the fact that not all countries make a distinction between attorneys and lawyers, and not all countries have data on the share of attorneys in the legal community. Taking into account the 300,000 private attorneys in Russia, there are 390 residents per lawyer in Russia, which exceeds the figures for Germany, Ukraine and Poland, but is lower than the level of the United States and Italy.

**Table 1. Number of lawyers in different countries of the world**

Country	Number of attorneys (thousand)	Residents per attorney
USA	1260	248
Italy	234	260
Germany	158	516
Romania	24	885
Ukraine	50	911
India	1300	951
France	54	1221
Latvia	1,35	1500
Turkey	46	1658
Russia	68 (368*)	2100 (390*)
Poland	10,4 (40,5**)	3700 (950**)
Belarus	2	4730

*Note: number of attorneys according to the information of the Council of Bars and Law Societies of Europe for 2012, for Russia – according to the information of the Federal Chamber of Lawyers for 2013; \* number including private attorneys; \*\* number including legal advisers (for more details in their activity see [Mrowczynski, 2012]).*

A considerable part of legal services in Russia are being rendered by persons who have not taken a bar exam. This means there is a lack of control over the quality of professional training and legal ethics of most market participants who are not members of either lawyers' chambers or professional associations. This state of affairs was negatively assessed by attorneys who agreed to grant us an interview and they also expressed full support (91%) of the "attorney monopoly". However, the quality of work of 68,000 attorneys cannot be univocally characterised as high. For example in April 2014, Mikhail Barshevsky, speaking at the 1<sup>st</sup> All-Russian Conference of Experts working at the Institute of the Russian Presidential Commissioner for Entrepreneurs' Rights on "pro bono publico" terms, voiced the provocative thesis that only 50 to 100 Moscow attorneys out of the total 10,000 have sufficient qualification.

After the collapse of the Soviet Union the number of attorneys in Russia radically increased [Mrowczynski, 2012], whereas there was no bar exam at that time. This could eventually lead to a decline in the quality of work of attorneys and dilution of professional values. This is exactly why it was important for us to register the differences in the views of attorneys representing different generations.

### **Sample frame formation**

The research of the legal community encounters the problem of opposition to the normativism. Lawyers refer to concrete regulations and consider their profession in the categories of the "normative standard" as opposed to the empirical approach relying on analysis of actual conduct. Volkov et al. [2012] came across this difficulty when considering the way Russian judges are issuing decisions. The actual state of affairs often differs from regulatory prescriptions. Within this context, the task of studying the attorneys' community is not different from the survey of Russian judges. This community should be analysed on the basis of real legal practices rather than legal acts regulating such practices.

However, the problem of normativism does not end at this point. It created considerable challenges during the preparation of the questionnaire form. Lawyers often have a ready answer to many questions, referring to some or other regulation. This is why we held six in-depth non-formalised interviews with attorneys and a number of meetings with representatives of the legal community in order to ascertain that our questions were properly formulated and do not allow dual interpretation.

The final version of the questionnaire on the whole reflects the aspects of the research on legal community described above. Within the context of questions regarding different levels of professional control we paid considerable attention to the problem of ethics as well as professional paths of attorneys. Trying to shed light on the issue of the isolation of the attorneys' community and its role in conditions of the existing accusatory judicial tendency we asked questions about interactions with representatives of the law enforcement and judicial systems and the reasons which could have brought about such a small number of acquittals.

Considering the increasing number of attorneys in Russia, we asked about the demand for attorneys and asked whether the quality of services was changing. With 300,000 private attorneys, the idea of introducing attorney monopoly was quite important, as were questions concerning the current reforms of the law enforcement and judicial systems as a whole.

Finally, we devoted one block of questions to the formation of a professional community and the role of legal associations in the activity of attorneys. A more detailed description of our survey is presented in Box 1.

***Box 1. Survey characteristics***

The project of the Institute for Industrial and Market Studies (IIMS), University – Higher School of Economics (HSE) involved the survey of 372 attorneys from nine Russian regions representing all federal districts. The survey was conducted on the basis of a formalised questionnaire. The list of regions and the number of respondents in each of them are presented in Table 1 of the Attachment. The survey was conducted through regional branches of the Association of Lawyers of Russia (ALR). Since one of the purposes of the survey was to establish the differences between ALR members and non-members, minimal quotas of respondents in each of these groups were set for each region, which provided an opportunity of conducting comparative analysis. As a result, as we can see from Table 1, the share of attorneys who are ALR members in our sample considerably exceeds the share of attorneys – ALR members in the aggregate membership of attorneys in relevant regions (40% vs 3%). It should be noted that our sample has a wider representation of attorneys operating within bar associations and law offices and a much lesser representation of attorneys operating through legal advice offices as compared to the general total (see Table 2). In addition to the formalised questioning, the IIMS HSE experts held six in-depth non-formalised interviews with attorneys.

To evaluate the potential incentives of the attorneys' professional community for collective action, we made the following hypotheses:

*Hypothesis 1. Demand for collective action (exercised via professional associations) will, first and foremost, be expressed by attorneys with high ethical standards.*

The risks of the declining reputation of the professional community are more tangible to them and may be manifested in an overall drop of prices for legal services due to a lack of quality signals (similar to the market of lemons described by George Akerlof [Akerlof, 1970]).

*Hypothesis 2. A personal encounter with violations of the rights of defendants by law enforcement bodies will be an incentive for their collection action.*

This circumstance may be indirectly registered through attorney assessments of the existing law enforcement practices and the reasons of the “accusatory” tendency.

## **A brief portrait of an attorney**

According to the data presented in the Attachment (Tables 3.1 and 3.2), the average age of our respondents is 40 and their average professional experience 9 years. 42% of the attorneys received their legal education before the 2000s (46% of ALR members), approximately 30% of respondents took a distance course in jurisprudence. 28% of respondents became attorneys immediately after graduation, 20% joined the bar after working at commercial companies. 19% of attorneys who were ALR members were previously employed in the law enforcement and judicial systems, and share among ALR non-members is 27.5%. On the whole, in the opinion of most attorneys (57% of ALR members and 73% of ALR non-members), new attorneys often join the profession today having experience at law enforcement agencies.

25% of ALR members and 33% of ALR non-members received distance legal education, . The share of respondents with distance education is considerably higher among those who were admitted to the bar from law enforcement agencies and the judiciary system (35% and 45%, respectively). We also asked our respondents whether they share the opinion that some attorneys act as intermediaries between the legal system and their clients, helping them achieve a certain outcome of the case. 22% of respondents consider this widespread practice, and 60% said this happens from time to time.

We did not directly ask the respondents about their income level as the share of refusals is traditionally high. Nevertheless, we received over 300 responses concerning approximate amounts of income of attorneys with different work experience. ALR members consider that the average income of a novice to the profession is 29,000 roubles per month, while the incomes of an experienced attorney are approximately 114,000 roubles per month. The same estimates made by respondents who are not ALR members are 23,000 roubles and 103,000 roubles, respectively.

## **Incentives for collective action 1: ethical principles**

The findings show that members of the attorney community with a higher level of ethical standards are more enthusiastic about the idea of the need for a strong professional association (see Attachment, Table 4).

The point at issue is the values for reputation (professional level of control according to Abbot [1983]). For an attorney oriented toward personal benefit a strong professional association could become an obstacle, for it may produce additional signals concerning the quality of services: developing professional standards, drawing up blacklists of unscrupulous entities and inadequate universities, controlling abundance by ethical standards, etc.

The non-homogeneity of the attorneys' professional community is substantiated by our findings. Our cluster analysis (see Attachment C) enables the classification of attorneys into three groups, conventionally called "reputation-oriented," "holders of a cynical view of the profession," and "benefit-oriented." The latter category is the least complete, which meets our initial assumptions that attorneys oriented toward personal benefit less frequently agreed to answer our questionnaire.

The remaining part of the attorney community is divided into two approximately equal groups depending on the "image of the profession" formed by the attorney (see detailed description of the groups in the Attachment). Part of the legal community is sure that the population does not trust lawyers (70%) and that the verdict in a criminal case is more important than the truth (50%). They also believe that an honest lawyer cannot make a career in public law bodies (47%). Only 13% of attorneys in this group regard lawyers as examples of honest, law abiding and ethical professionals. At the same time, almost all "reputation-oriented" attorneys agree with this opinion (94%), and all of them are convinced (99%) that a lawyer must treat his clients equally regardless of their financial status. Precisely this category of attorneys particularly favours the idea of creation of a strong professional association.

However, attorneys with a cynical view of the profession also demand collective action much more often than those who are oriented toward personal benefit. For them, an association may also be a means of rectifying the current situation and returning prestige to the profession.

It can be asserted, therefore, that the legal community has a certain nucleus sharing ethical values and expressing demand for collective action, and a group of attorneys who would potentially join such an association. In this case both positive orientations ("community development") and negative motivation ("rectify the situation") may become an incentive for development of the professional community and collective action. Attorneys oriented toward personal benefit and ready to leave the profession for more favourable opportunities are much less inclined toward collective action. Such attorneys may be interested in association membership only from the point of view of obtaining an additional status.

Recent years have witnessed a certain dilution of professional values within the attorney community: lawyers become increasingly oriented toward personal benefit rather than professional reputation (see Attachment, Table 5). Two thirds of benefit-oriented attorneys and attorneys with a cynical view of the profession (65% and 64%) received their higher education after the 2000s. Similar tendencies were revealed during the survey conducted on the basis of a similar methodology at legal departments of Russian universities: most students develop a negative image of the profession as they progress from the first to the last year [Kazun, 2013]. Thus, the degradation of professional values may eventually become a serious obstacle to the development of a professional community.

## **Incentives for collective action 2: facing injustice**

Questions concerning the violations of client rights by representatives of various law enforcement bodies (police, investigators, prosecutors) were included in the questionnaire for the purpose of testing the sample frame for the possible evaluation of the performance of the entire law enforcement system. These questions allow the identification of centres of contagion—regions in which some or other agency violates client rights more frequently (see Attachment, Table 6).

The table shows a statistically significant strong regional variation in the number of such violations by various agencies. The worst assessments were given to Moscow, Moscow Region, the Far Eastern Federal District, and—in respect of police—the Sverdlovsk Region. In our opinion, the quality of the law enforcement systems in different regions should be evaluated in comparison with other regions and average indicators, rather than on the basis of absolute numbers which may be slightly higher as attorneys and law enforcement officers are often ex officio in opposition to each other. We plan to conduct a Russia-wide survey, which will allow a comparison of the performance of law enforcement agencies and the situation in different regions of Russia on the basis of attorney assessments.

There are differences in evaluations of the scopes of violations of client rights inside the attorney community itself (Attachment, Table 7). Violations of client rights are most often registered by bar attorneys. Attorneys regularly encountering violations of client rights much more frequently see the reason in a lack of independent courts (89% against 47% who rarely encounter such violations). Moreover, one third believe that attorneys very frequently act as intermediaries between the client and the justice system for the purpose of attaining a certain outcome of the case (respondents granting in-depth interviews referred to such attorneys as “deciders”). The cluster of attorneys oriented toward personal benefit are closest to “deciders” in terms of values and less frequently register violations by investigators and police officers. Attorneys who often register violations frequently have a negative image of the profession.

We are particularly interested in the fact that attorneys who see frequent abuses by law enforcement agencies are more active in their support of a strong professional association (Attachment, Table 7) which could perform controlling and representative functions. They see in such an association the possibility of influencing the authorities for the purposes of overcoming the problems of the law enforcement system which they encounter in their practice.

The review of the problem of violent pressure on business based on the case of the Centre of Public Procedures “Business against Corruption” (CPP BAC) shows that facing injustice can actually be a catalyst of the process of collective action [Yakovlev, Sobolev, Kazun, 2014]. CPP BAC already has several examples of protection of businessmen against unscrupulous representatives of the law enforcement system, which would hardly be possible without dozens of experts from the legal community ready to work on pro bono terms.

However, we cannot assert that this pattern is not a coincidence or a derivative of something else (e.g. value orientations) before conducting a system analysis of all factors influencing the demand for collective action. We therefore proceed to regression analysis of data.

## Regression analysis: hypotheses testing

To test the patterns by ordinal logistic regression we constructed a variable based on 5 questions about whether the legal community needs a professional association fulfilling one of the following functions: screening draft laws, control over the quality of legal education, control over professional ethics, holding congresses and conferences, and representing the interests of the community at the state level. All respondents were categorised into 6 groups depending on the number of times they answered that such an association is “definitely needed” (from 0 to 5 times). We used the factors based on variables of ethical values and the question of the frequency of encountering violations of client rights as the main regressors. We added control variables for education, work experience, specialisation, their membership in the ALR, and also a dummy for the region and the sphere of previous work.

### Regression models 1 and 2 (ordinal logistic regression)

Number of regression model	1		2	
	Estimate	Sig.	Estimate	Sig.
<b>Dependent variable: «See a need for a professional association» (from 0 to 5)</b>				
<b>Independent variables</b>				
The factor of “cynical view of the profession”*	0.13	0.25	0.09	0.43
The factor of “maximising benefit”*	-0.25	<b>0.04</b>	-0.25	<b>0.04</b>
The factor of “professional level of control”*	0.34	<b>0.00</b>	0.37	<b>0.00</b>
Rarely encounter violations			-1.16	<b>0.00</b>
Sometimes encounter violations			-0.50	<b>0.05</b>
Often encounter violations			0a	.
<b>Control variables</b>				
Distance or evening-time education	-0.42	0.09	-0.39	0.12
Specialisation in business	-0.44	0.07	-0.52	0.06
Work beyond the bar	0.18	0.49	0.30	0.26
Sex	-0.21	0.38	-0.25	0.29
Age	-0.01	0.51	-0.01	0.50
ALR membership	-0.01	0.96	-0.01	0.95
Region control	yes		yes	
Previous work sphere control	yes		yes	
<b>R square</b>	<b>0.18</b>		<b>0.22</b>	
<b>N</b>	<b>298</b>		<b>292</b>	

Note:\* see description of the factors in Attachment B.

Regression model 1 substantiates our hypothesis that reputation-oriented attorneys (professional level of control according to [Abbot, 1983]) express greater demand for collective action. At the same time, attorneys striving for maximising their personal benefit are less interested in the activity of a professional association (the factor of “benefit maximising” is significant with a negative sign). In addition, the “negative image of the profession” does not impact attorneys’ support of collective action.

After adding a variable characterising the frequency of violations of the rights of attorneys’ clients by police, investigation and prosecution officers to the regression, factors connected with the value orientations maintain their significance while the explanatory power of the model

increases. This outcome confirms our assumption that experiencing violations by law enforcement bodies provides additional motivation for an attorney's participation in "collective action."

## **Conclusion**

The findings point to a strong qualitative inhomogeneity in the attorney community, differing in ethical values and readiness to participate in professional associations. There is an alarming tendency for negative selection in the legal profession caused by the dilution of professional boundaries and the growth in the number of "deciders." Most attorneys note the deteriorating quality of legal education and the overproduction of lawyers with university degrees. This leads to a decline of ethical values and the forming of a negative image of the profession characteristic of legal students and the attorneys' professional community.

At the same time, we know from the literature on business associations that the development of standards through professional associations relies on the sector's healthy nucleus. The collective action of attorneys could be aimed at creating such quality signals for consumers of legal services. An example of such a signal is the project of the Association of Lawyers of Russia on the accreditation of legal departments in Russian universities. The question is: to what extent is the Russian attorney community ready for such action?

Our survey demonstrated that the attorney community still has a healthy nucleus which could initiate collective action to develop and support professional standards and enhance the social status of attorneys. This initiation would come from attorneys oriented toward professional reputations rather than personal benefit, especially those who regularly encounter violations of client rights by law enforcement officers. This is precisely why one of the possible incentives for launching collective action would be the creation of a public mechanism for the assessment of the law enforcement and judiciary systems.

We are aware that our assumptions are preliminary and require testing on a wider body of data – through a representative all-Russian survey. We hope the findings of our pilot project and their public discussion will stimulate collective action in the Russian attorney community.

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### Attachment A.

**Table 1. Total number of respondent attorneys and attorneys registered in the regions of the survey**

	<b>Total respondents</b>	<b>Including ALR members</b>	<b>Attorneys in the region</b>	<b>Attorneys in ALR</b>
Volgograd Region	41	19	1277	21
Vologda Region	35	14	392	25
Far Eastern Federal District	28	16	1301	37
Krasnoyarsk Territory	40	22	2759	121
Moscow	39	15	8346	174
Moscow Region	42	16	5130	91
Penza Region	66	16	456	40
Sverdlovsk Region	41	24	1949	63
Stavropol Territory	40	9	1510	120
<b>Total:</b>	<b>372</b>	<b>151</b>		

**Table 2. Form of legal practice**

	<b>Respondents</b>			<b>% of the sample</b>	<b>% according to data of the Federal Chamber of Lawyers</b>
	Total (n)	% of ALR members	% of ALR non-members		
<b>Bar association</b>	278	71	78.6	74.7	66
<b>Law office</b>	21	11.3	2	5.6	4.8
<b>Legal advice</b>	57	12.6	17	15.3	28.1
<b>Legal counselling office</b>	11	4.6	1.5	3	0.3

**Table 3.1 Main descriptive statistics**

	<b>ALR member</b>	<b>ALR non-member</b>	<b>Total</b>
Share of males (%)	60	54	56.5
Average age (years)	40	39	40
Married (%)	67	63	65
Average experience of attorney's work (years)	10	8	9
Share of those who received legal education before the 2000's (%)	46	37	42
<b>Form of education (%)</b>			
Full-time	67	61	64
Evening course	8	6	7
Distance course	25	33	29
<b>Specialisation by types of clients</b>			
Population (over 60%)	46%	74%	62%
Business (over 60%)	26%	12%	18%
Mixed	28%	15%	20%
<b>Attorneys' estimate of the average income of their colleagues with different work experience (roubles per month)</b>			
Novice	29,000	23,000	26,000
1-3 years of experience	36,000	31,000	33,000
Experienced attorney	114,000	103,000	108,000

**Table 3.2. Sphere from which the respondents came to the bar (%)**

	<b>ALR</b>	<b>Non-ALR</b>	<b>Sample at large</b>
Immediately after graduation	27	29	28
From private legal practice	18	12	14
From a commercial organisation	18	20	19
From law enforcement bodies	15	22	19
From the judiciary system	4	6	5
From public administration agencies	9	5	7
From scientific/educational institutions	3	2	2
From other public sector organisations	3	3	3
Other	3	2	3

**Table 4. Relationship between ethical values and the position concerning the need for a strong professional association**

		Attorneys need a strong professional association...		
Thesis	Position	For screening draft laws	For enhancing control over the quality of legal education	For control of compliance with professional ethics by lawyers
“If my peer regularly violates professional ethics norms I would prefer not to work with him”	Disagree	33%	36%	28%
	Agree	<b>53%</b>	<b>53%</b>	<b>52%</b>
“The opinion of a lawyer’s peers about his professional competence is very important to him”	Disagree	38%	38%	38%
	Agree	<b>56%</b>	<b>57%</b>	<b>55%</b>
“A private attorney should first and foremost think about his personal income, and only afterwards about the client’s benefit”	Disagree	<b>53%</b>	<b>54%</b>	<b>51%</b>
	Agree	29%	27%	37%
“A lawyer should treat all clients equally, regardless of their financial status, social standing, education, etc.”	Disagree	45%	43%	43%
	Agree	<b>51%</b>	<b>52%</b>	<b>50%</b>
“Lawyers make money out of “loopholes” in the legislation”	Disagree	42%	46%	46%
	Agree	<b>62%</b>	<b>56%</b>	<b>54%</b>

**Table 5. Difference in ethical values of different generations of attorneys**

Received legal education in	1970’s-80’s	1990’s	2000’s-2010’s	Students*
“If my peer regularly violates professional ethics norms I would prefer not to work with him”	92%	91%	80%	62%
“The opinion of a lawyer’s peers about his professional competence is very important to him”	75%	74%	59%	41%
“A private attorney should first and foremost think about his personal income, and only afterwards about the client’s benefit”	12%	11%	18%	22%

**Table 6. Violation of clients' rights by law enforcement bodies by the region (% of attorneys admitting that violations are frequent)**

Region	Prosecutors	Investigators	Police
Volgograd Region	18%	33%	48%
Vologda Region	13%	21%	36%
Far Eastern Federal District	50%	52%	74%
Krasnoyarsk Territory	30%	54%	51%
Moscow	34%	71%	68%
Moscow Region	33%	79%	77%
Penza Region	15%	32%	47%
Sverdlovsk Region	16%	49%	76%
Stavropol Territory	43%	58%	64%
Average estimate for 9 regions	28%	50%	60%

**Table 7. Distinguishing features of attorneys frequently encountering violations of clients' rights**

Variable	Seldom encounter violations	Sometimes encounter violations	Regularly encounter violations	Sample as a whole
Work at a bar association	73%	74%	<b>83%</b>	76%
The reason behind the accusatory tendency is the lack of genuine independence of courts	47%	80%	<b>89%</b>	75%
Believe that attorneys often act as intermediaries between the clients and the justice system attaining a certain outcome of the case	19%	21%	<b>33%</b>	23%
Agree that "the opinion of a lawyer's peers about his professional competence is very important to him"	57%	67%	<b>71%</b>	66%
<i>Believe that attorneys definitely need an association for screening draft laws</i>	38%	47%	<b>64%</b>	49%
<i>Believe that attorneys definitely need an association for controlling ethics compliance</i>	31%	47%	<b>71%</b>	50%

## Attachment B. Factor analysis

Statement about values	“Negative image of the profession”	“Maximising benefit”	“Profession level of control”
“An honest lawyer cannot make a career in public law bodies”	0.648		
“Lawyers make money out of “loopholes” in the legislation”	0.582		
“The verdict rather than the establishment of the truth is important in a criminal case”	0.561		
“Russians who have no legal education often mistrust lawyers”	0.395		
“If my peer regularly violates professional ethics norms I would prefer not to work with him”		-0.743	
“I am prepared to give up my profession if I find a job with a higher level of salary but not in the same specialty”		0.615	
“A private attorney should first and foremost think about his personal income, and only afterwards about the client’s benefit”		0.466	
“The profession of a lawyer in Russia is an example of honest, law abiding and ethical professional conduct”			0.687
“The opinion of a lawyer’s peers about his professional competence is very important to him”			0.604
“A lawyer should treat all clients equally, regardless of their financial status, social standing, education, etc.”			0.562

**Note:** Rotation by the “Varimax” method. The table does not show figures below 0.33.

## Attachment C. Cluster analysis

The clusters were constructed on the basis of factors (Attachment B).

Cluster	Reputation-oriented	Holders of the “negative image of the profession”	Benefit-oriented
<b>Factor</b>			
“Negative image of the profession”	-0.17353	<b>0.50392</b>	-0.54648
“Maximising benefit”	-0.23983	-0.46987	<b>1.48018</b>
“Professional level of control”	<b>0.76307</b>	-0.74578	-0.41468

**Basic characteristics of clusters**

	Reputation-oriented	Holders of the “negative image of the profession”	Benefit-oriented
N	145	111	60
Males	55%	59%	51%
ALR members	38%	44%	57%
Average age	40 years	38 years	38 years
Specialisation in client categories			
Population (over 60% of clients)	63%	61%	50%
Business (over 60% of clients)	17%	21%	16%
Mixed specialisation	20%	18%	34%

### Description of clusters

Statements about values	Reputation-oriented	Holders of the “negative image of the profession”	Benefit-oriented
“If my peer regularly violates professional ethics norms I would prefer not to work with him”	92%	99%	33%
“The profession of a lawyer in Russia is an example of honest, law abiding and ethical professional conduct”	94%	13%	57%
“The opinion of a lawyer’s peers about his professional competence is very important to him”	83%	64%	32%
“I am prepared to give up my profession if I find a job with a higher level of salary but not in the same specialty”	10%	20%	63%
“An honest lawyer cannot make a career in public law bodies”	22%	47%	18%
“The verdict rather than the establishment of the truth is important in a criminal case”	39%	50%	43%
“Russians who have no legal education often mistrust lawyers”	50%	70%	45%
“A private attorney should first and foremost think about his personal income, and only afterwards about the client’s benefit”	10%	12%	30%
“A lawyer should treat all clients equally, regardless of their financial status, social standing, education, etc.”	99%	70%	63%
<b>During the past 10 years people started feeling less respect for attorneys</b>	18%	<b>46%</b>	19%
<b>The following attributes are or paramount importance to an attorney:</b>			
Honest reputation	85%	66%	52%
Good references	75%	78%	58%
Work experience	82%	73%	59%

<b>The registered violations of clients' rights are often committed by...</b>			
<b>Prosecutors</b>	20%	<b>30%</b>	25%
<b>Investigators</b>	47%	<b>57%</b>	36%
<b>Police</b>	58%	<b>65%</b>	48%
<b>Feel a need for a strong professional association performing the following functions</b>			
Public screening of draft laws	<b>50%</b>	36%	13%
Enhancement and control of the quality of legal education	<b>52%</b>	36%	13%
Free legal assistance to the population	<b>50%</b>	35%	16%
Holding conferences and congresses, exchange of experience and information within the professional community	<b>48%</b>	37%	16%
Control of lawyers' compliance with professional ethics	<b>52%</b>	35%	12%

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