

# Judging Russia

**CONSTITUTIONAL COURT IN RUSSIAN  
POLITICS, 1990-2006**

**Alexei Trochev**

**Queen's University**

**CAMBRIDGE**  
UNIVERSITY PRESS

# Contents

<i>List of Figures and Tables</i>	page	viii
<i>Acknowledgments</i>		ix
<i>Abbreviations</i>		xi
<i>Notes on Transliteration</i>		xii
<b>i</b> Introduction: Three Puzzles of Postcommunist Judicial Empowerment		<b>i</b>
Judicial (Dis) Empowerment in Context		4
Why Russia?		10
The Sources of Data		13
Overview of the Book		15
<b>2.</b> Nonlinear Judicial Empowerment		<b>19</b>
Design, Judging, and Compliance: A Trilateral Dynamic of Judicial Review		19
New Courts in New Polities: Nonlinear Judicial Empowerment	-	24
Nonlinearity in Transitional Judicial Politics		38
Conclusion		52
<b>3</b> Making and Remaking Constitutional Review, Russian-Style		<b>54</b>
Creating the USSR Constitutional Supervision Committee: 1988-1990		55
Designing the 1st Russian Constitutional Court: 1990-1991		61
Redesigning the Russian Constitutional Court: The 1993 Constitutional Convention		73

	Enacting the 1994 <i>Russian Constitutional Court Act</i>	~iy
	<b>Tinkering with the 1994 <i>Russian Constitutional Court Act</i></b>	
	<i>Act</i>	85
	Conclusion	90
4	<b>Russian Constitutional Review in Action (1990-1993)</b>	93
	Decision Making of the USSR Constitutional Supervision Committee: 1990-1991	95
	Decision Making of the 1st Russian Constitutional Court: 1992-1993	99
	Defining Separation of Powers	104
	<b>Defining</b> Russian Federalism	109
	Protecting Constitutional Rights	111
	Conclusion	115
5	<i>Decision Making of the 2nd Russian Constitutional Court: 1995-1006</i>	118
	Decision-Making Procedures, Decisions, and Caseload	120
	Defining Separation of Powers	127
	Defining Russian Federalism	X39
	Protecting Constitutional Rights	158
	Creating Rights	166
	Scrutinizing Limits on Basic Rights: Proportionality, Russian-Style	168
	Constitutional Principles: Written, Unwritten, and Borrowed	173
	Constitutional Equality: Formal and Real	177
	Elaborating Fairness	179
	Conclusion	
	The Constitutional Court Has Ruled – What Next?	188
	The Failure of the USSR Constitutional Supervision Committee: 1990-1991	^9
	The Rise and Fall of the 1st Russian Constitutional Court: 1992-1993	191
	Implementing Judgments in the "Separation-of-Powers" Cases	191
	Implementing Judgments in the "Federalism" Cases	195
	Implementing Judgments in Constitutional Rights Cases	200
	Conclusion	205

7	The 2nd Russian Constitutional Court (1995-2007): <i>Problematique</i> of Implementation	207
	Enforcing the Separation of Powers	209
	"War of Courts," Russian-Style	214
	Policing Russian Federalism	221
	Rights Revolutions Unfulfilled	228
	Due Process Rights in Criminal Procedure	230
	Rights of Bona Fide Taxpayers	235
	Social Rights: (Not) Compensating the Victims of Stalin's Purges	2.40
	Regional Defiance: Land, Elections, and <i>Propiska</i>	243
	The Public Image of the Russian Constitutional Court	247
	Conclusion	254
8	"Tinkering with Judicial Tenure" and "Wars of Courts" in Comparative Perspective	2.58
	"Tinkering with Judicial Tenure" in Comparative Perspective	259
	"Wars of Courts" in Comparative Perspective	265
	Conclusion	282
9	Conclusion: Zigzagging Judicial Power	2.85
	Puzzle 1: Zigzags in Designing Russian Constitutional Review	286
	Puzzle 2: Russian Constitutional Review in Action	287
	Puzzle 3: Successes and Failures in Implementing Russian Constitutional Court Decisions	289
	Puzzle 3.1: The "War of Courts" in the Russian Federation	292
	Summary	294
	Alternative Explanations of Russian Experiments with Constitutional Review	295
	Conclusion	300
	<i>Appendix</i>	3°5
	<i>Bibliography</i>	307
	<i>Statutes and Decrees</i>	337
	<i>Court Decisions</i>	<b>34<sup>1</sup></b>
	<i>Index</i>	353