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THE LAW: BUSINESS OF PROFESSION? THE CONTINUING  
RELEVANCE OF JULIUS HENRY COHEN FOR THE PRACTICE OF  
LAW IN THE TWENTY-FIRST CENTURY

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## Dichotomy No Longer? The Role of the Private Business Sector in Educating the Future Russian Legal Professions

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# DICHOTOMY NO LONGER? THE ROLE OF THE PRIVATE BUSINESS SECTOR IN EDUCATING THE FUTURE RUSSIAN LEGAL PROFESSIONS

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Introduction .....	283
I. Julius Henry Cohen’s Observations About the Russian Legal Professions.....	285
II. Regulation of the Russian Legal Professions.....	286
III. The Moscow Ethics Conference .....	288
IV. The Role of Private Law Firms in Russian Legal Education ...	290
V. Reflections .....	293
Conclusion.....	296

## INTRODUCTION

In his 1916 work *The Law: Business or Profession?*,<sup>1</sup> Julius Henry Cohen describes an American legal system in which uniform standards for regulating, disciplining, and educating the profession are just beginning to be developed, albeit unevenly.<sup>2</sup> In discussing the differences between a business and a profession, he argues that a profession requires a uniform set of standards to guide it in matters of ethics,<sup>3</sup> as well as a system of rigorous legal education that includes a firm grounding in these ethical principles.<sup>4</sup>

Perhaps most surprising for a book written in the early twentieth century—long before the study of comparative law and

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1. JULIUS HENRY COHEN, *THE LAW: BUSINESS OR PROFESSION?* (1916).

2. *See generally id.* chs. X–XIII.

3. *See id.* chs. III, XII.

4. *See id.* ch. X.

“globalization” became a central focus of legal education and practice in the United States—Cohen devotes three full chapters to a historical discussion of and comparison among the legal systems of China, Japan, ancient Greece and Rome, France, Spain, Italy, Russia, Germany, Austria-Hungary, and England.<sup>5</sup> Cohen focuses in particular on Russia, writing for twelve pages about the long history of that country’s legal professions.<sup>6</sup> He expresses optimism about the developments he sees unfolding at the time of his book,<sup>7</sup> but he also notes some important reservations.

In this essay, I use Cohen’s work as a starting point for an examination of some of the professional responsibility issues facing the Russian legal professions today. The essay draws upon my experience at a legal ethics conference in Moscow in November 2011. I participated in the four-day “Professional Responsibility and Legal Ethics School” as a Rule of Law Fellow for the Paul Klebnikov Fund. The class involved thirty students from several Russian universities and covered a variety of professional responsibility topics, including formation of the attorney-client relationship, confidentiality, conflict of interest, issues facing in-house counsel, and the tensions between the roles of officer of the court and advocate. Participating students were selected through a competitive essay contest.<sup>8</sup>

The conference was a collaboration among Moscow State University, a human rights non-governmental organization (NGO) (PILnet), two law firms (DLA Piper and White & Case), and two corporations (Verizon and Microsoft). In addition to its involvement in this conference, White & Case teaches several classes at Russian universities, including a legal skills class which involves an ethics component.<sup>9</sup> The role of the private sector in ethics education in Russia challenges the conventional notion of a business-profession

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5. *See id.* chs. IV–VI.

6. For the reasons discussed in Part II *infra*, in discussing the current situation in Russia, I will refer to the Russian legal professions in the plural throughout this essay.

7. *See COHEN, supra* note 1, at 65–76. Among the positive developments that Cohen describes is the spread of legal education throughout Russia. Cohen notes: “Today the only university within the territory of Russia which is without a law school is the Siberian University (Tomsk).” *Id.* at 69.

8. *See PILNET and Law Firm Partners Hold Flagship Ethics Course for Russian Law Students*, PILNET (Nov. 10, 2011), <http://www.pilnet.org/project-updates/131-pilnet-and-law-firm-partners-hold-flagship-ethics-course-for-russian-law-students.html>.

9. *See Our Legal Education Programs*, WHITE & CASE, <http://srreview2011.whitecase.com/feature06b.htm> (last visited Mar. 12, 2013).

dichotomy. In effect, the private sector is actively engaged in helping to develop higher professional standards for lawyers.

I will begin with a brief discussion of Julius Henry Cohen's observations about the Russian legal professions in *The Law: Business or Profession?* I will then briefly describe the current state of regulation of the Russian legal professions, drawing upon the fascinating parallels with the early twentieth century Russian professions that Cohen describes in his book. I next discuss the Moscow ethics conference and legal skills class in more detail. Finally, I offer some reflections about the promise of this approach to legal education, as well as some concerns.

### I. JULIUS HENRY COHEN'S OBSERVATIONS ABOUT THE RUSSIAN LEGAL PROFESSIONS

In *The Law: Business or Profession?*, Cohen explains that the major reforms affecting the Russian legal professions occurred in 1864, when a largely self-regulating Bar was established.<sup>10</sup> The core of this regulatory structure was membership in a "General Assembly" within each judicial district.<sup>11</sup> Despite the promise of this membership system, it had one important limitation—it did not apply to all lawyers.<sup>12</sup> Instead, there was a kind of "caste" system made up of three tiers of lawyers, in descending order: "Counsellors-at-Law," "Attorneys-at-Law," and "Solicitors."<sup>13</sup> Counsellors-at-Law and Attorneys-at-Law were members of the relevant General Assemblies, while Solicitors were not.<sup>14</sup> In addition, Attorneys-at-Law could rise to the status of Counsellors-at-Law, while Solicitors could not.<sup>15</sup>

Cohen suggests that this three-tiered structure undermined the otherwise promising qualities of the developing Russian legal professions, quoting a New York Bar colleague's conclusions about the Russian system:

After an acquaintance of 22 years with the courts and lawyers of this country (America), I am led to believe that on the whole the professional standing of the lawyers in Russia is higher than it is here. Of course, one must always bear in mind that this applies only

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10. See COHEN, *supra* note 1, at 69.

11. See *id.* at 69–70. Regulation included responsibility for admission to the Bar, as well as discipline.

12. See generally *id.*

13. *Id.* at 70, 75.

14. *Id.* at 69–70.

15. *Id.* at 71.

to Counsellors-at-Law, and the Attorneys-at-Law, who form a sort of aristocracy of the bar in Russia. The “Solicitors” are, on the contrary, looked down upon as a lower estate.<sup>16</sup>

As described below, these words could easily be adapted to describe today’s Russian legal professions.

## II. REGULATION OF THE RUSSIAN LEGAL PROFESSIONS

There is a robust set of ethical regulations in Russia. The federal law, “On Work as an Attorney and the Legal Profession in the Russian Federation,” was enacted in 2002, and the Code of Professional Ethics for the Attorney was adopted in 2003 and amended in 2007.<sup>17</sup> Interestingly, the very first article of the statute addresses the idea of a business-profession dichotomy. It states:

1. Work as an attorney is qualified legal aid, rendered on a professional basis by persons who have obtained the status of attorney . . . for the purpose of protecting their rights, freedoms, and interests, and also of ensuring access to justice.
2. Work as an attorney is not entrepreneurial.<sup>18</sup>

The Code of Professional Ethics, which was promulgated pursuant to the statute,<sup>19</sup> contains the types of provisions that are relevant and helpful to lawyers. It sets out professional ideals to which all lawyers

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16. *Id.* at 74–75 (quoting correspondence from Dr. Isaac A. Hourwich) (internal quotation marks omitted).

17. See Katerina P. Lewinbuk, *Perestroika or Just Perfunctory? The Scope and Significance of Russia’s New Legal Ethics Laws*, 35 J. LEGAL PROF. 25, 26–27 (2010).

18. *Federal Law of the Russian Federation, No. 63-FZ, “On Work as an Attorney and the Legal Profession in the Russian Federation,”* STATUTES & DECISIONS, May–June 2008, at 10, 10 (Stephen D. Shenfield trans.).

19. See *id.* at 13 (“2. A Code of Professional Ethics for the Attorney, adopted in accordance with the procedure envisioned by the present federal law, shall establish rules of conduct for carrying on work as an attorney that are binding on every attorney, and also the grounds and procedure for holding an attorney liable (*introduced by Federal Law No. 163-FZ of December 20, 2004*.”); see also *Code of Professional Ethics for the Attorney*, STATUTES & DECISIONS, May–June 2008, at 55, 55 (Stephen D. Shenfield trans.) (“The attorneys of the Russian Federation, in accordance with the requirements envisioned by the federal law ‘On Work as an Attorney and the Legal Profession in the Russian Federation,’ for the purpose of maintaining professional honor and developing the traditions of the Russian legal profession, and recognizing their moral responsibility to society, adopt the present Code of Professional Ethics for the Attorney. (*paragraph amended by the second All-Russia Congress of Attorneys, April 8, 2005*.”).

should aspire,<sup>20</sup> provides practical guidance,<sup>21</sup> and establishes a system of regulation and discipline.<sup>22</sup> In other words, it offers a rich combination of inspiration, guidance, and regulation.<sup>23</sup>

The system of ethical regulation in Russia is more complicated than it first appears, however, because the ethical statute and the Code do not apply to all lawyers. When discussing the ethical regulation of lawyers, it is important to note that in Russia, as in other European countries, there is no single legal profession.<sup>24</sup> There are several specialized areas, each of which is considered a separate profession (e.g., advocate/barrister, notary, prosecutor, judge, professor, etc.).<sup>25</sup> In Russia there are at least five different legal professions—advocates, other jurists, the procuracy, notaries, and judges.<sup>26</sup> The complication is that the ethical statute and Code apply only to “advocates”; the other professions are unregulated.<sup>27</sup>

The significance of this disparity becomes apparent when one examines the number of “advocates” in Russia relative to other legal professionals. As of January 1, 2008, there were 61,422 “advocates” in Russia and an estimated 430,000 unregulated lawyers (jurists).<sup>28</sup>

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20. For example, Article Four of the Code provides, “Attorneys must preserve the honor and dignity that are intrinsic to their profession under all circumstances.” *Code of Professional Ethics*, *supra* note 19, at 56.

21. *See, e.g., id.* at 57 (independence and confidentiality); *id.* at 59 (competence); *id.* at 62–63 (conflict of interest).

22. *See, e.g., id.* at 67–78.

23. *See* Philip M. Genty, *The Challenges of Developing Cross-Cultural Legal Ethics Education, Professional Development, and Guidance for the Legal Professions*, 2011 J. PROF. LAW. 37, 45 (2011) (citing Jolanta Palidaukaite, *Codes of Ethics in Transitional Democracies: A Comparative Perspective*, 8 PUB. INTEGRITY 35, 37 (2006)).

24. *See* Lewinbuk, *supra* note 17, at 39–40.

25. *See* LEGISLATIVE ASSISTANCE & RES. PROGRAM, CENT. EUROPEAN & EURASIAN LAW INITIATIVE, PROFESSIONAL LEGAL ETHICS: A COMPARATIVE PERSPECTIVE 4 (Maya Goldstein Bolocan ed., 2002); Genty, *supra* note 23, at 38 (citing Richard J. Wilson, *The Role of Practice in Legal Education*, 14 (Am. Univ. Wash. Coll. of Law, Working Paper, 2010), available at [http://digitalcommons.wcl.american.edu/fac\\_works\\_papers/12](http://digitalcommons.wcl.american.edu/fac_works_papers/12)); Laurel S. Terry, *An Introduction to the European Community's Legal Ethics Code, Part I: An Analysis of the CCBE Code of Conduct*, 7 GEO. J. LEGAL ETHICS 1, 10 & n.33, 11 (1993).

26. *See* Lewinbuk, *supra* note 17, at 39–40.

27. *See id.* In-house lawyers are also unregulated by the Russian ethical statute and Code, but their conduct is often governed by internal codes of conduct developed by their own companies. *See id.* at 70–71.

28. DMITRY SHABELNIKOV, THE LEGAL PROFESSION IN THE RUSSIAN FEDERATION 4–5 (2008). Shabelnikov notes that the latter number is just an estimate, because, by definition, the lack of regulation makes it impossible to quantify this precisely. *Id.* at 4.

Thus, at present, the Russian ethical statute and Code apply to only a small proportion of all lawyers in Russia. Like the “Counsellors-at-Law” and “Attorneys-at-Law” of Cohen’s time, “advocates” in Russia today enjoy a position of prominence and respect among legal professionals.<sup>29</sup> In contrast, the unregulated “jurists,” like the early twentieth century “solicitors,” are considered to occupy a lower professional tier.<sup>30</sup> As in Cohen’s time, this lack of a uniform and binding system of ethical principles applicable to all of the Russian legal professions is a serious concern. It was one of the motivations for the November conference in Moscow.

### III. THE MOSCOW ETHICS CONFERENCE

During the week of November 7–12, 2011, I was privileged to spend a week at Moscow State University. My two principal activities during the week were participating in the “Professional Responsibility and Legal Ethics School,” which was hosted by the university, and delivering a public lecture on the morning of November 12.

The idea for the “Professional Responsibility and Legal Ethics School” came originally from PILnet (formerly PILI), an international NGO.<sup>31</sup> The Moscow program was modeled on a weeklong summer course PILnet had sponsored for several summers at Central European University in Budapest.<sup>32</sup> In that summer course, my colleagues and I had taught legal ethics and human rights to a group of international participants.

The Moscow program involved a novel collaboration among the academic, NGO, and private sectors. In addition to Moscow State University and PILnet, White & Case and DLA Piper provided significant financial and logistical support. Microsoft and Verizon were additional sponsors and participants. The participants were thirty law students from several Russian schools. They had been selected through a competitive process in which they submitted

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29. See Lewinbuk, *supra* note 17, at 79.

30. See *id.*

31. For detailed information about PILnet, see [www.pilnet.org](http://www.pilnet.org). The Executive Director of PILnet is Edwin Rekosh, a Columbia Law School graduate. Several of my Columbia colleagues and I have collaborated with Mr. Rekosh and PILnet on many projects over the past twelve years or so.

32. See *Teaching Law, Human Rights and Ethics*, CEU SUMMER UNIV. (2009), <http://www.sun.ceu.hu/01-about/course-archive/2009/01-about/Teaching-flyer-2009.pdf>.

2012]

*DICHOTOMY NO LONGER?*

289

essays. This arrangement ensured not only that we would have a talented group, but also that the students would be committed to and invested in the program. The results spoke for themselves—this was an extraordinary, hardworking, and idealistic group. The hope is that these students will take their experiences back to their home institutions and become leaders working to improve ethical standards among lawyers.<sup>33</sup>

I believe that a weeklong educational program for law students devoted exclusively to legal ethics was the first of its kind in Russia. I am told that it was referred to repeatedly at a Pro Bono Forum held later in the fall in Berlin. Moscow State University, DLA Piper, and White & Case have all publicized the program.<sup>34</sup> A second conference was held in November 2012.

The course took place over four full days and comprised the following topics:

## Day 1

An Introduction to Professional Responsibility and Ethics

## Day 2

Knowing and Engaging Clients

Conflict of Interest

Confidentiality, Attorney-Client Privilege and the Work Product Doctrine

## Day 3

In-House Perspectives

Corporate Responsibility

## Day 4

Competing Roles of a Lawyer: Officer of the Court vs. Advocate

The Future: Regulation of the Legal Profession in Russia<sup>35</sup>

Each day followed a similar format. There were plenary presentations on selected ethical topics, followed by small group exercises in which the students worked with facilitators from the law

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33. See *International Law Firms Hold Flagship Ethics Course in Russia*, DLA PIPER (Nov. 15, 2011), <http://news.dlapiper.com/Press-Releases/International-law-firms-hold-flagship-business-ethics-course-in-Russia-29b.aspx>; PILNET, *supra* note 8.

34. See DLA PIPER, *supra* note 33; WHITE & CASE, *supra* note 9; *Seminar, Professional Responsibility and Ethics in the Global Legal Market*, MOSCOW ST. UNIV., <http://www.law.msu.ru/node/19418> (last visited Sept. 4, 2012).

35. Conference Booklet for the *Professional Responsibility and Ethics in the Global Legal Market* Training Program hosted by Moscow State University Law School (Nov. 9–12, 2011) (on file with author).



firms. The students then did group presentations in plenary sessions. I attended all plenary sessions and rotated among the small groups. I then presented wrap-up lectures in which I summarized and commented upon the day's themes and activities. While most of the presenters and facilitators came and went during the week, I was present for the entire program.

For the small group sessions the organizers had developed a set of case scenarios highlighting ethical issues that arise in international private practice. The students were divided into groups, and each group was assigned a scenario. The groups were asked to discuss the scenarios, and some of the group meetings involved role-plays. For example, in the "Knowing and Engaging Clients" session, the groups were asked to analyze and critique drafts of engagement letters and prepare revised versions. In the conflict of interest session, the students were asked to play the roles of counsel, existing clients, and prospective clients, and to role play the debates that might occur when the law firm was contemplating taking on the representation of a new client who was a potential competitor of the existing client. In the "Confidentiality" session, the students were asked to draft a code of confidentiality.

The group sessions were facilitated, impressively, by lawyers from the two law firms. One exciting aspect of this was that several sessions were run by young Russian associates. I learned that several of these lawyers are instructors in the lawyering skills course taught at Moscow State University by White & Case, which is discussed more fully below. After most of the small group sessions, each group made a presentation in a plenary session and received feedback from other participants.

#### IV. THE ROLE OF PRIVATE LAW FIRMS IN RUSSIAN LEGAL EDUCATION

Part of the reason for the students' enthusiasm about the weeklong ethics program is that the Russian law curriculum does not provide the students with any similar educational opportunities. Russian law schools do not include professional responsibility and ethics within their core legal curriculum.<sup>36</sup> In addition, the Russian curriculum is

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36. See Gianmaria Ajani, *Legal Education in Russia: Present and Future—An Analysis of the State Educational Standards for Higher Professional Instruction and a Comparison with the European Legal Reform Experience*, 23 REV. CENT. & E. EUR. L. 267, 281–84 figs. 4, 5 (1997) (describing the distribution of courses in the General Law Disciplines and Special Law Disciplines prescribed by the Russian

almost exclusively lecture-based and doctrinal, with little attention paid to issues of professional role and practice.<sup>37</sup> Both of these characteristics are common to legal education in European civil law countries.<sup>38</sup>

One exception is an ethics course taught at Moscow State University by Professor Gaya Davidian. Professor Davidian spoke about this pioneering effort in the opening plenary session of the conference. She described the skepticism among her colleagues when she decided to launch this course. Although the course has been well received by students, my understanding is that it remains unusual, if not unique, within Russian legal education.

Interestingly, at Moscow State University a large international law firm has moved to fill this vacuum to some extent. White & Case teaches a series of courses at the university. The course is voluntary and uncredited, but it apparently attracts a large group of students who attend regularly. On its website, the firm describes the program as follows:

Through our *UNIVERSITY LECTURE PROGRAM*, our lawyers in the Moscow office deliver training to Russian law students to provide in-depth instruction in commercial law practice and English law, as well as the practical research and writing skills necessary to succeed as commercial lawyers. Created in 2005, the Program comprises a series of 10 courses, both mandatory and elective. In 2011, more than 25 White & Case associates and 10 partners taught more than 650 students at eight universities. In a survey by a graduate recruiting organization, 49 percent of all law students surveyed had attended a White & Case lecture or event.<sup>39</sup>

As noted above, some of the small group facilitators for the workshop were White & Case associates who also teach in this educational program.

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“Draft State Educational Standards [*Gosstandarty*] for Higher Professional Instruction”); see also *Faculty of Law*, MOSCOW ST. UNIV., <http://www.msu.ru/en/info/struct/depts/law.html> (last visited Mar. 19, 2013) (describing curriculum of the law faculty).

37. See WILLIAM BURNHAM ET AL., *LAW AND LEGAL SYSTEM OF THE RUSSIAN FEDERATION* 139 (4th ed. 2009); Ajani, *supra* note 36, at 296–97; Lisa A. Granik, *Legal Education in Post-Soviet Russia and Ukraine*, 72 OR. L. REV. 963, 968–71 (1993); Jane M. Picker & Sidney Picker, Jr., *Educating Russia’s Future Lawyers—Any Role for the United States?*, 33 VAND. J. TRANSNAT’L L. 17, 34–42 (2000).

38. See, e.g., BURNHAM ET AL., *supra* note 37, at 137; Lawrence M. Grosberg, *Clinical Education in Russia: “Da and Nyet,”* 7 CLINICAL L. REV. 469, 477–80 (2001).

39. WHITE & CASE, *supra* note 9 (emphasis in original).

The success of the White & Case educational program can be measured by both the quality of the teaching and the response of the students. The associates whom I observed as small group facilitators were terrific at getting the students to engage with each other on the issues. They appeared to be talented teachers who connected well with the students. They had clearly prepared goals for the session, and were able to create an interactive classroom environment—rare in European legal education—for the students.

The student response to the White & Case program appears to be enthusiastic. In addition to participating in the weeklong course, I delivered a public lecture, as part of the White & Case legal skills course, on November 12, a Saturday morning. Although the session took place at 9:00 a.m. and was purely voluntary, the response was extraordinary—one hundred students attended. The lecture, which lasted ninety minutes, was titled, “Writing Effectively as a Lawyer: The Intersection of Communication and Ethics.” It comprised several components: the importance of writing in a lawyer’s work; legal writing as the “voice” of the client; communication challenges in legal writing; techniques for effective legal writing; ethical issues in legal writing; and a case study.

The lecture involved some interactive components. I had the students do an exercise where, working in pairs, they interviewed each other and then wrote a paragraph-long recommendation letter for one another. After the students exchanged and read these letters, I asked them to comment upon the way their “voices” had been represented. I received a number of interesting, thoughtful responses. I then linked this exercise to the writing lawyers do on behalf of their clients, and the challenges of capturing the client’s “voice” accurately and completely in writing.

After additional lecturing, I presented a case study in which a lawyer had prepared a document based on information the client provided to the lawyer in an interview. The lawyer subsequently learned that some of the information in the document might be false. I asked the students to discuss both what the lawyer might have done differently to prevent this from happening and what the lawyer’s ethical responsibilities were now that the lawyer had learned that the document contained possibly false information. Again, the students responded thoughtfully.

In short, I was impressed by the number of students who attended this session, as well as the amount of participation in the class discussions—especially given that the discussion was entirely in

2012]

*DICHOTOMY NO LONGER?*

293

English—and the depth of thought reflected in the students’ comments. I was told that this level of engagement was not unusual for the White & Case courses.

### V. REFLECTIONS

The relationship between international law firms and the Russian legal academy—and the role the firms play in supplementing the students’ legal education—is fascinating and challenges the idea of a business-profession dichotomy. The November conference at Moscow State University and the ongoing classes run there by White & Case involve substantial commitments of resources. For the conference, at least ten partners or senior counsel and eight associates from DLA Piper and White & Case were directly involved. They spent many hours in the weeks leading up to the conference, planning the program, writing the case scenarios, and reading and evaluating the essays submitted by student applicants. Similarly, as noted above, the White & Case lecture series involves twenty-five associates and ten partners.

Why have the law firms taken this on? Certainly one reason is the commitment of both law firms to *pro bono* activities.<sup>40</sup> Both firms talked extensively about their *pro bono* work at the November conference, and the lecture series is an explicit part of White & Case’s global *pro bono* priorities.<sup>41</sup>

But there is undoubtedly a deeper reason for this commitment to the education of Russian law students—it is ultimately good for business. A healthy business climate requires stability and predictability, and a country’s legal system is a critical part of this balance. Businesses need to have confidence that when disputes arise, they will be resolved in a fair and consistent manner. They need to know that the lawyers who represent them and those who represent their competitors will do so with competence and honesty, according to a set of clearly articulated principles, backed by a system of meaningful regulation and discipline.

However, as noted above, this does not describe the current Russian legal professions, in which only about 60,000 of the 500,000 lawyers are subject to ethical standards set out in the statute “On

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40. See, e.g., *DLA Piper Pro Bono*, DLA PIPER, <http://www.dlapiperprobono.com> (last visited Mar. 12, 2013); WHITE & CASE, *supra* note 9.

41. The University Lecture series is described on the firm’s website in its “Social Responsibility Review” section. See WHITE & CASE, *supra* note 9.

Legal Practice and the Bar” and the Code of Professional Ethics.<sup>42</sup> As a result, the legal professions in Russia today have a kind of “wild west” quality, with almost 90% of the lawyers operating without any clear ethical standards.<sup>43</sup>

Against this backdrop, the efforts of the law firms to provide ethics education, and, by extension, to promote efforts to bring all attorneys within the existing ethical standards, make perfect sense. Clear professional standards for lawyers will ultimately improve the business climate by providing the stability and predictability that businesses require. *In other words, higher ethical standards in the legal professions are good for business.*

This congruence of commercial and ethical interests in Russia challenges the notion of a business-profession dichotomy. The involvement of global law firms such as White & Case and DLA Piper indicates that the private sector has become a major force in promoting higher ethical standards within the legal professions. This union of the idealistic with the practical is undoubtedly a very good thing. Those who wish to establish such standards for lawyers—to make them more “professional”—now have powerful allies in the commercial sector.

The November conference and the ongoing White & Case University Lecture series have highlighted the lack of ethics education—or education about the professions in general—in Russian legal education.<sup>44</sup> Students in Russia, as in Europe generally, are starved for a more interactive form of legal education that will better prepare them for the professional roles they will take on after graduation.<sup>45</sup> While doctrine is obviously important, legal education is more effective when it involves a mix of theory and practice, where students have an opportunity to test legal theories in the “laboratory”

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42. See SHABELNIKOV, *supra* note 28, at 4–5, 8.

43. *See id.*

44. *See* Grosberg, *supra* note 38.

45. Those of us who have taught in European countries have been consistently struck by the eagerness with which students embrace interactive teaching methods and discussions about issues of professional role. *See, e.g.,* Philip M. Genty, *Overcoming Cultural Blindness in International Clinical Collaboration: The Divide Between Civil and Common Law Cultures and its Implications for Clinical Education*, 15 CLINICAL L. REV. 131, 146–49 (2008); Richard J. Wilson, *Training for Justice: The Global Reach of Clinical Legal Education*, 22 PENN ST. INT’L L. REV. 421, 429 (2004); Leah Wortham, *Aiding Clinical Education Abroad: What Can Be Gained and the Learning Curve on How to Do So Effectively*, 12 CLINICAL L. REV. 615, 682 (2006).

2012]

*DICHOTOMY NO LONGER?*

295

of practical experience.<sup>46</sup> The educational initiatives provided by the law firms in Russia allow students to do this.<sup>47</sup>

But while these developments are mostly quite positive, they are not uncomplicated. By undertaking these educational projects, the law firms take pressure off the universities to do this themselves and, I would argue, make meaningful reform of formal legal education less likely. This phenomenon was on vivid display at the November conference in Moscow. Although the conference was officially hosted by Moscow State University, the administration and law faculty were essentially absent from the conference, with the notable exception of Professor Gaya Davidian. One could not come away from this conference with any confidence that legal ethics education is a priority for the university.

Thus, there is a concern that the involvement of the private bar in Russian legal education will make educational reform less likely. In addition, giving the private sector such a prominent role in the education of future lawyers means allowing commercial interests to define the educational priorities and dominate classroom discourse.

This is not necessarily a healthy direction for legal education. The efforts of the law firms, while a valuable complement to Russian legal education, are not a substitute for formal educational reforms. Universities have a responsibility to teach their students about practice and the professional role in a robust intellectual environment. True progress in improving the ethical standards of the Russian legal professions will come only when ethics education becomes an integral part of the university law curriculum.

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46. See Genty, *supra* note 45.

47. There are interesting parallels between the introduction of interactive teaching methods into Russian legal education and Stanislav Shatskii's educational reform efforts at the primary and secondary school levels in the early Soviet Union. See William Partlett, *Bourgeois Ideas in Communist Construction: The Development of Stanislav Shatskii's Teacher Training Methods*, 35 HIST. EDUC.: J. HIST. EDUC. SOC'Y 453 (2006). Partlett recounts the early Soviet educational program and describes Shatskii's adaptation of teaching methods pioneered by John Dewey, among others, to create a more effective classroom environment through "active, interest based" education involving students in the "experiential accumulation of knowledge." *Id.* at 462-63. Partlett quotes Dewey's own description of these methods as "get[ting] away from starting with fixed lessons in isolated studies, and substitut[ing] for them an endeavor to bring students through their own activity into contact with some relatively total slice of life or nature . . ." *Id.* at 465 (quoting JOHN DEWEY, IMPRESSIONS OF SOVIET RUSSIA AND THE REVOLUTIONARY WORLD, MEXICO, CHINA, TURKEY 101 (1929)).

## CONCLUSION

The private international law firms in Russia have begun to break down the business-profession dichotomy by committing significant resources to legal education and longer-term initiatives to improve the quality of the legal professions. In particular, these law firms have been actively promoting ethics education and efforts to bring all of Russia's legal professions within a binding set of ethical standards.

One wonders whether Julius Henry Cohen could have envisioned such a thing and, if so, what he would have thought about it. While he argues in *The Law: Business or Profession?* that the practice of law should not be about generating business,<sup>48</sup> it seems likely that he would have applauded efforts to promote higher ethical standards *even if* undertaken, in part, for practical commercial motives. His central mission was to instill a concept of professionalism in the Bar; in the case of law firms promoting higher ethical standards for business reasons, he might well have concluded that the end justifies these means. Given his particular interest in Russia, he probably would have found these initiatives important and exciting, although he would likely have been distressed to learn that the challenges confronting the Russian professions today are similar to those he described in 1916.

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48. See COHEN, *supra* note 1, at 22–23.