

RIGHTS OF THE RULED: LEGAL ACTIVISM IN IMPERIAL RUSSIA

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ABSTRACT

Contrary to conventional views, law was a long-standing means of governance in the Russian empire. Based on an extensive survey of lower-level courts and a detailed analysis of two cases processed by officials in Kazan province, this article displays the widespread usage of the legal system by peasants from different ethnic groups. Records of county and provincial offices reveal that imperial subjects were active and knowledgeable litigants who used the accessible legal system both to resolve individual grievances and to defend allocated collective rights.

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Many believe that Russian law is an oxymoron, but law for centuries has been part of Russia's history and Russian life—before the Bolshevik revolution of 1917 and after, before the dismemberment of the USSR in 1991 and after. Lenin was a lawyer; Gorbachev had a law degree from Moscow State University; Putin graduated from the law faculty at what was then Leningrad State University; Russia's president, Dmitrii Medvedev, is also a graduate in law from St. Petersburg. In the recent past, Russia has been led by people trained in law, and the law faculties continue to prepare young people for careers. The number of lawyers has doubled since 1996. The case loads of Russian courts grow yearly.¹ Nonetheless, Western and Russian academics, journalists, and

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political commentators repeatedly bemoan the absence of rule of law in Russia. What is the problem here?

Rectifying this recurrent misrepresentation requires a transformation of Euro-American assumptions about “the” rule of law. In imperial Russia, a long tradition of legal rule was vital to the daily life of the polity. Subjects of the empire a century ago used an extensive system of local courts and expected to get justice from these institutions. In the nineteenth and twentieth centuries, even as the territory, leadership, and official ideology of the state were transformed, rulers and ruled shared beliefs about law, how it worked and should work. These beliefs affect how law functions in the Russian Federation today.

Misunderstandings of Russian law derive from listening to the wrong people, from looking at spectacular cases and not at ordinary ones, and from imagining that there is a single universal standard (the so-called Western one) by which all legal systems can be measured. Analyses based instead on law at work in ordinary circumstances show that Russians resorted to the courts to resolve intractable conflicts and to pursue their various interests. Subjects’ voluntary engagement of their legal possibilities testify to the law’s importance in social and political life. But while Russian subjects used courts for purposes similar to those of litigants in societies considered to be “ruled by law,” the expectations of law-users in Russia about how the law functions are not framed by assumptions identical to those Americans and many others associate with legal authority. Rulers and ruled in Russia share notions of sovereignty that differ fundamentally from so-called “Western” norms, such as natural and equal rights, or separation of powers. Explicating Russian law as it functioned in the past and functions today depends upon recognizing the multiplicity of legal systems, each with its own normality, and none, regardless of theory, universal in application.

In this paper, I review the Russian empire’s system of differentiated lower level courts. Analysis of the usage and functioning

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¹ Kathryn Hendley, *Assessing the Rule of Law in Russia*, 14 CARDOZO J. INT’L & COMP. L. 347, 385 (2006).

of local courts reveals their efficiency and popularity. I then consider two cases that were appealed to intermediary legal authorities by people of various nationalities living in Kazan province. In both cases, one involving a family matter and the other a political charge, authorities responded with care to requests and accusations. The documentary record reveals the law as a familiar and accessible dimension of social life in rural Russia in the early twentieth century.

I. THE LAW OF IMPERIAL RUSSIA IN MYTH AND PRACTICE

A flashback to Russian society in the decades before the 1917 revolution—a time when people cared about progress and change (their equivalents of “development” and “transition”)—reveals analytic problems similar to those discussed above. Then as now, intellectuals and other elites would have told foreigners that the legal system was fatally flawed, abnormal—that is, not Western—and corrupt. They would have blamed this on two things: the autocracy with its monopoly on power; and the “people,” whose alleged “backwardness” seemed to mean that they were not ready for rule of law.² But these very informants lived in a country where courtrooms were full of litigants seeking justice from the legal system, where legal decisions were made and enforced, and where peasants and other lowly subjects were familiar with legal procedures and used them.³

Contrary to intellectuals’ myths, law was a foundation of Russian governance. The emperor’s ultimate power was set forth in law, and subjects possessed rights of various kinds, defined in legal codes and enforceable at courts. Administrators issued their decisions within the framework of a legal order; litigants took cases to courts legitimated by imperial authorities; investigation of criminal charges followed officially defined procedures; punishment of the convicted was regulated and supervised.⁴

² On Russian intellectuals’ views of law and peasants’ relationship to it, see JANE BURBANK, *RUSSIAN PEASANTS GO TO COURT: LEGAL CULTURE IN THE COUNTRYSIDE, 1905-1917*, 5–8, 257–61 (2004).

³ Peasants’ extensive and informed use of lower-level courts is the primary subject of BURBANK, *supra* note 2. The statistical information cited in this article derives from this study. For information on the data collected and analyzed, see BURBANK, *supra* note 2 and Jane Burbank, *Russian Peasants Go to Court: Statistical Analysis of Data*, N.Y.U. (2004), <http://www.nyu.edu/projects/burbank/statistics/index.htm>.

⁴ On the law in early Russia, see NANCY S. KOLLMANN, *BY HONOR BOUND: STATE AND SOCIETY IN EARLY MODERN RUSSIA* (1999). For an overview of imperial law in Russia, see Jane Burbank, *An Imperial Rights Regime: Law and Citizenship in the Russian Empire*, 7 *KRITIKA* 397 (2006).

One vital aspect of the legal system was the devolution of authority over low-level legal matters—misdemeanors and small civil suits—to local courts and local authorities. Another significant characteristic was the pragmatic recognition by the administration of the variety of populations in the empire, and a corresponding practice of allowing an array of lower level courts to judge according to local or religious norms.⁵ The state's cautious treatment of customary practices empowered judges and litigants in local courts to engage and use the law in diversified, yet legal, ways. The local courts of imperial Russia included rural oral courts (*sel'skie slovesnye sudy*), "*shariatskie*" (using *shar'ia*) courts, mulla's ordeal instances (*po proizvodstvu ispytanii na zvanie mulli*), township courts (with peasant judges), and "people's" (as in native peoples) courts.⁶ These were instances where litigants, judges, clerks, and witnesses engaged imperial law in different languages, following different rules, but where all enjoyed, endured, or suffered from legal authority emanating from the state.

The assignment of judicial functions to local authorities meant that the bulk of judicial activity went on well below the lofty horizons of intellectuals and other engaged elites. The most used courts in the empire were—and this is perfectly "normal"—the lowest ones.⁷ In rural Russia in the late nineteenth and early twentieth centuries, the first place to initiate a claim in a small civil matter or to bring a misdemeanor charge

⁵ The courts of the empire were regulated by a number of distinct codes. On the use of custom in the extensive system of township courts established in the 1860s *see, e.g.*, *Obshchee Polozhenie o Krest'ianakh* [OPK] [The General Regulation on Peasants], §135, *SVOD ZAKONOV ROSSIISKOI IMPERII* [SZ] [Collected Laws of the Russian Empire], v. IX *Osoboe Prilozhenie* [Special Appendix], 1903 ("[I]n deciding suits and disputes among peasants, especially in cases about the division of peasant inheritance, the court is to be guided by local customs."). The OPK was issued as Book One of *Polozhenie o Sel'skom Sostoianii* [PSS] [The Regulation on the Rural Estate]. All eight books of the PSS constitute the "Special Appendix to the Ninth Volume" of the *SVOD ZAKONOV ROSSIISKOI IMPERII* [SZ] [Collected Laws of the Russian Empire].

⁶ For studies of these various kinds of courts, on the Caucasus *see* *MATERIALY PO OBOZRENIU GORSKIKH I NARODNYKH SUDOV KAVKAZKOGO KRAIA*, (N.M. Agishev & V.D. Bushen eds., 1912); V.O. BOBROVNIKOV, *MUSUL'MANE SEVERNOGO KAVKAZ: OBYCHAI PRAVO NASILIE*, 98-204 (2002); AUSTIN JERSILD, *ORIENTALISM AND EMPIRE: NORTH CAUCASUS MOUNTAIN PEOPLE AND THE GEORGIAN FRONTIER 1845-1917*, 89-109 (2002); IRINA BABICH, *EVOLIUTSIIA PRAVOVOI KUL'TURY ADYGOV (1860-1990-E GODY)*, 31-137 (1999). On nomad steppe courts, *see* Janet Martin, *Barimta: Nomadic Custom, Imperial Crime, in Russia's Orient: Imperial Borderlands and Peoples, 1700-1917*, 254, 254-57 (Daniel R. Brower and Edward J. Lazzerini, eds., 1997). On township courts, *see* BURBANK, *supra* note 2.

⁷ For a comparison of the number of lower level courts and their usage to the number of other instances and their usage, *see* BURBANK, *supra* note 2, at 76-78.

was the township court or an equivalent institution in outlying regions.⁸ Township court judges were instructed by the law to decide cases “according to conscience, on the basis of the evidence contained in the case.”⁹ Arguments were made before three or four judges—all peasants in juridical status—by the parties themselves, not by lawyers; the township clerk was obligated to record essential elements of the claim, defense, testimony, and the reasons stated for the decision.¹⁰

Justice at the township courts of rural Russia in the early twentieth century was accessible, cheap, fast, and effective. Starting a case meant filing a petition with a local authority, for which there were no fees. Cases were generally heard promptly. For the cases I surveyed, including those in wartime, the average time between registering a case and the court hearing was 8.8 weeks. Cases were also decided promptly. In Moscow province, for example, for the entire period 1905 through 1914, between 90 and 94 percent of all cases registered at the province’s 168 township courts were decided within the same calendar year that they were filed.¹¹

Enforcement was also rapid. By law, verdicts were to be fulfilled within six months, but in most cases, rural courts worked faster. Of the cases I surveyed, over 25 percent of sentences to jail were completed within nine days of the hearing. Forty-five percent of all arrests had been fulfilled by the end of two months and 70 percent by the end of three months. Ninety-four percent of recorded arrests were completed five months after the case. Thus in almost all cases, sentences to confinement in the local jail were carried out well before the end of the six-month limit. Forty-eight percent of all criminal case fines were paid within a

⁸ A township (*volost'*) was an administrative division of a county (*uezd*). Each township included several “rural societies” – a unit, usually corresponding to a village, of heads of households who managed economic matters and carried out administrative functions for their community. In theory, a township wielded authority over roughly six hundred to four thousand people (300 to 2000 male souls). The township administration was to be located within 13 kilometers from the most distant settlement of peasants subject to it. See OPK §§ 50–52.

⁹ OPK § 135.

¹⁰ Each party was entitled to one free copy of the decision. On court procedures and recordkeeping, see OPK §§ 77, 113–115, 124–131 and the discussion in BURBANK, *supra* note 2, at 68–73; V. V. TENISHEV, *PRAVOSUDIJE V RUSSKOM KREST' IANSKOM BYTU* (1907); and Cathy A. Frierson, ‘I Must Always Answer to the Law . . .’ *Rules and Responses in the Reformed Volost Court*, 75 *SLAVONIC & E. EUR. REV.* 308, 315–19 (1997).

¹¹ BURBANK, *supra* note 2, at 58. For sources of statistical data, see *id.* at 196–99; Burbank, *supra* note 3.

month of the trial, although authorities tolerated longer delays on collection of payments owed in civil cases.¹²

Accessibility, speed, and effectiveness—these qualities of Russian law in action may explain why the caseload of rural courts grew relentlessly over the years before the outbreak of the world war in 1914. In Moscow province, for example, the 168 township courts heard 47,761 cases in 1905 and 84,403 in 1913 (See Table 1).¹³

Both men and women could bring suits or accusations at the township courts. Women brought cases less frequently than men (16 percent before the war), probably because they controlled less property than males in their families. But this did not mean that women's charges were not respected by the judges. My statistical analysis showed that gender had no effect upon the outcome of the case. In war time, women—the ones left home to run the farm—were more active as litigators than before.¹⁴

Why did peasants go to court in the early twentieth century? This question can help us think about the place of law in Russian life. Lawyers will not be surprised that civil suits were more numerous than criminal ones at lower level courts. The most common kind of case to be heard at a township court was a “suit,” usually about a debt. The second most common case was a misdemeanor charge of “insult in word and or deed,” filed under statutes that criminalized personal insults.¹⁵ Peasants brought many other kinds of cases to court, such as disputes over family property and petty theft, but these two most frequent kinds of cases—a suit for a small amount of money or an accusation of “insult”—indicate that Russian subjects went to court for things that concerned them—and not particularly the state. Collecting a small debt was important to people who had to work for their living and to pay taxes; defending one's personal dignity against public insult was also important, apparently, to rural people. In both cases, peasants went to court, in large numbers, to find justice through the law (See Table 2).¹⁶

If this picture of Russian peasants' spending their holidays in rural courtrooms is unfamiliar, there are many to blame. For over a century Russian intellectuals and scholars, and foreign scholars who

¹² BURBANK, *supra* note 2, at 65–67.

¹³ *Id.* at 75–76.

¹⁴ *Id.* at 182, 315.

¹⁵ On insult statutes and peasants' use of them, see *id.* at 129, 134–152.

¹⁶ See the statistics and discussion of kinds of cases peasants brought in BURBANK, *supra* note 2, at 77–81.

followed after them, have been telling another story—that Russia’s peasants could not understand the law. But if we look at law in Russia, rather than looking for it, we can capture some critical qualities of imperial Russian law and governance, imprinted in the legal culture of the population.

II. WHAT THE RULED EXPECTED OF THE LAW: TWO CASES

When peasants and others took complaints to their legally empowered authorities and, especially, when they appealed or otherwise challenged decisions made at primary instances, they explicitly were turning to the state for assistance, if not justice. In this section, I discuss in detail two cases from Kazan Province in the late imperial period. Both cases involved officials at several levels of the judicial and administrative hierarchies, people with powers superior to those of the local judges considered above. In processing these matters, officials generated records at provincial and county level institutions: the governor’s chancery, the provincial gendarmes, the county police, the township administration, and village assemblies. The assiduous recordkeeping practiced by Russia’s judicial and administrative authorities provides a glimpse at how subjects deployed the law, at how administrators wielded their authority, and at what officials and subjects expected of the law and its operations.

While each of these cases involved particular individuals and unique communities, the patterns they reveal are by no means exceptional.¹⁷ The officials, plaintiffs, and accusers came from the three largest ethnic groups in Kazan—Russians, Tatars, and Chuvash—and the subjects under inquiry were all peasants in legal status, as were the vast majority of Kazan’s people.¹⁸ The legal records of the two cases suggest that imperial subjects recognized the power of the state’s judicial and administrative procedures, that non-Russians as well as Russians were active both as litigants and in the lower-middle level apparatus of rule,

¹⁷ This observation is based on my research in the National Archives of the Republic of Kazan [hereafter NART], in which I am exploring the wider topic of imperial governance.

¹⁸ In 1913, the officially counted population of the province was 2,850,101; of these, 1,940,630 were Orthodox; 853,715 were Muslim. Seven other religious groups accounted for the rest. Fifteen different national groups, plus a residual category for “others,” were counted in the province. The four biggest ethnic categories were Russians (1,108,085) and Tatars (898,653) and Chuvash (649,940) and Cheremis (145,550). Here as elsewhere, peasants constituted by far the largest estate: 2,461,179 people or 86 % of the total. OBZOR KAZANSKOI GUBERNII ZA 1913 GOD 2–4 (1915).

and that the political imaginary of elites was addressed, exploited, and possibly shared by ordinary subjects.

A. A FAMILY MATTER

My first case was heard at a county congress of land captains,¹⁹ a supervisory body that linked the lower-level courts and administration to higher authorities. The county congress was an appeals instance for peasant litigators who were dissatisfied with outcomes at township courts, as well as for peasants who wished to challenge decisions made by the land captain of their region.²⁰ In this case, “the matter of peasant woman A. V. Enasina of the village of Kutush about receiving a permission to live apart from her husband,” the husband in question filed a complaint with the county congress against a land captain’s decision. At the session of the county congress, the case was reviewed by three land captains from different districts of the county.²¹

In accord with regulations, the land captain who made the first decision in this case sent the records of the initial decision to the country congress, but did not participate in the new hearing. According to his ten-page document, the original case had been processed rapidly—from August 27, 1912 when it had been registered to September 1, 1912 when the land captain issued his decision. The land captain also sent a report of four pages to the county congress. The county congress opened the case on October 6, 1912, sent out summonses to the family members, and reheard the case two weeks later on October 20.²²

Anna Vasil’evna’s case, as first presented to the land captain, was that “her husband Andrei Ivanov Enasin beats her every day and chases after her, saying ‘get out of my eyes, I don’t need you’ therefore she asked for permission to live separately from her husband.” At her original hearing, three witnesses had testified. One had said he “knew nothing.” Another witness, Nikolai Fedotov, had testified that when he was going by the Enasin family’s gate, he had heard calls for help; the

¹⁹ The office of land captain was created in 1889, with the goal of overseeing the township courts. The reform and the office were both controversial. See Cathy A. Frierson, *Rural Justice in Public Opinion: The Volost’ Court Debate*, 64 SLAVONIC & E. EUR. REV., 526, 536–41 (1986).

²⁰ On the country congress as an appeals institution, see Gareth Popkins, *Peasant Experiences of the Late Tsarist State: District Congresses of Land Captains, Provincial Boards and the Legal Appeals Process*, 78 SLAVONIC & E. EUR. REV. 90, 90–114 (2000). On appeals from township courts, see Gareth Popkins, *Code Versus Custom?: Norms and Tactics in Peasant Volost’ Court Appeals, 1889-1917*, 59 RUSS. REV. 408, 408–24 (2000).

²¹ NART f. 58, op. 1, d. 249.

²² *Id.*

“petitioner” had run out and “on her cheek and arm were bruises, whether someone beat her or not he did not see, but assumes that she had been beaten, because earlier he hadn’t noticed bruises on her.” From the neighbors, Fedotov had heard that the “husband insulted the petitioner, and also the brother-in-law often beats her, and also the father-in-law hates her, when the beaten up Enasina ran out from the courtyard, in the courtyard were both the husband and the brother-in-law.” The third witness at the first hearing of Enasina’s case was an eleven-year-old boy. Aleksei Bulygin had testified that he had looked through a window of the hut and had seen how the husband and the brother-in-law were beating Enasina in the courtyard. He had heard her call for help, and saw her run out, “beaten in the eyes and with bruises on her arm.” Citing this evidence and statute 101 of the General Regulation on Peasants, the land captain had granted Enasina a yearly passport for “residence apart from her husband.”²³

Andrei Ivanov Enasin had not been not satisfied with this result. He appealed to the county congress on three grounds. Enasin claimed, first, that the land captain had based his decision on the testimony of a minor who could not be a legal witness. Second, the land captain had not let him call his own witnesses and had not entered his own declaration into the hearing record. Finally, Enasin asserted that he did not chase his wife out and “could not chase her away because he needed a workwoman [rabotnitsa] in the home and for his economic activities.” His request was to have the case sent back to the land captain for a new hearing calling witnesses from his side.²⁴

Both husband and wife appeared at the country congress’s hearing of the case. Anna Vasil’evna Enasina supported her earlier charges, testifying that “her husband beats her all the time in confirmation of which she had resorted to a witness. Lately her husband . . . with the cooperation of his mother and brother chased her out of the home and now she lives with others.” Andrei Enasin supported his opposing view, saying the “he did not agree to providing his wife with a permission for separate residence. He had not chased her out of the house and didn’t beat her. At the present time his wife lives her father, and therefore he doesn’t give her means [to obtain] food, [but] he is prepared immediately to take her to himself and support her.”²⁵

²³ *Id.* at l. 19o.

²⁴ *Id.*

²⁵ *Id.* at ll. 19-19o.

Based on this testimony and informed by the land captain's report and the entire file on the earlier case, the county congress declared Anna Vasil'eva's case "completely founded." The decision cited the witnesses' testimony as establishing the "impossibility of her living together with her husband." Citing statutes 76, 77, and 90 of the General Regulation on Peasants, the county congress confirmed the land captain's earlier decision to grant Anna Vasil'evna permission to live separately from husband. The complaint of Andrei Enasin was to be "left without consequences." This decision was to be announced to both sides with the explanation that the decision could be appealed in thirty days to the Kazan provincial board. The three land captains who reviewed the case signed their decision.²⁶ Thus, less than two months after the registration of her request, Anna Vasil'evna Enasina received a second confirmation of her right to live apart from her husband, against his strong opposition.

B. A CHARGE OF DISLOYALTY

Peasants turned to Russian officials not only to settle family disputes, but also to take up matters that concerned whole villages. The charge in the following case was connected with the infamous Stolypin laws. The promulgation of Stolypin's land reform rules in 1906 and 1910 initiated a flurry of legal claims on the part of peasants. Much of this activity was directed toward transforming land allotments from village into family property.²⁷ A century's worth of historical investigation about the significance of the Stolypin regulations—whether they were in peasants' interests, how many peasants accessed the law and why, the consequences and potential consequences of the reform—has not been able to clarify the effect of the law at the time.²⁸ But legal records from the period in Kazan province make some things crystal clear: peasants knew about the land reform law, and they knew that denouncing the law or obstructing its application were criminal actions that could be punished by the authorities.

²⁶ *Id.* at l. 20.

²⁷ On the Stolypin reforms, see David Macey, *A Wager on History*, in *TRANSFORMING PEASANTS: SOCIETY, STATE AND THE PEASANTRY, 1861–1930*, 149 (Judith Pallot ed., 1998). On the disruption of these policies, see Corinne Gaudin, *No Place to Lay My Head: Marginalization and the Right to Land during the Stolypin Reforms*, 57 *SLAVIC REV.* 747 (1998).

²⁸ Recent discussions can be found in JUDITH PALLOT, *LAND REFORM IN RUSSIA, 1906-1917: PEASANT RESPONSES TO STOLYPIN'S PROJECT OF RURAL TRANSFORMATION* (1999); STEPHEN F. WILLIAMS, *LIBERAL REFORM IN AN ILLIBERAL REGIME: THE CREATION OF PRIVATE PROPERTY IN RUSSIA, 1906-1915* (2006).

On February 12, 1912, the secretarial office of the Kazan Governor received a report about an accusation against the inhabitants of a Chuvash village. According to the communication from the chief of police of Cheboksarskii county, a peasant who claimed to be the village's "delegate for land affairs" had denounced his co-villagers for political agitation and for opposing his efforts to "put into effect the land reform." The police chief provided a copy of the "denunciation" that he had received from the administrative head of Voskresenskaia township. In his report to the governor's office, the police chief noted that he was sending the original denunciation to the Chief of the Kazan Province Gendarmes (the political police). He also reported that arrangements had been made for secret observation of the peasants of the village concerned and for conducting the investigation.²⁹ These communications show the tight, crosscutting ties between the rural administration, the local police, and the provincial gendarmes, all under the command of the governor and reporting to him. The following account of this case is based on the documents preserved at the Governor's chancery by the personnel of its "secret desk."³⁰

On February 16, 1912, Mikhail Petrov, the "peasant delegate of the Imbiurt rural society"³¹ had produced an elegantly written petition addressed to "The Honorable Chief of Police of Cheboksarskii County." The petition contained some grammatical errors that attest to its authenticity. Petrov wrote that he had been called to a meeting of the rural assembly of Imbiurt village on February 13. Petrov claimed that, although he had been the delegate for land matters of this village society for twelve years, the peasants at the meeting had "demanded that I could not appear in any institution for land conversion matters, and demanded . . . the delegation document back from me, and beat me up, threatening to disfigure me."³²

Petrov went on to describe this incident in ways that were sure to push buttons with the authorities. According to his account, the villagers were opposing the enactment of the land reform. Furthermore, he asserted:

²⁹ NART f. 1, op. 4, d. 5190, ll. 1-2o.

³⁰ See the entire file, NART f. 1, op. 4, d. 5190.

³¹ See OPK §§ 50-52. A "rural society" (*sel'skoe obshchestvo*) was the smallest administrative unit in the provinces. All peasants in post-emancipation Russia were members of a rural society that controlled common economic resources and performed many tasks of local administration. See BURBANK, *supra* note 2, at 3-4.

³² NART f. 1, op. 4, d. 5190, l. 17.

Such threats are not isolated events and not only in regard to me but also to others even a little inclined toward the implementation of the land reform. In recent dark times, the accused were in communication with political leaders [who] allowed themselves to spread various sermons, . . . and now they are again starting to display their political activity (maybe known to the township administration).³³

This accusation had compelled the county chief of police to begin his investigations. A few days later, the administrative leader of the township responded with a report that the police chief forwarded to the governor. In this report dated February 18, the township leader wrote:

It has come to my knowledge that peasants in Imbiurt village have recently been holding almost daily assemblies, at which they discuss not allowing their co-villagers who want to convert their land allotments into personal property to convert, and in general [not allowing] conversion to the new land usage.³⁴

The township head reported that he “personally” had been in the village with “two local police guards” and that he had “conducted investigations on this matter.” His inquiries showed that the villagers really had been holding assemblies, and that they “among other things considered the question of expelling from their rural society their co-member Mikhail Petrov, who is the delegate of the society for land affairs and who now it seems is forcing his co-villagers into conversion and in general into going over to the new land usage.” However, the township leader continued, the village leader had told him that the “assembly was gathered to collect tax arrears.”³⁵ With his report of multiple meetings in a village concerning, possibly, the land reform, the township chief, too, sounded the alarm of opposition to the law.

The governor’s office responded to these communications by consulting with the chief of the Kazan Provincial Gendarmes, Colonel Kalinin. The governor’s letter to Colonel Kalinin asked for information about the provincial gendarmes’ investigation of the matter. In this communication, the case took on the following worrisome label: “on the movement, arising among the peasants of Imbiurt village, Cheboksarskii

³³ *Id.*

³⁴ NART f. 1, op. 4, d. 5190, ll. 2, 2o.

³⁵ *Id.*

county, directed against the implementation of the law of June 14, 1910.”³⁶

This series of official reports and inquiries shows that an educated peasant, Mikhail Petrov, was able to catch the attention of township, county, and provincial level authorities by making a complaint about the “political activity” of peasants who were causing him problems. Whatever had happened at the meeting of the rural assembly on February 12, 1912 had turned into a “movement” against the law of June 14, 1910.

Colonel Kalinin, chief of the provincial gendarmerie, replied to the governor’s office with caution. Writing back on March 1, Kalinin reported that he had received the county police chief’s report, that “secret” investigations were underway, and that the police chief had asked for approval to carry out the investigation in the “ordinary” way—i.e., by the local police, not the gendarmes. The chief of the gendarmes noted that if what had been reported were confirmed, he would use the procedures of the political police to look into the political reliability of people under suspicion. He informed the governor’s office that he would write back when he had more information.³⁷

The governor’s office appears to have agreed with the county police chief and with Colonel Kalinin about conducting this investigation in the ordinary way. Although matters such as this one were considered “secret,” instructions, themselves secret, were sent to both the county police chief and to Colonel Kalinin on March 5. These declared that it was “possible” to take the process out of “secret police procedures” and hand it over to the local police.³⁸

Following these instructions, the local police carried out an investigation of the villagers on the basis of the 1881 law establishing procedures for state security.³⁹ The results of the investigation were fourteen separate protocols of depositions taken in the village in addition to a legal decision supposedly made by the village assembly. Altogether forty-four pages of evidence were bound into a volume, sealed with wax,

³⁶ NART f. 1, op. 4, d. 5190, l. 3.

³⁷ NART f. 1, op. 4, d. 5190, ll. 4-4o.

³⁸ NART f. 1, op. 4, d. 5190, ll. 5-6.

³⁹ These regulations, issued in the *Polozheniia o merakh k okhraneniui Gosudarstvennogo poriadka i obshchestvennogo spokoistviia* in 1889, have been regarded as a fundament of the Russian police state by some historians. See RICHARD PIPES, *RUSSIAN UNDER THE OLD REGIME* 305–18 (1974); JONATHAN DALY, *AUTOCRACY UNDER SIEGE: SECURITY POLICE AND OPPOSITION IN RUSSIA 1866-1905*, 27–40 (1998); JONATHAN DALY, *THE WATCHFUL STATE: SECURITY POLICE AND OPPOSITION IN RUSSIA 1906-1917*, 3–15 (2004).

stamped by the county police chief, and forwarded to Kalinin for his recommendation.⁴⁰

The depositions taken by the local constable, Rumiantsev, on March 13 and 14, 1912 offer a goldmine of evidence for historians on villagers and their way of life. They also reveal that the peasants of Imbiurt were dealing with issues much more immediate and less “political” than Mikhail Petrov had led the authorities to expect.

All the villagers who testified were Chuvash.⁴¹ At least four of them testified in Chuvash; their words were recorded in Russian on the forms, labeled “Protocol for the deposition of a witness,” provided by the constable.⁴² The village chief (*sel'skii starosta*) was forty-eight years old, Orthodox by religion, a Chuvash by ethnicity, a peasant by estate, employed in both agriculture and trade, and illiterate.⁴³ Only one witness was Russian—a peasant from another village, who was employed as the assistant to the township leader. He testified that there had been an issue of owed taxes for the village of Imbiurt.⁴⁴

The protocols revealed that the village had indeed been outraged by Petrov, but not over the Stolypin rules. All villagers denied speaking against the land reform law. They were angry because Petrov had drawn up a document assigning an allotment of the village's land to a widow, Anastasia Martynova, originally from Imbiurt. This land would be held according to the new regulations “in personal property.” What bothered the villagers was not this kind of land holding, but the allotment of land to Martynova from their village's common fund. They insisted that Martynova should get land from her husband's village, not her father's.⁴⁵

In the course of the investigation, the document Petrov had drawn up made its appearance. It had been the object of some struggle at one of the village meetings. Dated January 25, 1912, the document purported to be a decision of the Imbiurt village assembly.⁴⁶ But the signatures on the document were mostly in the same hand,⁴⁷ and the constable's examinations revealed that the villagers denied having signed this document. They also denied having beaten Petrov, but the village

⁴⁰ NART f. 1, op. 4, d. 5190, ll. 11-58.

⁴¹ The Chuvash are a Turkic ethnic group of Siberian origin, who moved into the Volga region in the seventh century CE.

⁴² NART f. 1, op. 4, d. 5190, ll. 30-55o.

⁴³ NART f. 1, op. 4, d. 5190, l. 54/41.

⁴⁴ NART, f. 1, op. 4, d. 5190, l. 42/29.

⁴⁵ NART f. 1, op. 4, d. 5190, ll. 30-55o.

⁴⁶ NART f. 1, op. 4, d. 5190, ll. 53-53o.

⁴⁷ *Id.*

leader affirmed that he had asked the county leader to expel Petrov from the village society.⁴⁸

Confronted with this evidence, the investigating constable attached the suspicious “decision” to his dossier, made his own report, and sent it to his superior, the county police chief. The constable’s report made the following points:

All the accused in this matter deny that they are guilty of agitation against the conversion of land holding . . . [they] never said anything about this subject. [Their concern instead was] the incorrect actions with respect to the village society of Petrov himself, who with the goal of allotting land to the peasant widow Anatasiia Martynova, of Tsivil’skii county, Anish-Khiri-Bagil’dinaia village, . . . drew up a public decision about giving her a plot of land from the common area, located in the common indivisible holding of the Opner and Imbiurt rural societies, which leads clearly to losses for the societies and was completely incorrect, since Martynova should have received land not from them but from the society of her husband. Therefore, having learned of Petrov’s intentions and efforts, the village leader called him to the meeting for an explanation, where he [the township leader] took back the aforementioned decision [the physical document] on the Martynova matter, and gave it later to the township leader.

This explanation . . . was confirmed by both the existence of the [document recording the] decision . . . and by the fact that this decision after examination was refuted by many of the people listed in it.⁴⁹

On April 6, upon receiving this report from his constable, the county chief of police attached his own decision on the case: “taking into consideration the fact that the file on the dossier on this matter has been followed up with satisfactory fullness and that this process can be concluded, [I] therefore decide: to present the dossier to the Governor of Kazan Province.”⁵⁰

After this, the whole dossier made its way—rapidly—back to the governor’s office on April 7. A week later, the governor sent it over to Colonel Kalinin, asking for his opinion about whether it was necessary to

⁴⁸ NART f. 1, op. 4, d. 5190, ll. 30-55o.

⁴⁹ NART f. 1, op. 4, d. 5190, ll. 38-40/56-57o.

⁵⁰ NART f. 1, op. 4, d. 5190, l. 57o.

take administrative measures according to security regulations against the people in question. Two days later, Kalinin wrote back with his concluding decision on the case.⁵¹

This was a detailed document that relied extensively on the investigation accomplished by Kalinin's subordinate. Kalinin cited Petrov's and other testimony that Petrov had been sworn at and beaten. The colonel also repeated the evidence explaining this behavior. His report noted that the accused peasants "had nothing against the conversion of land and therefore never said anything about this"; that the real problem was caused by "incorrect actions in relation to the society by . . . Petrov"; that Petrov's incorrect actions consisted of his having "composed a civil decision on the allotment . . . of collectively held land . . . that was clearly to the detriment of the [rural] societies and was completely incorrect, because Martynova should have received land not from them, but from the society of her husband"; and that "under investigation the decision itself was refuted by many of them listed in it." Concluding his observations in the village's favor, Kalinin noted that the accused peasants "had never been involved in matters in the purview of the Kazan Provincial Gendarmes and about them there is no unfavorable information of a political sort."⁵²

On these grounds, Kalinin asked the Governor to end the case but to set up "secret observation" over the five peasants who had been named in the investigation, including the village leader. On April 20, 1912 the governor replied to Kalinin that he agreed with his conclusions, both about dropping the case and setting up secret observation. The same day, the governor's office wrote back to the county chief of police with the results of the case and asked him to set up the observation procedures and report back on this. On May 10, the county police chief informed the Governor that his instructions had been carried out. This concluded the case against the villagers of Imbiurt.⁵³

III. WHAT KIND OF LEGAL REGIME IS THIS?

The matters central to these two cases—family rights, land holding, and political loyalty—were pillars of the imperial polity. Both subjects and rulers used the legal system to investigate charges and resolve conflicts over these concerns. In the process, administrators and

⁵¹ NART f. 1, op. 4, d. 5190, ll. 7-9.

⁵² NART f. 1, op. 4, d. 5190, ll. 9-10o.

⁵³ NART f. 1, op. 4, d. 5190, ll. 8-10o, 59-61.

subjects reinforced concepts about their state, its role, and its institutions. Let us look back on these cases with two questions in mind: What were the rights of the ruled and what were the expectations of the rulers?

For subjects, the law offered protections of various kinds. Although husbands enjoyed rights as heads of households, these rights could be withdrawn, as the Enasina case shows. A woman could take her request to live apart from her husband to a local overseer; after her husband appealed this official's decision, she could try again at a countywide appeals body. Enasina's husband was out to defend what he saw as his right to his wife's labor, as he crudely put it. Legal authorities at the county level responded to his claim by reviewing the earlier case, calling witnesses, and listening to both husband and wife. The appeals body found the wife's request "completely founded."⁵⁴ A husband's violence against his wife and his non-support of her were grounds for allowing her to live in another household. Family rights were fungible.

Another kind of protection afforded by the law concerned the control of property. The peasants of Imbiurt village were able to prevent the transfer of some of the land controlled by their village to a woman originally from the village but married to a man from another rural society. Why the man who ordinarily represented the village in land matters decided to allot land to a widow is invisible in the case records, but these show that the villagers took actions to prevent the transfer. They met to discuss it, requested the expulsion from their society of their erstwhile representative, apparently seized a forged document, and maybe beat the culprit up. When the erstwhile deputy accused his co-villagers of political agitation, their testimony led higher authorities to back up their control over the allotment in question.

As this investigation shows, subjects enjoyed the right to control certain affairs in a legal manner and could expect that this right would be defended by higher authorities. At issue in the Imbiurt village case was the power of the rural assembly to allot its own land with appropriate documentation. When the news of Petrov's manipulations reached the village, they held "assemblies"—meetings of household heads recognized as legal authorities by the rural code—to address the matter as well as the tax arrears that the rural society owed. The dossier on the case shows that higher authorities never challenged this kind of delegated authority; instead, the investigation both uncovered the forgery and led to a restatement of the villagers' rights over their communally held land.

⁵⁴ NART f. 58, op. 1, d. 249, l. 20.

Thus the ruled could anticipate that the legal system would protect them from individuals who violated family norms, back them up in their legally-defined rights to control certain types of property, and respect documents and decisions issued correctly by appropriate authorities. Subjects took for granted—and exploited—legal oversight of family matters, delegated authorities, and village procedures. If the ruled expected their authorities to protect these and other rights, what did the authorities assume as they did their duties?

As we try to tease out what was important to the authorities, note the extensive effort that went into the processing of these cases—the multiple reports, the informing of several parties, the dense web of correspondence between police and civil authorities, the stationery, the mail, the travel to villages, the recording and copying of evidence and communications, the translation of testimony, not to mention the instances of “secret surveillance.” This state put enormous social resources into administration, communication, and maintenance of order. These efforts were expended on many kinds of cases—civil suits, family matters—not just “political” ones.

The procedures followed in these and other matters that reached the governor’s office resulted in a rapid turnaround of cases, even ones that involved labor-intensive efforts at investigation and decision-making. A glimpse of the legal system in action belies the notion that Russia was an under-governed polity. Each case triggered a thoroughgoing investigation, including the dispatch of policemen and translators to take down evidence.

The authorities responded to charges and petitions in routine yet attentive ways. The governor’s chancery, the gendarmes, the police, and the township administrators all communicated with each other rapidly, using stationery, forms of address, identifiable numbering systems, and other formulas that were familiar and functional.⁵⁵ One expectation of authorities was that all officials would do their duties and communicate respectfully and rapidly with each other.

The machinery of investigation worked both horizontally and vertically. Officials worked in a well-defined chain of command, but they also communicated across it. The county police chief reported on his own to the gendarmes as well as to the governor’s office; he informed

⁵⁵ If these cases had involved criminal charges, the prosecutor’s office and the higher courts would have also been part of the investigation. See the archives of the Procuror of Kazan’s highest court, the Sudebnaia Palata. NART f. 390.

the governor's office that he was doing so. The institutions of oversight were intertwined through these reporting networks.

The administrative system created its own paper trails by mimeographing and copying out documents and by using consistent numbering systems for cases and for communications. Each communication contained information allowing it to be attached to the appropriate files at all institutional levels.⁵⁶ Inside the apparatus of administration, with its multiple reporting lines, loyal service was expected of all concerned and critical to making the system work.

The carrying out of legal investigations organized in this fashion involved the Russian public in legal processes. The workings of the system enforced connections between peasants and their authorities and made the law a presence in ordinary life. Summonses, the taking down of testimony, even "secret" observance of activity brought people into contact with authorities and their methods. It is not surprising, then, that subjects were familiar with legal procedures and could demand that they be observed. Enasina's husband, for example, wanted to discount the testimony of a minor.⁵⁷

The stress on documentation inside the administration was echoed in peasants' concerns about properly recorded documents. Evidence was traveling up and down and round about in this far-reaching system. Documents were seen to have enormous power; hence the struggle to retrieve the purported "decision" of the Imbiurt village society and to testify against its validity.

Students of empire and legal pluralism may note that ethnicity or religion did not seem to matter to any of the authorities. The forms used for recording testimony of witnesses in Imbiurt village ask for "origins and ethnicity;" the more detailed questionnaires for accused people also ask for "religion."⁵⁸ But authorities did not usually reference these recorded qualities in cases of ostensible disloyalty. Nothing was made of the fact that the Imbiurt village's peasants were Chuvash in ethnicity.

Both cases show the density and rapidity with which the investigatory machine operated. It would be hard to find a case in contemporary America that could be opened and shut so rapidly. Communications in Kazan province in 1912 functioned fast, especially when one considers the number of instances involved. Officials sent out

⁵⁶ See the numbering systems used in correspondence in NART f. 1 (the governor's chancery) for examples.

⁵⁷ NART f. 58, op. 1, d. 249, l. 19o.

⁵⁸ NART f. 1, op. 4, d. 5190, ll. 30-55o.

their reports or began investigations within a day or two. The governor's office logged a report from the county police chief of Cheboksarskii township three days after the date on the document. The interrogations in the village of Imbiurt, ninety-five kilometers from Kazan, began six days after the governor wrote his message handing the investigation over to the local police.⁵⁹ If this is "red tape," it worked impressively fast.

To turn more specifically to legal culture, what kinds of values seem to be communicated consistently along the spokes of governance? The Imbiurt case shows, as do many others of this type, that all along the chain of command, the administration responded to charges of denouncing the law or inciting people not to obey it. The charge that someone was speaking out against the law of June 14, 1910 was sure to raise suspicions about "political reliability" and was sufficient to start an investigation into the behavior of even very modest subjects.

Defenses used by the accused against charges of political agitation included both denial of having ever uttered a word against the law and evidence of law-abiding behavior. Investigating authorities added their own evidence, consisting of a person's having no prior record with the authorities for political matters and evidence of his loyal service.

The administration required peasants to support the law and refrain from "political activity." Nevertheless, officials did not just accept denunciations: such charges were not unusual and they were not to be accepted at face value. Officials took the time to find out about their subjects' behavior and exonerated them when they found that charges of political violations were unfounded.

What were subjects' expectations? What visions of the law did they communicate in their interactions with the state? First, it would seem that the state and the law were an ordinary part of life—a given—for people living in this region. It is hard to tell what the arrival of a constable to take down evidence over two days meant to the villagers of Imbiurt, but we do know that they managed to get their way against their more educated deputy, who for some reason was trying to help a widow obtain a parcel of land. Earlier, they had seized the offending document from Petrov's hands and turned it over to the authorities, demonstrating their understanding of what kind of evidence counted. Much as reform-minded jurists disdained the police and supposedly backward rural

⁵⁹ The village of Imbiurt was 95 kilometers from Kazan. SPISOK SELENII KAZANSKOI GUBERNII 192 (1908).

officials, these intermediaries and their investigations were important to villagers who wanted to defend their good character and their interests.

Second, peasants were attentive to the legal context in which they lived, and they used the same language of law and loyalty as did their administrators. The law was a field of politics where people of different status intersected. The Imbiurt land case shows how a peasant could use the language of obedience to the law in his own interest by denouncing other villagers to the authorities. Peasants knew that authorities at all levels would take seriously the accusation of not implementing the law of June 14, 1910.

The inclusion of discussion of cases from the “secret” tier of investigation may seem bizarre to some students of law. But if we can escape from westernized conventions of what law “is,” we can look more inclusively at the ways that Russian empire worked. From the perspective of law users—from governors to peasants—the police tier was part of the legal system. Subjects could frame charges in ways that would guarantee an investigation of an enemy. Peasants, lower-level officials, and provincial authorities used a naturalized language of loyalty—defined through faithful service and upholding the law—and disloyalty—defined by denouncing and disobeying the law.

To sum up, this study of legal legacies shows that in the imperial period Russian subjects were active litigants in lower level courts. Peasants were familiar with legal procedures and used them in their own interests. However, as at present, spectacular trials in cities with political significance or social interest were what attracted elite society’s attention, and the ordinary life of the law remained invisible to elites, including foreigners.

A functional linkage between law and state, between courts and administration, was part of the legal *habitus*. The avid use of courts does not imply that justice was seen as separate from administration. On the contrary, the tight connection between state power and court institutions is a strong continuity from imperial times, through Soviet ones, and to the present. Similarly, no one in these cases, or others I have examined, makes a case for equal treatment under the law or for “natural” rights. Instead, both subjects and rulers saw rights as allocatable, to be granted and supervised by the state.⁶⁰ All participants in the imperial legal system understood that certain powers were to be exercised by lower authorities,

⁶⁰ See Jane Burbank, *An Imperial Rights Regime: Law and Citizenship in the Russian Empire*, 7 *KRITIKA* 397, 400 (2006).

such as the village assembly or the township courts, and that higher authorities could be called upon to investigate and supervise lower ones.

Russians in tsarist times lived under a “rule of law” and used legal institutions for settling disputes, but they did so in a legal tradition different from ours. From their perspective, the state should provide courts and should see to it that judges are not corrupt and that judgments are enforced. Rule of law Russian-style meant that the emperor issued laws, and he and his officials were responsible for the institutions that made legal decisions. From this perspective, separation of powers would be a violation of the sovereign’s power and responsibility. To understand Russian law, both now and in the past, we must disregard the intelligentsia’s myths of lawlessness and examine instead legal practices. These reveal people’s expectations of a legal system that enabled them to gain lawful decisions about matters of individual, local, and real significance.

TABLE 1

Number of Cases Processed Yearly by Township Courts
Moscow Province, 1905-1914

Year	Civil Cases	Criminal Cases	Total Cases
1905	25,902	21,859	47,761
1906	26,778	24,425	51,203
1907	30,656	23,218	53,874
1908	36,238	24,221	60,459
1909	42,479	27,635	70,114
1910	44,552	25,930	70,482
1911	44,352	35,152	79,504
1912	47,121	35,470	82,591
1913	47,633	36,770	84,403
1914	46,676	27,331	74,007

Source: *Obzor Moskovskoi gubernii za [1905-14]*.

TABLE 2

Numbers and Percentages of Decided Cases by Official Category
Moscow Province Township Courts and Sharapovskii Township Court
1910

Category	All Township Courts from Provincial Statistics		Sharapovskii Township Court from Clerk's Record	
	Numbers	Percent	Numbers	Percent
Suits, "All Other Kinds" (Civil)	31,879	46.7%	128	36.7%
Personal Insults (Criminal)	13,929	20.4%	82	23.5%
"All Other Kinds of Misdemeanors" (Criminal)	8098	11.9%	12	3.4%
Disputes over Communal Property (Civil)	4467	6.5%	82	23.5%
Inheritance, Family Division, Communal Property (Civil)	3453	5.1%	25	7.2%
Thefts, Swindling and Fraud (Criminal)	2373	3.5%	9	2.6%
Misdemeanors against the Administrative Order	676	1.0%	11	3.1%
Eight Remaining Official Categories	3363	4.9%	0	0%
Total Cases	68,238	100%	349	100%

Source: OMG 1910, pp. 114-117, 122-123; TsGIAgM f. 846, op.1, d. 4, ll. 1-5.

Note: This table shows cases decided in 1910.