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This book is likely to be of interest to both political scientists and socio-legal scholars, because of its interdisciplinarity, drawn from both comparative politics and constitutional law. It aims to contribute to our general understanding of the judiciary which, as Thorson points out, is overly dominated by studies of the US Supreme Court. The questions asked by Thorson are: Why has judicial review been introduced into so many democratizing states? Does it actually promote democracy? and Why do Constitutional Courts (CCs) become powerful and independent institutions in some cases but not in others? (p. 1) Thorson’s research and analysis constitutes a diachronic case study of Russia. The origins and evolution of judicial review in the Soviet Union and then the Russian Federation are examined through a rational choice theoretical framework centring on the self-interests of the political actors involved. She compares three institutional configurations tasked with some degree of judicial review: the Soviet Constitutional Oversight Committee (1989-1991); the first Russian CC headed by Valerii Zorkin (1991-1993); and the second CC headed in turn by Vladimir Tumanov (1995-1996), Marat Baglai (1997-2003) and again Zorkin (2003-2010). The study is thus quite comprehensive in its time-frame, which spans the twenty-odd years from the Soviet transition to the current epoch.

One of the book’s signal merits is to give an object-lesson in how little studies of the US Supreme Court help us understand why judicial review gets established in so many democratizing countries that differ so profoundly from the US. The literature on law and courts has already shown how in the US and in the West more generally, judicial review and judicialization of politics arises from the “bottom up”, constructed by a conjunction of factors, especially the strategic behaviour of judges, elite lawyers and civil society activists, as well as of politicians who have ulterior reasons to concede power to judges in varying degrees. Although not engaging this literature, Thorson manages to show the difference of motives driving judicial review in the West versus in democratizing countries. In the latter, CCs serve above all to shore up the new regime’s generally faltering legitimacy at home and abroad. But for the legitimacy gap, a post-Communist regime would not likely tolerate a CC. This is an important point. Across the post-Soviet region, CCs are widely perceived as commitments by (often ex-Communist) politicians to break with the totalitarian past. CCs have become a major source of legitimacy for them, given the weakness or absence of any rule of law tradition and the inurement of ordinary judges held-over from Communist times to subservience before political power. Judicial trends beyond the Soviet Union across Central and Eastern Europe exhibit a similar pattern, with the difference that there judicial empowerment has been given an added impetus by the process and the conditionality of accession to the European Union.

Another merit of this book is its analytic distinction between the originary designing of the formal institution of the CC and the actual development and consolidation of its power thereafter. Thorson believes that strategic interests differ across these two successive
phases (p. 13). Interestingly, she remarks that the Russian CC originated not only in political elites’ need for legitimacy but also as a project of “educated elites” (p. 14). She notes in passing the involvement of German constitutional scholars, yet glances over the intriguing possibility that the same transnational legal professional community who have promoted judicial empowerment in the democratizing countries of Central and Eastern Europe and beyond may have already been in play in Russia as early as the 1980s. Had Thorson been willing to lay aside the strictures of rational choice, deeper insights might have ensued that could have yielded a more well-rounded understanding of what actually happened. Also unexplained is the stark contrast in attitudes and preferences between the reformist minority led by Gorbachev and the rest of the nomenklatura, which opposed judicial review. How did Gorbachev overcome their resistance to the creation of the Constitutional Oversight Committee, the Soviet Union’s first judicial review body, at the end of the 1980s? Thorson’s not quite definitive answer is that a compromise was struck between the two factions, Gorbachev having somehow succeeded in amassing enough “political capital” to break through – though he himself hesitated lest he empower it too much. Exceptionally amongst CCs the Committee was denied power to settle disputes between Moscow and the Soviet Republics over their respective competences, typically the core of CC jurisdiction. This odd omission can only be explained by political dynamics quite unlike those operative on CCs in the West. That the Oversight Committee’s powers were circumscribed to accommodate internal political divisions of the federated Soviet Union is a finding potentially applicable to democratizing contexts everywhere, and we owe the author for bringing these facts to light. One question left unanswered, however, is why Gorbachev took the step of creating the much more powerful, first Constitutional Court, modelled on Germany’s, in 1991, so soon after setting up the Oversight Committee; given his much more cautious position so recently? What changed his mind? Could it have been the influence of German constitutional jurists? Or was it merely a change in the correlation of domestic forces? Or something else?

The evolution of the CC’s power is treated beginning with Chapter 3, which overviews the formal design and the actual practice of judicial review by each successive CC. The Constitutional Oversight Committee had weak powers and was little used. Petitioners were mostly Supreme Soviet politicians in Moscow, and their complaints featured disputes over the distribution of powers between the Centre and the Republics. They often won. This got the court perceived as biased in favour of the Centre – a problematic development given that a CC’s very purpose is to give less powerful actors a chance to prevail on the merits. A review court that only ratifies what the powerful want is a “Potemkin village” which at most only gives cosmetic legitimacy to naked power. When the Committee did move to check the constitutionality of Central legislation (usually sua sponte), its rulings were never enforced.

The first CC under Zorkin (1991-1993) was far more activist. In most cases it struck down legislation on grounds of unconstitutionality, frustrating the will of the central government nearly always. In the end it was understood that the Court had been overempowered, and was overempowering the minority opposition against the ruling coalition. It also proved a losing strategy for the Justices of the CC to get involved in politics, taking sides on purely political questions. (Thorson’s narrative becomes muddled at this point, as the first CC’s tenure spanned the Soviet-Russian transition. Insufficient care was taken to signpost events in relation, making it needlessly difficult for the reader to follow which polity she is talking about, the Soviet Union or the Russian Federation.) She may also commit an error in
dwell on the Court's mere involvement in politics, when the greater strategic blunder was
to rule against the Government too often. It may well be that an upright CC was checking a
Government out of line most of the time. However commendable, Zorkin and his Court give
the impression of having no political strategy at all; or if they did have one, it was excessively
oppositional. By contrast, the second CC under Chief Justice Tumanov (1994-1995)
behaved quite differently, partly due to a change in 1993 to the formal rules of standing that
made petitioning the Court marginally more onerous for politicians. The sea-change,
however, was an informal convention arising from the ashes of the Zorkin debacle by which
the Court kept politicians at arm's length, using any available grounds to reject their
petitions. This also cleared the docket for more civil rights petitions from individuals. The
pattern of petitions arising from the political context beyond the court also changed with
more Federation subjects petitioning the court. The convention established under Tumanov
has stood the test of time at least until 2010 under three successive chairmen (viz. Baglai
and Zorkin in addition to Tumanov).

A weakness of Thorson’s account of the consolidation of CC power after 1994 is the
disproportionate attention paid to the self-interest of politicians as an explanatory device, and
the relative neglect of the institution itself, whether its design over- or underempowered it in
relation to other political actors and branches of government. The reader draws her own
inferences about causation from the evidence offered, which Thorson unaccountably misses.
Thus, it is clear that the first CC was overempowered, too few limits being placed on the
Justices' political activity; who became political bargainers acting in an “unjudicial” manner.
Their politicking – advocating early elections or calling for a moratorium on amendments to
the constitution – was unprecedented and would be unthinkable in the West, where codes of
judicial ethics stringently preclude such conduct. In this sense especially the Court had too
much power; exposing as incomplete Thorson's explanation based exclusively on politicians
and their interests, which is necessary but insufficient to account for the long-term viability of
CCs. In addition, the design of judicial governance and the powers of judges must be fine-
tuned so that the judges are neither too remote from politics nor drawn too much into it. Here
the interplay of formal and informal institutions is critical – matters that Thorson’s rationalist
paradigm renders invisible.

Normatively, the uncritical acceptance of mantras about judicial neutrality is a weakness on
display throughout. Thorson overrelies on literature that assumes a priori a sublime
disinterestedness in CC judges, who in democratising countries are supposed to cure all
disputes between the departments of government while safeguarding the constitution from
atop Mount Olympus. Equally, however, it does not follow that CCs “serve […] self-interested
politicians who seek to use the rules to increase their own power […] and who] opt to sustain
constitutional courts because they act as arbiter of disputes and a guarantor of the rules of
the game” (p. 5-6). This motive cannot possibly be sufficiently explanatory; strategic motives
may be found that weigh both for and against delegating power to CCs. Moreover, this
literature leaves out of account too many interesting questions like: Why would anybody
believe that a third-party arbiter will be neutral? and (if the delegators foresee that the
arbiter will not be neutral) Why do they still prefer such a solution? given that they cannot
predict on which side of the winner-loser divide that is inevitably produced by judicialisation
of politics they will find themselves in future. The axiomatic claim that “Russia fits this
pattern” (p. 6), *i.e.* the pattern suggested by the literature, is also worrisome if it hints that the author has merely sought confirmatory evidence for a deductive hypothesis.

This book is well written and researched, affording a fascinating glimpse into the evolution of Russian constitutionalism; even if the theorisation as such is of limited value – the expectations are boilerplate deductions from rational choice, the self-interest of politicians explains the design and consolidation of CC power, *etc.* Much rational choice reasoning tends to tautology: political actors are purely self-interested, therefore it is pure self-interest that holds up the judiciary. It is an approach that comes at the expense of less easily deducible factors that have recently been emerging as causative, such as the beliefs of institutional designers; the dis-engagement (if not the outright dormancy) of parliaments at the point of institutionalisation; the legal-political culture, which can determine the behaviour of both judges and politicians; even power relations between political party bosses and their backbenchers. A less paradigmatic research design could have discovered a fuller spectrum of causes. Nevertheless, Thorson’s work is a significant contribution to our knowledge of the current status of the judiciary in the former Soviet space.