

BOND UNIVERSITY
SCHOOL OF LAW

THESIS

**A Critical Analysis of the Extent to which the
Personal Civil Rights Recognised in the
Constitution of the Russian Federation are
Enjoyed under Russian Law.**

Candidate: Yuri Rapoport

S.I.D. 11020099

Supervisor: Professor Gerard Carney

CERTIFICATE

This thesis is submitted to Bond University in fulfilment of the requirements for the Degree of Doctor of Legal Science.

This thesis represents my own work except where due acknowledgment is made, and contains no material which has been previously submitted for a degree or diploma at this University or any other institution.

Signature.....

Date: 31 May 2006

SUMMARY

Aims and Scope of Thesis

This thesis examines the *Russian Constitution 1993* and the legislation flowing from it against the background of the former (Soviet) constitutions and international human rights instruments at the beginning of Russia's path towards democratization.

Research for the thesis was conducted over a period of four years (1998 - 2002) during particular political and economic instability in the country following the financial crisis of 17 August 1998.

A review was conducted of Russian laws that aim to protect, what are arguably the most fundamental rights of any democratic constitutional system - civil rights. Unlike political rights (which relate to the system of government), civil rights are the rights to liberty and equality granted to citizens of a country.

The civil rights enumerated in this thesis are known as 'natural' rights, and include the right to life; right to personal inviolability, right to privacy; right to dignity and good reputation; the freedom of information, movement, religion, language and nationality. These rights, are also referred to as 'personal civil rights', which is the term used in this thesis.

The thesis presents a critical analysis of personal civil rights proclaimed in the Russian Constitution, demonstrating that although their articulation accords with international standards, there are obvious problems associated with economic and political factors that limit their enjoyment by Russian people.

Most of the research for this thesis was conducted in Russia, providing a specific insight into the political, social and economic peculiarities (such as enduring totalitarian idiosyncrasies, and a prevailing context of corruption) the full extent of which is difficult to perceive from outside the country. Since, these peculiarities have a direct influence on the administration of justice in Russia, the thesis refers to local literature sources that contain an intimate knowledge of the effect of these factors on Russia's current legal system.

Chapter 1 of the thesis discusses the history and modern understanding of personal rights, as well as relevant parts of the current Russian Constitution, including how these differ from the previous constitutions. Subsequent chapters (2-9) discuss selected personal civil rights, which are particularly important in the context of Russian social, political, economic and legislative

development; namely the rights to life and personal inviolability, privacy, dignity; and the freedom of information, movement, language nationality and religion,. These rights are at the core of any democratic constitutional system as they are essential in securing fundamental human freedoms.

The Conclusion then summarizes the extent to which the personal civil rights proclaimed by the Russian Constitution are enjoyed by Russian people in light of Russia's present political and economic reality. For most of the rights discussed, specific problems are identified and suggestions made as to what measures may be taken in order to overcome them.

CONTENTS

SUMMARY.....	3
CONTENTS.....	5
INTRODUCTION.....	6
1. PERSONAL RIGHTS.....	11
2. THE RIGHT TO LIFE.....	37
3. THE RIGHT TO FREEDOM AND PERSONAL INVIOABILITY.....	46
4. THE RIGHT TO PRIVACY AND INVIOABILITY OF THE HOME.....	51
5. DISCLOSURE OF AND ACCESS TO INFORMATION.....	62
6. THE RIGHT TO PROTECT ONE’S DIGNITY, HONOUR AND GOOD NAME.....	66
7. FREEDOM OF MOVEMENT.....	80
8. NATIONALITY AND LANGUAGE.....	88
9. FREEDOM OF RELIGION.....	92
CONCLUSION.....	111
BIBLIOGRAPHY.....	117
APPENDIX 1.....	126
APPENDIX 2.....	132