Accommodation approach to federalism, 109–110, 197–198, 200
Accountability, lack of, 39–40, 300
Ackerman, Bruce, 295, 296
Adenauer, Konrad, 116
Administrative acts, judicial review of, 113–114
Adygei, 226
Age discrimination cases
First RCC and damages, 203–204 judicial review, Russian constitution, under, 112 judges, retirement age for (See Tenure of judges)
Akaev, Askar, 262
Albania, constitutional court in, 2
Alcohol license fees, 211–212
Aleksiev, Sergei, 60, 95, 98–99
All-Russian Center for the Study of Public Opinion, 248
All-Russian Congress of Judges, 133, 212
Ambiguity, constitutional rights and, 177–178
Ametistov, Ernest
Constitutional Convention of 1993, role at, 73, 74 impeachment of Yeltsin, on, 108 individuals, on petitions by, 114 retirement age cases, on, 203
Amnesty, suits against acts of, 159–160
Argentina nonlinear judicial empowerment in, 24 tenure of judges in, 264
Armenia constitutional court in, 263 CSC and, 96
Arrest power
Russian constitution, under, 213 Second RCC and, 133–134, 213–214
Audit Chamber, 131–132
Australia, federalism in, 142
Austria, constitutional court in, 28
Azerbaijan constitutional court in, 261 CSC and, 96
Baglai, Marat appointment of, 118 chair of Second RCC, as, 119
Chechnya, on, 119 constitutional rights, on, 158 mass media, on, 252–253 presidential decrees, on, 222 social justice, on, 181 Tatarstan referendum, on, 197 tenure of judges and, 86
Bakiev, Kurmanbek, 262
Bankruptcy, Second RCC and, 169
Bashkortostan, 168, 196, 206, 219, 224, 225–227
Belarus, constitutional court in, 2, 23, 271
Breyer, Stephen, 8, 36
Brozova, Iva, 281
Bulgaria constitutional court in, 1, 2, 40 judicial review in, 190 “War of the Courts” in, 268
Index

Cabinet
alcohol license fees, 211–212
Stalinist purges, and victims of, 241, 242–243
taxation and, 154
Canada
federalism in, 142, 144, 171, 287
impact of jurisprudence, 176
judicial review in, 50
Capital punishment, Second RCC and, 163
Central Elections Commission, 137–138, 171, 172
Chavez, Rebecca, 24, 285
Chechnya
public opinion regarding, 197
Second RCC and
federalism, 142, 144, 221
mass media, in, 252
separation of powers, 128–129
short-term policy making and, 8
Chelyabinsk, 198–199
Chernobyl, 178–179, 240
Chernomyrdin, Viktor, 212, 221
Civil Procedure Code, 153
Civil rights, CSC and, 97–98
Coexistence of courts, 283–284
Collective complaints, 161
Communist Party
First RCC and
ban of party, case regarding, 103, 106–107, 192–193
opposition to, 66–68
support for, 64
referendum process and, 137–138, 172
Second RCC, support for, 80
Communist Russia. See Soviet Union
Comparison of Russian courts, 10–11
Compliance
capacity of state machinery, 41
CSC, with (See Constitutional Supervision Committee (CSC))
decision making, effect on, 23, 33
design, effect on, 22–23
executive decree, and rule by, 36–37
First RCC, with (See First Russian Constitutional Court)
institutional uncertainty, impact of, 189
judicial appointments and, 223–225
judicial empowerment and problems in, 8
overview, 188
presidential decrees, importance of, 222–223
problems in, 33–34
prosecutors, problems with, 232
routine obedience, ensuring, 36–37
Second RCC, with (See Second Russian Constitutional Court)
short-term policy making and, 301
strategic approach, under, 49–50
strategies for success, 188–189
threat to vital interests, impact of, 34–35
trial procedures, problems with, 232–233
unpopular decisions, 34–35
values of ruling authorities, impact of, 34
Conference of European Constitutional Courts, 229
Conflict of laws, 136
Congress of People’s Deputies
dissolution by Yeltsin, 74–75, 108
First RCC and
opposition to, 66–68
role in establishing, 61–62
separation of powers, 106
referendum regarding, 193–195
Constitutional/charter courts, 218–219
Constitutional Commission, 61–62, 63–64
Constitutional Convention of 1993
appointments to RCC at, 75–77
compromise at, 79
convening of, 73–74, 193–195
dissolution by Yeltsin, 74–75, 108
jurisdiction of RCC at, 77
limits on authority of RCC at, 75, 77–78
new draft by Yeltsin, 73
preservation of RCC at, 75–77
tenure of judges, changes in, 73
threats to authority of RCC at, 73–74
Constitutional courts. See also specific state
authoritarian states, in, 2
comparison of Russian courts, 10–11
Constitutional Supervision Committee (See Constitutional Supervision Committee (CSC))
First Russian Constitutional Court (See First Russian Constitutional Court)
hybrid states, in, 2
international context, 12–13
judicial pluralism (See “War of the Courts”)
legal versus ethical authority, 35–36
© in this web service Cambridge University Press
www.cambridge.org
Cambridge University Press
978-0-521-17335-3 - Judging Russia: Constitutional Court in Russian Politics, 1990-2006
Alexei Trochev
Index
More information
Index

nondemocratic states, in, 2
other states, Russian courts compared with courts in, 12–13
overview, 1–2
purposes of, 19
scholarly debate regarding Russian experience, 12
Second Russian Constitutional Court (See Second Russian Constitutional Court)
tables, 3
toleration by authoritarian rulers, 6
uniqueness of Russian experience, 10, 296
“War of the Courts” (See “War of the Courts”)
Constitutional review. See Judicial review
Constitutional rights. See also specific right ambiguity and, 177–178
CSC, compliance with, 190
fairness and (See Second Russian Constitutional Court)
First RCC and (See First Russian Constitutional Court)
proportional restrictions on (See Second Russian Constitutional Court)
Second RCC and (See Second Russian Constitutional Court)
vagueness and, 177–178
“War of the Courts,” effect of, 284
Constitutional Supervision Committee (CSC)
civil rights cases in, 97–98
compliance with constitutional rights, in, 190
First RCC compared, 191
judicial heteronomy theory, 190–191
lessons from failure of, 191
poor performance, 190–191
republics, resistance from, 189–190
consumer rights cases in, 97
decision making by, 95–99
dissolution, 61
establishment of, 58
extrajudicial behavior of, 98–99
First RCC compared compliance, 191
decision making, 99–100
extrajudicial behavior, 98–99
statutory authorization, 64–66
strength of, 63–64
Gorbachev and, 58
judicial review, weakness of, 59, 95–96
labor cases in, 97
legal elites in, 59–61
political weakness of, 99
Procuracy and, 68
propiska and, 97–98
proposals for, 57
purposes of, 58
radical political change, impact of, 58–59
republics and, 58–59, 95–97
residence permits and, 97–98
Soviet Union, effect of weakness of, 61
strategic behavior of, 98
wrongful dismissal cases in, 97
Consumer rights, CSC and, 97
Contract rights, Second RCC and, 166–168
Council of Europe, 43, 44, 228
Coup of August 1991, 60–61
Court design. See Design
Criminal procedure
arrest power
Russian constitution, under, 213
Second RCC and, 133–134, 213–214
First RCC and, 111–112
judges, complaints for damages against, 233–234
prosecutors, compliance problems, 232
search and seizure, Second RCC and, 133–134
sentencing, fairness in, 180–181
separation of powers, Second RCC and, 133–134, 213–214
siloviki, power of, 234–235
trial procedures, compliance problems, 232–233
Croatia, constitutional court in, 176
CSC. See Constitutional Supervision Committee (CSC)
Customs officials, confiscation of property
by, 239–240
Czechoslovakia, constitutional court in, 176
Czech Republic constitutional court in, 40
“War of the Courts” in assumption of jurisdiction by constitutional court, 270, 276–277
Czech Republic (cont.)
criticism of constitutional court, 277
judicial appointments and, 281–282
lack of referrals to constitutional
court, 277–278
legalistic explanation, 268
military service cases, 278–280
noncompliance with constitutional
court, 277
overview, 51, 52, 220
progressive/reactionary explanation,
268, 269
purge of Communists and, 276
resolution of, 281
timeline, 279

Dagestan, 144, 158, 226
Decision making
authoritativeness of, 37–38
compliance, effect on, 23
CSC, in, 95–99. (See also Constitutional
Supervision Committee (CSC))
design, effect on, 21–22
discretion in, 31
extrajudicial behavior
CSC, of, 98–99
First RCC, of, 115
politics and, 31–32
First RCC, in (See First Russian
Constitutional Court)
institutional uncertainty, impact of,
40–41
overview, 93–94
political context, 30–31
Second RCC, in (See Second Russian
Constitutional Court)
short-term policy making and, 301
Delegation of power, 47–49
Democratization and nonlinear judicial
empowerment, 52
Design
compliance, effect on, 21
Constitutional Convention of 1993 (See
Constitutional Convention of
1993)
CSC, of (See Constitutional Supervision
Committee (CSC))
decision making, effect on, 21
difficulties in, 90–91
First RCC, of (See First Russian
Constitutional Court)

disability payments, Second RCC and,
178–179
Discretion in decision making, 31
Duma. See State Duma
Dynamic analysis of judicial
empowerment, 19–21

Ebbinghaus, Karl
chair of First RCC, on, 100
Constitutional Convention of 1993, role
at, 73, 74
constitutional rights, on, 163
European Court of Human Rights, on,
176
federalism, on, 109
regional law making, on, 131
Economic rights, Second RCC and, 178
Egypt
constitutional court in, 261
judicial independence in, 33
nonlinear judicial empowerment in, 24
Elections
electoral rights, 244
gerrymandering, 244
local officials, of, 149–150, 152–153,
155–156
proportional restrictions on rights
campaigning, 172–173
dispute resolution, 171–172
mass media and, 172–173
referendum process, 172
State Duma, 170–171
referendum process
Communist Party and, 137–138, 172
Congress of People’s Deputies,
regarding, 193–195
Tatarstan referendum, 109, 195–197
Employment Act, 182
Enforcement of decisions. See Compliance
Epp, Charles R., 292
Epstein, Lee, 11
Ersson, Svante, 42
Estonia, constitutional court in, 2
European Convention on Human Rights, 163, 174–176, 233, 278
European Court of Human Rights
appeals to, 162
avoidance of, 234
effect of litigation on reputation of Russia, 187
encouragement of human rights, 158
increase in petitions to, 291
Putin on, 229
Romania in, 272
Second RCC and
citation of decisions by, 174–176
study of decisions by, 228
speedy trial requirements, 125
“War of the Courts” and, 275–276, 293
European Union, 43
Extension of terms of judges, 261, 262–264
Extrajudicial behavior
CSC, of, 98–99
First RCC, of, 115
politics and, 31–32
Fairness. See Second Russian Constitutional Court
Federal Budget Code, 154
Federalism. See also Regions (Russia)
First RCC and (See First Russian Constitutional Court)
fiscal federalism
First RCC and, 199–200
Second RCC and, 145–146, 154–155
historical context of, 139–140
local self-government, 155–156, 244–245
matryoshka federalism, 140
Russian constitution and, 140
Second RCC and (See Second Russian Constitutional Court)
symmetrical federalism, 221
“War of the Courts” and, 293–294
Federal Migration Service, 246
Federation Council
composition of, 210
relocation of Second RCC, resistance to Putin proposals regarding, 89–90
retirement and tenure of judges, resistance to Putin proposals regarding, 86
Second RCC and
appointments to, 81, 82–85
conflict with, 209
separation of powers and, 209
State Duma, disputes with, 130–131
taxation and, 154
Federation Treaty, 109
Feeley, Malcolm, 141
Filatov, Sergei, 76
First Russian Constitutional Court. See also specific justice
administrative acts, judicial review of, 113–114
age discrimination acts
damages, 203–204
judicial review
Russian constitution, under, 112
appointments to Constitutional Convention of 1993, at, 75–77
initial appointments, 69–71
Yeltsin, by, 69–70, 75–77
authority of, 66
avoidance of political cases, 103–104
caseload, 103
Communist Party, case regarding ban of, 103, 106–107, 192–193
compliance with constitutional rights, 200–205
cost–benefit analysis, 195
CSC compared, 191
federalism, 195–200
obstacles to, 202, 205
overview, 205–206, 290
political willingness, importance of, 200
selective political reaction, 195
separation of powers, 191–195
strategies for success, 290
Constitutional Convention of 1993 (See Constitutional Convention of 1993)
constitutional rights and compliance, 200–205
decision making, 111–115
monetary obligations of government to individuals, 200–202
Second RCC compared, 158
criminal procedure and, 111–112
CSC compared
compliance, 191
decision making, 99–100
First Russian Constitutional Court (cont.)
extraejudicial behavior, 98–99
statutory authorization, 64–66
strength of, 63–64
decision making by
constitutional rights and, 111–113
CSC compared, 99–100
federalism and, 109–111
Second RCC compared, 185
separation of powers and, 104–109
difficulties in establishing, 90–91
dissenting opinions, 104
dissolution of Soviet Union and, 103
extrajudicial behavior of, 115
federalism and
accommodation approach, 109–110, 197–198, 200
Chelyabinsk case, 198–199
compliance, 195–200
decision making, 109–111
fiscal federalism, 199–200
Irkutsk case, 110, 199–200, 206
joint jurisdiction issues, 110
Kabardino-Balkaria case, 110, 223
Mordovia case, 198
Moscow privatization case, 199
overview, 110–111
Second RCC compared, 227–228
subfederal units, 109
Tatarstan referendum, 109, 195–197
impeachment and
power of, 78
Yeltsin, of, 108, 193–195
individuals, petitions by, 111, 113, 114
innovation in, 92
judicial activism in, 92, 100
judicial review in
limitations on, 200
strength of, 100, 105
struggle for, 115
jurisdiction, 77
law and cases, 112–114
law-application practice and, 68–69, 111, 137, 202–203
legal elites and, 286
legitimacy of, 64
limits on authority of, 75, 77–78
lobbying by, 101
nonbinding decisions by, 101
opposition to
Communist Party, from, 66–68
Congress of People’s Deputies, from, 66–68
law enforcement, from, 68–69
Procuracy, from, 68–69
other states compared, 72, 115–116
overestimation of power, 287–288
political fragmentation and, 116–117
political struggles regarding, 72
politicization of, 115–116
president and, 63–64
press, relationship with, 101
privatization and, 103
proactive nature of, 99–100
proposals for, 62–63
publication of decisions, 101–102
Referendum of 1991 and, 66
retirement age cases
damages, 203–204
judicial review, Russian constitution, under, 112
Russian constitution and, 61–62, 71–72
Russian sovereignty and, 63–64
Russian Supreme Court, conflict with
age discrimination cases, 203–204
constitutional rights, over, 114–115
labor law cases, in, 112–114
reasons for, 204–205
retirement age cases, 203–204
wrongful dismissal cases, 202–203
Second RCC compared
constitutional rights, 158
decision making, 185
federalism, 227–228
separation of powers, 138–139
separation of powers and
Communist Party, case regarding ban
of, 106–107, 192–193
compliance, 191–195
Congress of People’s Deputies, from
authority of, 106
decision making, 104–109
impeachment of Yeltsin, 108
implied powers of president, 108–109
intraexecutive disputes, 106
intra-legislative disputes, 106
joint executive-legislative decrees, 105–106
overview, 104–105
Second RCC compared, 138–139
Index

short-term policy making and, 91–92
statutory authorization, difficulties in, 64–66
suspension of, 1, 74–75, 108–109, 193–195
tenure of judges, changes in, 75
threats to authority of, 73–74
timelines, 65
wrongful dismissal cases
compensation, 202–203
damages, 113
judicial review, 112–113
Fiscal federalism
First RCC and, 199–200
Second RCC and, 145–146, 154–155
Fradkov, Mikhail, 151
France
constitutional court in
First RCC compared, 72
impact of jurisprudence, 176
judicial review, 186
judicial review in, 26
legal elites in, 27
Fiscal federalism
First RCC and, 199–200
Second RCC and, 145–146, 154–155
Fradkov, Mikhail, 151
France
constitutional court in
First RCC compared, 72
impact of jurisprudence, 176
judicial review, 186
judicial review in, 26
legal elites in, 27
Fundamental rights. See Constitutional rights
Gadzhiev, Gadis
constitutional rights, on, 174
economic rights, on, 178
federalism, on, 142, 156, 247
problems in compliance, on, 49
separation of powers, on, 128
taxation cases, on, 183, 237
Ganen, Venelin, 190
Garlicki, Lech, 276
General Procurator, 153–154
Georgia
constitutional court in, 2, 22
“War of the Courts” in, 267
Germany
constitutional court in
caseload, 159
constitutional rights and, 288
dissenting opinions, 121–122
establishment of, 28
financial independence of, 22
hierarchy of rights, 186
impact of jurisprudence, 176
individuals, petitions by, 126
interpretative decisions, 122
intrajudicial disputes, 134
politicization of, 116
politics and, 31
public support for, 30
sessions and chambers, 122
judicial review in, 26
legal elites in, 27
nonlinear judicial empowerment in,
Russian Constitutional Court Act of 1994 compared, 79
“War of the Courts” in, 270
Gerrymandering, 244
Ginsburg, Tom, 294
Gorbachev, Mikhail
Coup of August 1991 and, 60–61
CSC and, 48
dissolution of Soviet Union, on, 98
joint police/military patrols, on, 96
judicial review and, 56–58
legal elites and, 26–27
mass meetings and demonstrations, on,
retirement age, on, 112
rule of law and, 286
Goverin, Boris, 200
Gusliannikov, Vasilii, 198
Higher Arbitrazh Court
financial independence of, 212
guiding explanations, 215
reopening of cases, 214–215
Second RCC, conflict with
continuing problems, 290
guiding explanations, 215
regional law making, 216
reopening of cases, 214–215
statutory interpretation, 134–135
taxpayer rights and, 235, 236, 237
Hirschl, Ran, 295, 297
Hobbes, Thomas, 29
Human rights law
judicial review, impact on, 295–296
Second RCC, impact on, 174–176
Human Rights Ombudsman, 78, 246
Hungary
constitutional court in, 1, 40, 51,
extension of terms of judges, 263–264
judicial independence in, 33
judicial review in, 202
“War of the Courts” in, 271
<table>
<thead>
<tr>
<th>Page</th>
<th>Index</th>
</tr>
</thead>
</table>
| 360  | Impeachment  
First RCC, powers of, 78  
Yeltsin, of, 1, 105, 108, 193–195  
Zorkin, of, 206  
Implementation of decisions. See Compliance  
Individual rights. See Constitutional rights  
Ingushetia, 110, 224–225  
Institutional conflict as strengthening courts, 45–47  
Institutionalist approach  
judicial empowerment, to, 5, 45–46  
judicial review, to, 296–297  
International Covenant on Civil and Political Rights, 174, 204  
International Covenant on Economic, Social and Cultural Rights, 174  
International Labor Organization, 112  
International pressure  
judicial review, impact on, 295–296  
nonlinear judicial empowerment, effect on, 47–44  
Second RCC, impact on, 228–229, 286–287  
Interpretative decisions, 122–123  
Irkutsk, 110, 199–200, 206  
Israel  
constitutional court in, 263  
judicial review in, 50  
Italy  
constitutional court in, 36, 122, 176  
overstaying of terms of judges, 259  
“War of the Courts” in, 51, 269, 270, 274, 302  
Judicial activism  
First RCC, in, 92, 100  
Second RCC, in, 92, 122–125  
Judicial behavior. See Decision making  
Judicial empowerment  
compliance (See Compliance)  
decision making (See Decision making)  
democratization and, 4–5, 6  
design (See Design)  
domestic context, 5  
dynamic analysis, 19–21  
effectiveness of, 8–9  
failures of, 11–12  
feedback in, 19–21  
institutionalist approach to, 5, 45–46, 296–297  
institutional uncertainty, impact of, 9  
international context, 4–5  
judicial independence compared, 32  
“juristocracy” and, 302  
linear analysis, 19  
nonlinear judicial empowerment (See Nonlinear judicial empowerment)  
overview, 2–4, 9–10  
political context, 41–42  
political struggles, in context of, 6–7  
public support approach to, 5–6, 50–52  
questions regarding, 2–4, 285, 300  
resistance to, 302  
short-term policy making, impact of, 7–8  
strategic approach to, 5, 7, 47–50, 297–299  
strategies for survival, 301–302, 303  
successes of, 11–12  
toleration by authoritarian rulers, 6  
Judicial heteronomy theory, 190–191  
Judicial independence  
judicial empowerment compared, 32  
Second RCC, public support for, 251–252  
tenure of judges and political commitment to, 264–265  
Tsarist Russia, in, 33  
variation in, 32–33  
Judicial pluralism. See “War of the Courts”  
Judicial review  
administrative acts, of, 113–114  
Constitutional Convention of 1993, expansion at, 78–79  
CSC, weakness in, 59, 95–96  
democratization and, 6  
dynamic analysis, 19–21  
First RCC, in  
limitations on, 200  
strength of, 100, 105  
struggle for, 115  
Gorbachev and, 36–58  
human rights law, impact of, 295–296  
institutionalist approach to, 296–297  
international pressure, impact of, 295–296  
legal elites, role of, 25–26  
legitimacy of, 28–30  
monopolizing by constitutional courts, 272–273  
overview, 28  
perestroyka and, 56–58  
political struggles, arising from, 292  
psychological power of, 28–30  
public support approach to, 299–300 |
Russian exceptionalism and, 295–296
Second RCC, in
growth of, 186
intrajudicial disputes, 137
limitations on, 120–121
proportional restrictions on rights, development of standard via, 169
theories of, 219–220
Soviet Union, in, 56
strategic approach to, 297–298,
299, 300
Tsarist Russia, in, 55–56
uniqueness of Russian experience, 10
“Juristocracy,” 11–12, 294–295, 302
Kabardino-Balkaria, 110, 223
Kalmykia, 143, 225
Kasianov, Mikhail
Communist Party, on ban of, 107
Constitutional Convention of 1993, role at, 74
courtship of, 176
impeachment of Yeltsin, on, 108
sentencing, on, 181
Korea
constitutional court in, 159, 166, 176
“War of the Courts” in, 31, 220, 302
Krasnodar, 168
Krug, Peter, 166
Kuchma, Leonid, 263
Kyrgyzstan
constitutional court in, 2, 40, 61
criminal procedure in, 272
shortening of terms of judges, 262
“War of the Courts” in, 267, 270
Labor Code, 203
Labor law
CSC and, 97
First RCC, in, 112–114
Labor Ministry, 242
Labor Pensions Act, 184
Land use statutes, 243–244
Lane, Jan-Erik, 42
Latvia
constitutional court in, 2, 46, 61
CSC and, 96
“War of the Courts” in, 215
Law-application practice, 68, 111, 137, 202–203
Lebed, Alexander, 221
Legal elites
CSC, in, 59–61
design, significance in, 286
First RCC and, 286
Gorbachev and, 26–27
influence of, 26–27
judicial review, role in rise of, 25–26
other states compared, 27–28
rule of law and, 25–26
Second RCC and, 286
Legislature. See Congress of People's Deputies; State Duma
Levitsky, Steven, 255
Linear analysis of judicial empowerment, 19
Lithuania
constitutional court in, 1, 2
CSC and, 96
Local self-government, 155–156, 244–245
Luchin, Viktor
Communist Party, on ban of, 103
dissolution of Soviet Union, on, 103
resignation of, 77
retirement age cases, on, 203
Second RCC, on, 119
separation of powers, on, 128
Lukianov, Anatoliy, 96
Luzhkov, Yuri, 199
Mass media, Second RCC and, 252–253
Matryoshka federalism, 140
Matvienko, Valentina, 88
Mexico, constitutional court in, 8, 31, 34, 52, 300
Ministry of Internal Affairs, 105, 192
Mitchell, Gregory, 23
Mitiukov, Mikhail, 62, 63, 71
Mizulina, Elena, 231
Moldova
- constitutional court in, 2, 23
- criminal procedure in, 272
Montesquieu, Charles, 273
Mordovia, 198, 206
Moroz, Oleksandr, 263
Morshchakova, Tamara
- compliance, on problems with, 256
- Constitutional Convention of 1993, role at, 49
- criminal procedure, on, 158
- impeachment of Yeltsin, on, 108
- individual rights, on, 133
- overstaying of term, 258
- retirement age cases, on, 203
- Second RCC, on, 119
- separation of powers, on, 128
- tenure of judges and, 86
- Moscow privatization case, 199
- Moustafa, Tamir, 24

Nagorno-Karabakh, 96
National Salvation Front, 107
Nonlinear judicial empowerment
- accountability, and lack of, 39–40
- assumptions regarding, 38–39
- compliance (See Compliance)
- decision making (See Decision making)
- democratization and, 52
- design (See Design)
- feedback in, 19–21
- “good guys” versus “bad guys,” 44–45
- institutional conflict as strengthening courts, 45–47
- international pressure, effect of, 43–44
- legal elites in
- influence of, 26–27
- judicial review, role in rise of, 25–26
- other states compared, 27–28
- other states compared, 23–24
- overview, 19, 38–59
- prior elites, and commitment to democratization and rule of law, 42–45
- public support approach to
- objection to nonlinear theory, as, 40–52
- other states, in, 50–52
- problems with, 52
- separation of powers and, 45–46
- short-term policy making and, 39–41, 52–53
- Soviet experience, rejection of, 24–25
- strategic approach to
- compliance under, 49–50
- delegation of power and, 47–49
- objection to nonlinear theory, as, 47–50
- strength of constitutional courts under, 49
- Ulysses metaphor, 47–49
- variation in, 52
- Normative decrees, 130
- North Ossetia, 110
- Olshan, Izhak, 263
- Orenburg, 244
- Orphans Benefits Act, 182
- Overstaying of terms of judges, 259–261
- Overview, 15–18
- Pension cases, Second RCC and, 161, 184
- Perestroika
- judicial review and, 56–58
- retirement age and, 112
- Poland, constitutional court in, 2, 22, 261
- Pomeranz, William, 139
- Portugal
- constitutional court in, 116
- overstaying of terms of judges, 259–261
- Positive content decisions, 123–125, 208
- Positive law making, 272, 273
- President. See also Putin, Vladimir; Yeltsin, Boris
- compliance, importance of presidential decrees to, 222–223
- implied powers of
- First RCC and, 108–109
- Second RCC and, 128–130
- law making power, 211
- Russian constitution, powers under, 128
- separation of powers and, 209
- veto power, 129–130, 211
- Prior elites, commitment to democratization and rule of law, 42–45
- Privatization, 103
- Procuracy
- CSC and, 68
- detention of accused by, 213–214
- establishment of, 56
harmonization of laws and, 218–219
opposition to First RCC, 68–69
regional law making and, 217–218
residence permits and, 245
Stalinist purges, and victims of, 242
taxpayer rights and, 236

Procurator General, 78, 213
Property rights, Second RCC and, 166
Propiska
CSC and, 97–98
Second RCC and
compliance, 245–246
proportional restrictions on rights, 168
Proportional restrictions on rights. See
Second Russian Constitutional Court
Prosecutors, compliance problems with,
232
Przeworski, Adam, 116
Public support approach
judicial empowerment, to, 5–6
judicial review, to, 299–300
nonlinear judicial empowerment, to
object to nonlinear theory, as,
50–52
other states, in, 50–52
problems with, 52
Putin, Vladimir
Criminal Procedure Code, on, 213–214
dissolution of regional governments and,
147–148
electoral rights and, 244
European Court of Human Rights, on,
229
federalism and, 150, 246–247,
293–294
Irkutsk case and, 199–200
judicial appointments by, 225
local self-government and, 155–156,
244–245
monetary obligations of government to
individuals and, 201–202
referendum against, 137–138
Russian Constitutional Court Act of
1994, amendments to
binding nature of rulings, regarding,
87–88
proposals, 85
relocation of court, 88–90
tenure of judges, regarding, 85–87
siloviki and, 234–235
sovereignty clauses, on, 226
Stalinist purges, and victims of, 240–243
subnational sovereignty and, 146–147
Tatarstan referendum, on, 197
Rakhimov, Murtaza, 227
RCC. See First Russian Constitutional
Court; Second Russian Constitutional Court
Referendum process
Communist Party and, 137–138,
172
Congress of People’s Deputies, regarding,
Tatarstan referendum, 109, 195–197
Regions (Russia). See also Federalism;
specific region
accommodation approach, 109–110
constitutional/charter courts, 218–219
dissolution of regional governments,
147–148
election of local officials, 149–150,
152–153, 155–156
federal preemption of regional law,
145–146
fiscal policy, federal control over,
148–149
harmonization of laws, 218–219
joint jurisdiction issues, 110
judicial appointments, 223–225
regional law making, 142–143, 151–152,
153–154, 215–216, 218
relative strength of, 150–151
Second RCC, use of, 127
sovereignty clauses, 225–227
subfederal units, 109
subnational sovereignty, 146–147
Tatarstan referendum, 109
uniformity in regional governments,
144–145
Yeltsin, relationship with, 142–143
Religious freedom, Second RCC and,
178
Remington, Thomas, 129
Republics (Soviet Union), CSC and, 58–59,
93–97, 189–190
Residence permits
CSC and, 97–98
Second RCC and
compliance, 245–246
proportional restrictions on rights, 168
Retirement age cases
First RCC and
  damages, 203–204
  judicial review,
  Russian constitution, under, 112
  judges, retirement age for (See Tenure of judges)
Right to counsel, Second RCC and, 163
Romania
  constitutional court in, 2
  “War of the Courts” in, 220, 268, 271–272
Rubin, Edward, 141
Rudkin, Iurii
  First RCC, role in establishing, 62, 63
  retirement age cases, on, 203
Rule of law
  coexistence of courts and, 283–284
  design, effect of, 21
  fiscal policy and, 169–170
  Gorbachev and, 286
  legal elites and, 25–26
  political struggles, arising from, 2–4
  prior elites, commitment of, 42–45
  public support for, 251–252
  United Kingdom, in, 283
  “War of the Courts” and, 265, 274–275
Rupp, Hans G., 35
Russian Academy of Sciences, 246
Russian Central Bank, 149
Russian constitution
  age discrimination cases under, 203–204
  amendment process, 209–210
  arrest power under, 213
  Constitutional Convention of 1993 (See Constitutional Convention of 1993)
  federalism and, 140
  First RCC and, 61–62, 71–72
  presidential powers under, 128
  retirement age cases under, 203–204
  Yeltsin, new draft by, 73
Russian Constitutional Court. See First
  Russian Constitutional Court;
  Second Russian Constitutional Court
Russian Constitutional Court Act of 1994
  draft of bill, 79–80
  Putin, amendments under
  binding nature of rulings, regarding, 87–88
  proposals, 85
  relocation of court, 88–90
  tenure of judges, regarding, 85–87
State Duma, debate in, 80
Russian Council of Judges, 133, 212
Russian exceptionalism, 295–296
Russian Orthodox Church, 178
Russian Supreme Court
  financial independence of, 212
  First RCC, conflict with
  age discrimination cases, 203–204
  constitutional rights, over, 114–115
  labor law cases, in, 112–114
  reasons for, 204–205
  retirement age cases, 203–204
  wrongful dismissal cases, 202–203
  reopening of cases, 214–215
  residence permits, on, 246
  Second RCC, conflict with
  continuing problems, 290
  harmonization of laws, 218–219
  judicial review, 137
  regional law making, 215–216, 217
  reopening of cases, 214–215
  statutory interpretation, 134–135
  taxpayer rights and, 236
  tenure of judges and, 85
Scholarly debate regarding Russian experience, 12
Search and seizure, Second RCC and, 133–134
Second Russian Constitutional Court. See also specific justice
  alcohol license fees, 211–212
  appointments to
    Federation Council, by, 81, 82–85
    Yeltsin, by, 80–81, 82–85
  binding nature of rulings, amendments regarding, 87–88
  capital punishment cases, 163
  caseload, 123, 126–127
  Central Elections Commission, conflict with, 137–138
  chambers, 122
  Chechnya and
    federalism, 142, 144, 221
    mass media, in, 252
    separation of powers, 128–129
  Chernobyl and, 178–179
  compliance with
Index

binding nature of rulings, amendments regarding, 87–88
complaints of justices regarding, 256
constitutional rights, problems with, 229–230, 291
decision making, relationship with, 150
distrust of courts, impact of, 291–292
effective governmental infrastructure, necessity of, 292
executive branch resistance, 211
federalism, 221–228
financial independence and, 212–214
judicial appointments and, 223–225
monitoring, difficulty in, 208–209
presidential decrees, importance of, 222–223
problems with, 81–82
prosecutors, problems with, 232
reasons for problems with, 255–256
residence permits, 245–246
separation of powers, 209–214
trial procedures, problems with, 232–233
constitutional rights and access to court, 288
ambiguity and, 177–178
amnesty, suits against acts of, 159–160
binding nature of international laws, 174–176
caseload, 158–159
collective complaints, 161
compliance problems, 229–230, 291
creation of, 288
distrust of courts, impact of, 291–292
effective governmental infrastructure, necessity of, 292
equality of outcome, 178
expansion of access to court, 160–161
First RCC compared, 158
focus on, 228, 288–289
hidden principles, 173–174, 288
hierarchy of rights, 163–165
human rights law, effect of, 174–176
importance of, 158
institutions, suits against, 159–160
international pressure, impact of, 228–229
jurisprudence from other states, effect of, 176
legitimate restrictions, 165–166
overview, 185–187
strategic behavior of, 161–163
vagueness and, 177–178
contract rights, 166–168
criminal procedure and Criminal Procedure Code, 230–232
judges, complaints for damages against, 233–234
prosecutors, compliance problems, 232
sentencing, fairness in, 180–181
separation of powers, 133–134, 213–214
siloviki, power of, 234–235
trial procedures, compliance problems, 232–233
customs officials, confiscation of property by, 239–240
decision making by compliance, relationship with, 150
First RCC compared, 185
overview, 120, 127
difficulties in establishing, 90–91
disability payments and, 178–179
dissenting opinions, 121, 122
distrust of all courts, effect of, 250–251
economic rights and, 178
education of public, need for, 256–257
electoral rights and, 244
European Court of Human Rights and citation of decisions by, 174–176
study of decisions by, 228
fairness in deference to political branches, 183–184
legal formalism contrasted, 180
overview, 179–180, 184–185
pension cases, 184
sentencing, in, 180–181
social justice and balancing individual rights, 181–182
overview, 181
taxation cases, 182–183
vulnerable groups, 182
wage cases, 182–183
federalism and caseload, 139
Chechnya and, 142, 144, 221
compliance, 221–228
dissolution of regional governments, 147–148

© in this web service Cambridge University Press www.cambridge.org
Second Russian Constitutional (cont.)
  election of local officials, 149–150, 152–153, 155–156
  First RCC compared, 227–228
  fiscal federalism, 145–146, 154–155
  growing role of, 156–157
  historical context of, 139–140
  judicial reluctance, 143–144
  Komi, 223
  local self-government, 155–156, 244–245
  preemption of regional law, 145–146
  presidential decrees, importance of, 222–223
  regional fiscal policy, federal control over, 148–149
  relationship between decision making and compliance, 150
  sovereignty clauses in regional constitutions, 225–227
  subnational sovereignty, 146–147
  symmetrical federalism, 221
  taxation cases, 154–155
  Udmurtia case, 144, 149, 221–222
  unification approach, 140–141
  uniformity in regional governments, 144–145
  financial independence of, 82, 133, 212–214
  First RCC compared constitutional rights, 158
  decision making, 185
  federalism, 227–228
  separation of powers, 138–139
  growth in power of, 294–295
  Higher Arbitrazh Court, conflict with continuing problems, 290
  guiding explanations, 215
  regional law making, 216
  reopening of cases, 214–215
  statutory interpretation, 134–135
  ignorance regarding, 249–250
  individuals, petitions by, 126
  innovation in, 92
  international pressure and, 228–229, 286–287
  interpretative decisions, 122–123
  judicial activism in, 92, 122–125
  judicial independence, public support for, 251–252
  judicial review in growth of, 186
  intrajudicial disputes, 137
  limitations on, 120–121
  proportional restrictions on rights, development of standard via, 169
  theories of, 219–220
  “juristocracy” and, 294–295
  lack of information regarding rulings, 247
  land use statutes and, 243–244
  legal elites and, 286
  mass media and, 252–253
  opinion polls regarding, 247–248, 250–251
  political bodies, petitions by, 126–127
  political disputes, avoidance of, 288–289
  political problems in, 118–120
  politicization of, 157
  positive content decisions, 123–125, 208
  property rights, 166
  proportional restrictions on rights bankruptcy cases, 169
  election cases campaigning, 172–173
  dispute resolution, 171–172
  mass media and, 172–173
  referendum process, 172
  State Duma, 170–171
  fiscal penalties, 169–170
  judicial review, development of standard via, 169
  malicious intent standard, 173
  overview, 165–166, 168–169
  residence permits and, 168
  statutory requirement, 168
  taxation cases, 169–170
  public hearings, lack of, 125–126
  public image of, 247–254
  public policy changes and, 289
  public relations efforts, 253–254
  regions and constitutional/charter courts, 218–219
  dissolution of regional governments, 147–148
  election of local officials, 149–150, 152–153, 155–156
  federal preemption of regional law, 145–146
Index

fiscal policy, federal control over, 148–149
harmonization of laws, 218–219
judicial appointments, 223–225
relative strength of, 150–151
sovereignty clauses, 225–227
subnational sovereignty, 146–147
uniformity in regional governments, 144–145
use by, 127
religion freedom and, 177–178
relocation of, 88–90
reopening of cases, 214–215
residence permits and compliance, 245–246
proportional restrictions on rights, 168
right to counsel, 163
Russian Constitutional Court Act of 1994 (See Russian Constitutional Court act of 1994)
Russian Supreme Court, conflict with continuing problems, 290
harmonization of laws, 218–219
judicial review, 137
regional law making, 215–216, 217
reopening of cases, 214–215
statutory interpretation, 134–135
separation of powers and arrest power, 133–134, 213–214
Audit Chamber, 131–132
Cabinet decrees, 211–212
Chechnya and, 128–129
compliance, 209–214
conflict of laws, 135–137
constitutional amendment process, 209–210
criminal procedure, 133–134, 213–214
executive branch resistance, 211
Federation Council, conflict with, 209
First RCC compared, 138–139
implied powers of president, 128–130
intrajudicial disputes, 134–135
intralegalistic disputes, 130–131
normative decrees, 130
president and law making power, 211
veto power, 211
referendum process, 137–138
search and seizure, 133
stability in, 127–128
State Duma and conflict with, 209
second reading, fundamental changes introduced in, 210–211
subconstitutional disputes, 135–137
taxation cases, 132–133
veto power, 129–130, 211
sessions, 121
short-term policy making and, 91–92, 287
specific rulings, public support for, 248–249
Stalinist purges, and victims of, 240–243
strategies to enhance reputation of, 252
surveillance cases, 163–165
taxation cases
bank deposits and tax obligations, 235–237
double taxation, 235–237
fairness in, 182–183
federalism and, 154–155
good faith taxpayers, 237–238
overview, 235
proportional restrictions on rights, 169–170
resistance to rulings, 239
separation of powers and, 132–133
YUKOS case, 238–239
tenure of judges, amendments regarding, 85–87
timelines, 83
transparency, lack of, 125–126
Yeltsin and appointments by, 80–81
relationship with, 118–120
Selivon, Mykola, 262
Sentencing, fairness in, 180–181
Separation of powers
Federation Council and, 209
First RCC and (See First Russian Constitutional Court)
nonlinear judicial empowerment and, 45–46
president and, 209
Second RCC and (See Second Russian Constitutional Court)
State Duma and, 209
Index

Serbia
constitutional court in, 2
“War of the Courts” in, 267
Shakhrai, Sergei, 68, 70, 126
Shortening of terms of judges, 261–262, 263
Short-term policy making
Chechnya and, 8
compliance and, 301
decision making and, 301
design and, 54–55, 91–92, 301
judicial empowerment, impact on, 7–8
nonlinear judicial empowerment and, 39–41, 52–53
Second RCC and, 287
Shulzhenko, Iurii, 57
Shumeiko, Vladimir, 84
Siloviki, power of, 234–235
Skuratov, Yuri, 213
Slaughter, Anne-Marie, 176
Slobodkin, Yuri, 67, 68
Slovakia, constitutional court in, 2, 261
Slovenia, “War of the Courts” in, 268
Social justice, Second RCC and
balancing individual rights, 181–182
overview, 181
vulnerable groups, 182
Soloviev, Vadim, 198
Solyom, Laszlo, 263–264
Sources of data
interviews, 14
primary sources, 13–14
secondary sources, 14
South Africa, constitutional court in,
261
Sovereignty clauses in regional constitutions, 225–227
Soviet Union
Central Executive Committee, 56
Congress of People’s Deputies (See Congress of People’s Deputies)
CSC (See Constitutional Supervision Committee (CSC))
dissolution of, 98, 103
judicial review in, 56
Procuracy (See Procuracy)
republics, CSC and, 58–59, 95–97, 189–190
Supreme Court, 56
Supreme Soviet (See Supreme Soviet)
Union Treaty, 60–61
Spain
constitutional court in
caseload, 159
compliance problems, 34
impact of jurisprudence, 176
impeachment power, 8
individuals, petitions by, 126
legal hierarchy, 36
overstaying of terms, 259
politicization of, 116
politics and, 31
public support for, 50
federalism in, 142
judicial independence in, 33
“War of the Courts” in, 51, 268, 270, 274, 302
Special governance regime, 107–108
Stalin, Joseph, 283
Stalinist purges, victims of, 240–243
State Duma
binding nature of judicial rulings,
resistance to Putin proposals regarding, 87–88
dissolution power, 78
election cases, proportional restrictions on rights, 170–171
Federation Council, disputes with, 130–131
relocation of Second RCC, resistance to Putin proposals regarding, 89–90
retirement and tenure of judges,
resistance to Putin proposals regarding, 86
Russian Constitutional Court Act of 1994, debate on, 80
Second RCC, conflict with, 209
second reading, fundamental changes introduced in, 210–211
separation of powers and, 209
Stalinist purges, and victims of, 241
taxation and, 154
Stepankov, Valentin, 68, 72
Strategic approach
judicial empowerment, to, 5, 7
judicial review, to, 297–298, 299, 300
nonlinear judicial empowerment, to compliance under, 49–50
delegation of power and, 47–49
Index

objection to nonlinear theory, as, 47–50
strength of constitutional courts under, 49
Ulysses metaphor, 47–49
“War of the Courts” and, 293, 299
Subfederal units, 109
Subnational sovereignty, 146–147
Sumin, Petr, 198, 199
Supreme Soviet
CSC and, 59
dissolution by Yeltsin, 74–75, 108
First RCC, role in establishing, 61–62
Surveillance cases, Second RCC, 163
Symmetrical federalism, 221
Taiwan
constitutional court in, 34
shortening of terms of judges, 261–262
“War of the Courts” in, 52
Tajikistan, constitutional court in, 2
Tatarstan
constitutional/charter courts and, 219
electoral rights in, 244
judicial appointments in, 224
judicial review, resistance to, 206
referendum, 109, 195–197
residence permits in, 168
sovereignty and, 225–227
Taxation
Cabinet and, 154
Federation Council and, 154
Second RCC and
bank deposits and tax obligations, 235–237
double taxation, 235–237
fairness in, 182–183
federalism, 154–155
good faith taxpayers, 237–238
overview, 235
proportional restrictions on rights, 169–170
resistance to rulings, 239
separation of powers, 132–133
YUKOS case, 238–239
State Duma and, 154
Tax Code, 236, 237
Tax Ministry, 235–237, 239
Tenure of judges
comparative perspective, 282–283
Constitutional Convention of 1993,
changes at, 75
extension of terms, 261, 262–264
overstaying of terms, 259–261
overview, 258, 259
political commitment to judicial independence and, 264–265
Russian Supreme Court and, 85
Second RCC, amendments regarding, 85–87
shortening of terms, 261–262, 263
tables, 87, 260
Teune, Henry, 116
Tilly, Charles, 37
Tunov, Oleg, 203
Trial procedures, compliance problems, 232–233
Tsarist Russia
judicial independence in, 33
judicial review in, 55–56
Tumanov, Vladimir
chair of Second RCC, as, 119
Chechnya, on, 221
civil rights, on, 158
compliance, on problems with, 81
mass media, on, 252
Stalinist purges, on victims of, 241
Zorkin, on, 77
Tyler, Tom, 23
Tyva, 225
Udmurtia, 144, 149, 155, 221–222
Ukraine
constitutional court in, 2, 61
extension of terms of judges, 262–263
“War of the Courts” in, 52, 267, 274
Union Treaty, 60–61
Uniqueness of Russian experience, 10
United Kingdom
legal elites in, 27
“War of Courts” in, 283
United States
compliance in, 302
federalism in, 142
First RCC compared, 72
judicial review in, 27–28, 50
tenure of judges in, 264
Universal Declaration of Human Rights, 174
USSR. See Soviet Union

Uzbekistan, constitutional court in, 2, 46

Vagueness, constitutional rights and, 177–178

Vanberg, Georg, 24

Vedernikov, Nikolai
monetary obligations of government to individuals, on, 200, 201
regional law making, on, 152

Venice Commission for Democracy through Law, 229, 262

Vedery, Katherine, 39

Veto points approach, 292–293

Veto power, 129–130, 211

Vitruk, Nikolai
appointments to Second RCC, on, 81
compensation of victims, on, 240
compliance, on problems with, 82, 256
conflict of laws, on, 136
Constitutional Convention of 1993, role at, 73, 74
decision making, on, 80
dissolution of First RCC and, 75
financial independence of Second RCC, on, 82
impeachment of Yeltsin, on, 108
joint executive–legislative decrees, on, 105
retirement of, 227
Russian Constitutional Court Act of 1994, on, 79
sentencing, on, 181
sovereignty clauses, on, 226
Udmurtia case, on, 222

Voronezh, 168

"War of the Courts." See also specific state assumption of jurisdiction by constitutional courts, 269–270
coeexistence of courts and, 283–284
competition among courts, necessity of, 265, 269–270
constitutional rights, effect on, 284
Czech Republic, in (See Czech Republic)
European Court of Human Rights and, 275–276
federalism and, 293–294
Higher Arbitrazh Court, conflict with Second RCC, continuing problems, 290
guiding explanations, 215
regional law making, 216
reopening of cases, 214–215
statutory interpretation, 134–135
judicial resistance to constitutional courts, 270–271
legalistic explanation, 267–268
monopolizing of judicial review by constitutional courts, 272–273
nature of disputes, 265–266
overview, 258–259, 265
political causes of, 274
positive law making and, 272, 273
postcommunist states, in, 270
problems arising from, 273–274
progressive/reactionary explanation, 268–269
rule of law and, 265, 274–275
Russian Supreme Court
First RCC, conflict with age discrimination cases, 203–204
constitutional rights, over, 114–115
labor law cases, in, 112–114
reasons for, 204–205
retirement age cases, 203–204
wrongful dismissal cases, 202–203
Second RCC, conflict with continuing problems, 290
harmonization of laws, 218–219
judicial review, 137
regional law making, 215–216, 217
reopening of cases, 214–215
statutory interpretation, 134–135
scholarly attention, lack of, 266–267
strategic approach and, 293, 299
strategies for resolving, 274, 276
table, 216
veto points approach, 292–293
Way, Lucan, 193, 255
Widner, Jennifer, 302
World Bank, 43
Wrongful dismissal
CSC and, 97
First RCC, in compensation, 202–203
damages, 113
judicial review, 112–113
Index

Yeltsin, Boris
Chelyabinsk case and, 198–199
Communist Party, ban of, 106–107, 192–193
Congress of People’s Deputies, dissolution of, 108
constitutional amendment process and, 209–210
Constitutional Commission, as head of, 61–62
Constitutional Convention of 1993, convening of, 73–74
First RCC and
appointments to, 69–70, 75–77
legal elites and, 286
resistance to, 290
support for, 64
suspension of, 1, 74–75, 108–109
impeachment of, 1, 103, 108
Irkutsk case and, 199
judicial appointments by, 223–225
Khasbulatov, relationship with,
monetary obligations of government to individuals and, 201
Mordovia case and, 198
Moscow privatization case and, 199
new draft of Russian constitution by, 73
regions, relationship with, 142–143
Second RCC and
appointments to, 80–81, 82–85
conflict with, 209
legal elites and, 286
relationship with, 118–120
special governance regime, 107–108
Supreme Soviet, dissolution of, 108
Tatarstan referendum, on, 196–197
Udmurtia case and, 222
veto power, on, 129
Zorkin and
impeachment of, on, 206
relationship with, 101, 102–103, 115, 288
Yugoslavia, constitutional court in, 190
YUKOS case, 238–239
Zadornov, Mikhail, 212–213
Zorkin, Valerii
chair of First RCC, as, 100–101
chair of Second RCC, as, 119–120
compensation of victims, on, 240–241
compliance, on problems with, 256
constitutional rights, on, 158
“court packing,” on, 77
dissolution of First RCC and, 75
federalism, on, 141–142
impeachment of, 206
institutional conflict, on, 46
judicial review, on, 105
Khasbulatov, relationship with, 101, 102–103
monetary obligations of government to individuals, on, 201
political strength of, 100–101
public hearings, on, 125
public relations efforts, 253–254
regions, on petitions by, 157
resignation from First RCC, 104
Second RCC, on, 119
separation of powers, on, 63, 104–105, 192
Yeltsin and
impeachment of, on, 108
relationship with, 101, 102–103, 115, 288