

Development of Justice and Legal Culture of the Russian Population: The Past and the Present

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Abstract— The paper considers the development of legal culture of the modern population claiming the status of developed and democratic society. The purpose of the study is to identify factors and conformity to the laws of history, which affected the revival of the jury trial in Russia. It is noted that the history of modern Russia is characterized by numerous reforms, conflicts and transformations in various areas of the society and the state, which substantially changed the image of the latter one. A particular emphasis is placed on the development and improvement of justice institutions, namely, the jury trial. It is known that the jury trial was introduced in Russia in 1864 and existed until 1917, and in 1991 it was revived again in some regions of Russia. The Stavropol Territory was among the first regions where it was readopted. The history of this region served the basis for the analysis of justice institutions and development of legal culture of the population through the comprehensive study of archival records. It is argued that the main feature and importance of the justice institution is its powers of authority exercised not through the representative bodies but through direct inclusion of any citizen able to become a juror into the justice activity. All citizens of the constitutional state are concerned with the administration of justice as one of the key sides of public life. Therefore, it is possible to conclude that in such societies the state policy is geared to the development of the legal state, improvement of legal activity and legal culture of citizens since importance of judicial system for the society is that the court guarantees the protection of rights and legitimate interests of all citizens.

Keywords— *justice; legal culture; jury trial; legal activity*

I. INTRODUCTION

The right of citizens for administration of justice is traditionally considered as a key feature of democracy. It is stipulated in Article 32 of the Constitution of the Russian Federation. One of the forms of the specified constitutional situation and a step towards the constitutional state has been the revival of the jury trial, which has been functioning in the Russian Federation for over twenty years. Initially, this

institute was gradually introduced in five regions of Russia, including the Stavropol Territory. Today the jury trial is widespread everywhere, but still its activity causes some debates and scholarlike disputes. Therefore, the pre-revolutionary domestic experience of the jury trial, which, for instance, may be analyzed using the example of the Stavropol Province, remains quite relevant.

In comparison with other bourgeois reforms of the second half of the 19th century, the judiciary reform was the most consistent and proclaimed judicial authorities based on the bourgeois principles of judicial administration and proceedings. It shall be noted that the Judicial Statutes of 1864 were not widespread in Russia and hence their introduction in the Stavropol Province was quite progressive.

In compliance with the Paragraph 13 of the Edict of His Imperial Majesty to the Senate on 9 December 1867 "On the enforcement of Judicial Statutes in the Stavropol Province on 20 November 1864" all orders "on the enforcement of Judicial Statutes in the Stavropol Province shall be centralized in the Main Office of the Proconsul of the Caucasus" [1, pp. 389]. The opening ceremony of the Stavropol District Court was held on 17 April 1868, however, it was open without the jurors for a variety of reasons.

II. MAIN PART

First, this refers to some political aspects of the Government related to judicial transformations in Russia as a whole and in the North Caucasus, in particular. There are a few documents in the history of our country, which provisions were implemented right after their acceptance. The valid reason preventing the jury in the Stavropol Province was the Caucasian War, which "created conditions requiring the emergency rule" and demonstrated recent instability in the region [2, pp. 3].

Moreover, in the second half of the 19th century the jury involuntarily demonstrated their independence on

governmental circulars and administration thus raising doubts of the central government in successful performance of the jury in the Stavropol Province with the majority of peasants living there. It is important to highlight that the absence of the jury as a legal institute failed to develop the legal consciousness of the population in the pre-revolutionary Russia.

By the time the jury was introduced in the Stavropol Province, some regulations in addition to and to change the Judicial Statutes of 1864, which considerably limited the competence of this institute, were adopted. It is noteworthy to pay attention to the law on 28 April 1887 introducing the educational standard – ability to read in Russian. The requirement on elementary literacy imposed by the government to potential jurors is quite logical and justified. In 1876, A.F. Koni wrote that “there are difficulties in electing the head of the jury who shall be competent under the law” and when the jury leave to the jury room, they “are left alone without anyone who is more qualified, who is able to lead them in reasoning and disputes”. As a result, the jury sometimes gave “absolutely unexpected decisions obviously based on misunderstanding or illiterate answers to questions of the court” [3, sheet 6-7]. These confirms the value and importance of the educational standard.

The same law of 28 April 1887 introduced changes to Article 84 on the Organization of Judicial Institutions, in particular, the “property qualification for persons gaining salary or income on capital, occupation, craft or trade” was increased by more than twice in comparison with the Statutes of 1864. Moreover, the qualification for land owners was considerably reduced. The changes also affected official qualification, which was maintained for peasants only, in other cases it lost its independent value. When the jury were assigned, not their position in public or community service, but the amount of land tenure or income was considered [4, pp. 187] (Table 1).

TABLE I. THE STAFF OF PEASANTS ENTITLED TO BE ELIGIBLE FOR JURORS BASED ON PROPERTY AND OFFICIAL QUALIFICATIONS AS OF 1910 (%)

Reason	DISTRICTS					
	Aleksandrovski	Blagodarinski	Medvezhenski	Praskovejski	Stavropol district	
					Stavropo I	In addition to Stavropo
Property qualification	75.2	68.5	76.5	69.9	100	63.5
Official qualification	24.8	31.5	23.5	30.1	-	36.5
Total	100	100	100	100	100	100

The table is compiled based on: general lists of persons eligible for jurors of Stavropol District Court as of 1910 // Stavropol provincial bulletin. Pribavlenia. 1909.

The property qualification in the cities was doubled from the yearly income, while the land qualification in rural areas was considerably reduced. Such changes were probably aimed to reduce the specific weight of intelligentsia belonging to different social classes, which “in practice were not quite favorable as the jury” and to expand the participation of those social classes, which supported the sovereignty, namely, the well-to-do peasantry as “a reliable element among rural inhabitants” [5, sheet 12]. However, some changes had positive effect since the number of competent peasants, whose knowledge and experience were valuable attributes of the jury, increased.

Women that in pre-revolutionary Russia were granted neither active nor passive electoral right had no right to be part of the jury. In pre-revolutionary Russia the military officers were also not allowed to participate in representative or similar institutions, including the jury trial. In reality, the criteria established by the law of 1887 for persons elected as the jury were not always effective and therefore the idea of a public institution consisting of independent, educated social classes ready for this role and driven by the “fathers of judicial reform” turned to be an illusion. The social structure of a society with high percentage of peasants who just liberated from bondage; a class where the hidden borders between estates interfered with the union of their various representatives into one jury and the absolute division of this institute into classes; lack of democracy experience – all this cannot be changed by single amendments to the law.

The jury is a reduced model of a society and none legislative regulations aimed at the jury members, desirable for the government, could resist the real social structure of the society, as well as contradictions existing in that society.

Thus, the introduction of the jury trial in the Stavropol Province in 1906 was the result of the public influence, numerous debates regarding the distribution of judicial statutes in Russia. The jury trial in the Stavropol Province was introduced by the order of the State Council of 13 February 1906 “On the introduction of jury in the provinces of Stavropol, the Black Sea and the Kuban Region”. The first court session with the jury was set on 7 December 1906 and had to take place in the Blagodarnoye Village [6, pp. 5], which indicates a certain democratic nature and progressiveness of views in the province.

It shall be noted that the introduction of the jury attracted the attention of the entire court and the jurors involved, and caused some anxiety in the public and made the headlines in media. Besides, according to Article 94 of the Organization of Judicial Institutions, the lists of persons having the right to be elected as the jury were published in the Stavropol Provincial Records [7, pp. 1-14].

The general and regular lists of jury in the Stavropol Province were made by special temporary commissions formed in accordance with general practice (Articles 89 and 97 of the Organization of Judicial Institutions) in each county under the chairmanship of: in the Stavropolsky county – the local marshal of nobility, and in other counties – the local chairman of the county congress [8, pp. 121]. The Ministry of

Justice showed a lot of interest in the work of the specified commissions.

The circular of 20 May 1912 informed the prosecutors of some provinces, including the Stavropol Province, on the need to provide some information on the operation of courts. For example, the State Archive of the Stavropol Territory and other documents confirm that the Svyatokrestovskaya and other commissions “checked the lists of persons having the right to be the jury” and the listed persons not meeting the requirements of the law were excluded [9, sheet 107].

The above is confirmed by the lists indicating age, education, religion and special attention was paid to property and official qualification. Nevertheless, some failures were identified in the work of some commissions. The report on the work of the district commission of Medvezhensky Area of the local marshal of nobility to the companion of the Stavropol Prosecutor of the District Court dated 28 August 1912 stated the “errors and inaccuracies” caused by the poor knowledge of “local inhabitants” by members of the commission since “the majority of them were alien people, ... from areas distant from our province (for example, from Kishinev, etc.)”. As a result, “the old residents and persons holding high moral authority in the Stavropol Territory were not included in the lists of jury” [9, sheet 103].

There were other violations. The senate also specified that “the persons belonging to nobility and merchantry were often exempted from being included into the lists” without any reason, and in the majority of counties “exclusively retired officials and peasants” were part of the jury [5, sheet 10]. However, the operations of laws of 12 June 1884 and 28 April 1887 changed the situation and, hence the share of peasantry was reduced, but not significantly. For example, in provincial counties of the Moscow judicial district the “peasant jury” made 40-60% and in non-provincial counties – on average 60-75% [10, pp. 22]. In the Stavropol Province this percentage was higher and slightly different. In the general lists on the Stavropol County this ratio was slightly different: peasants made 39.1% and noblemen – 8.1% [11].

In compliance with the legislation the peasants could be included into the lists of jury if they met the requirements of the property qualification and held positions of rural management. However, peasants who became jurors due to office qualification were not the best jurors. A.F. Koni noted that for many peasants the position of the rural headman was burdensome and resulted in personal losses.

Russian researcher Afanasyev A.K, talking about the value of participation in judicial examination of peasant jurors, noted that they “knew living conditions and understood the criminal motives of defendants belonging to their class, which could help to make fair decisions”. Besides, peasants were the most conservative element among jurors since frequently they “got under the influence of eloquent representatives of other classes who were able to convince ... of justice of their opinion” [12, pp. 203].

The category of merchant jurors is also interesting. Timofeev N.P. believes that they include “small, large merchants, dealers, manufacturers, industrialists, ... somehow

affected by commercial activity”, besides the merchants “are burdened by participation in the jury ...” and the representatives of this class “in every possible way ... tried to avoid this duty” [13, pp. 374-376]. In the Stavropol Province the regular merchant jurors made from 3 to 12% in different regions (Table 2).

TABLE II. SOCIAL COMPOSITION OF THE PANEL OF JURORS IN STAVROPOL PROVINCE IN 1906 AND 1908 (%)

Years	Estate	District		
		Blagodarinski	Medvezhenski	Stavropolski
		Regular	Regular	Regular
1906	Noblemen	-	1.6	5.0
	Officials	-	21.6	11.8
	Merchants	3.3	5.0	6.6
	Middle-class persons	18.4	30.0	23.3
	Peasants	78.3	41.6	53.3
	Cossacks	-	-	-
	Total	100	100	100
1908	Noblemen	-	-	5.0
	Officials	1.6	-	32.5
	Merchants	-	-	20.0
	Middle-class persons	5.5	6.6	35.0
	Peasants	92.2	93.3	5.0
	Cossacks	-	-	2.5
	Total	100	100	100

The table is compiled based on: general lists of regular jurors and talesmen in districts of Stavropol province as of 1906 and 1908 // Stavropol provincial bulletin. 1906 and 1908.

TABLE III. THE PANEL OF REGULAR JURORS IN STAVROPOL PROVINCE IN ACCORDANCE WITH AGE QUALIFICATION AS OF 1906 (%)

Age	Districts		
	Blagodarinski	Medvezhenski	Stavropolski
25-30	10.0	3.3	3.3
30-40	20.0	30.0	26.6
40-50	41.6	25.0	33.3
50-60	23.3	35.0	20.0
60-70	5.0	6.6	16.6
Total	100	100	100

The age of jurors shall also be considered. The expert lawyer Timofeev N.P. spoke about direct dependence of the tactics of defense and prosecution on their age. Thus, “for some crimes the young jury (for example, rape, religious crimes, etc.) were often more lenient and just the defendants

compared to people of senior age". The jury of 40-45 years old were considered the most mature and independent (Table 3).

The table is compiled based on: lists of regular jurors and talesmen in Blagodarinski, Medvezhinski and Stavropolski districts of Stavropol province as of 1906 // Stavropol provincial bulletin. 1906.

Thus, analyzing the lists of regular jurors and talesmen, we noticed that in Stavropol province, as well as on the whole in Russia, peasants were the majority. Representatives of other classes sought to get rid of this "honorary public duty" in court for various reasons.

It is important to note that during hearing of "high-profile criminal cases", some of the verdicts did not meet the expectations of the society and entailed reproach upon the jury for bias, corruption, etc. Another reason is related to everyday inconvenience when discharging the duty of a juror. There were cases, although rarer, according to archival data, of both impolite and rude treatment of jurors. As a result, many jurors turned out to be sick, employed during the sessions of the district court, presenting relevant documents in this respect, even preferring to pay a fine.

III. CONCLUSION

The creation of the bench of jurors is an important condition of successful activity of this institute. Analyzing archive materials, regulations on the history of formation of this institute of justice, it is possible to consider the activity of the temporary commissions in the Stavropol Territory regarding the lists of persons having the right to be jurors, satisfactory. This is confirmed by the general lists and lists of regular and reserve jurors. In the Stavropol Province, as well

as in the entire country, most of the jurors were peasants, which made the jury one of the most democratic institutes in pre-revolutionary Russia.

The jury really exists today in the Russian Federation and still causes a lot of questions and disputes thus confirming the need for comprehensive study of the pre-revolutionary jury trials. The historical experience and objective assessment of modern reforms in the country almost in all spheres might improve the quality of legal culture of the population.

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