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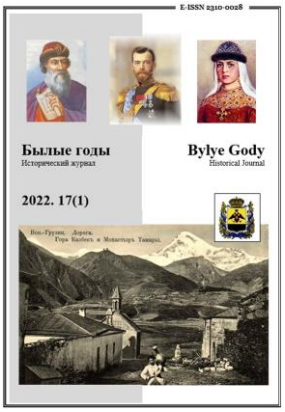

"To Judge by the Letter of the Law": Cases Filed to Peasant Crown Courts in the Central Urals, 1780s-90s

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Abstract

The article is dedicated to the question of Justiznutzung or uses of justice at Russian provincial courts during the 1780-1790-ies. Catherine II`s judicial reform (1775–1785) introduced an estate-based court system. For the first time in Russian history, positive law was extended to part of the peasantry. In districts with a high percentage (at least 30 %) of personally free rural dwellers, courts of first instance, so called nizhnye raspravy were opened, thus giving this population group the possibility to seek justice in a crown court. In the Perm vicegerency (1781–97), however, this opportunity was seldom exploited: criminal and civil cases constituted less than a fifth of court business per year. This contribution will not focus the "classic" question of whether peasant courts were frequented or ignored. Its aim is to concentrate on those situations and constellations when customary law failed to satisfy the plaintiff´s needs, leading to them appealing to the norms positive law and its institutions to receive a just decision. Most of the time, proceedings at a crown court opened ex officio. But this was not exclusively the case: court records kept in the state archive of the Sverdlovsk region show that the peasant commune regarded a conflict within its social context and only then decided whether to turn to the norms of positive law to restore justice. Given this, the low court activity at the nizhnye raspravy cannot be explained by the dualism of law and legal nihilism among the peasantry. It is more appropriate to speak of legal pluralism, the juxtaposition of several valid legal forms to whose norms people were free to turn.

Keywords: Justiznutzung, history of the 18th century Urals, legal reform of Catherine II, customary law, Perm vicegerency, volost courts.

1. Introduction

This article begins with a story, a case that happened in Alapayevsk uezd, a mining district about a hundred kilometers northeast from Yekaterinburg in the Central Urals in the early 1790s.

In February 1792, the Alapayevsk police were called to Glinskaya volost to carry out an investigation in a case of theft. Avrosy Prichinin, a peasant of the village of Sokolova, had stolen a rifle from Ivan Rasputin, a peasant from the village of Pershina. Sounds like an ordinary case, and it would have been one among many others if the incident had not happened more than a decade ago. In the summer of 1781, 17-year-old Prichinin was at the hay harvest, and next to him worked peasants from the neighboring village of Pershina. From their conversation, he learned that one of them, the aforementioned Ivan Rasputin, kept a rifle in his shed. On one of the following nights he went to Pershina and stole it. But Prichinin didn't much enjoy the rifle – he only went to the forest a few times to shoot, the rest of the time hiding it in his house. He was haunted by remorse; a year later he took the rifle to the mirskaya isba, repented and paid a fine. The rifle was returned to its owner, and Prichinin was forgiven. Then the matter was forgotten. Prichinin matured, acquired a house and started a family. He regularly attended confession and never came into conflict again

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with the law. Nevertheless, the case was reopened: this time the trial was not held at the volost court, as Prichinin was reported to the police (GASO. F. 771. Op. 1. D. 106. L. 2–16).

One of the innovations of Catherine II's judicial reform (1775-1785) was the introduction of an estate-based court system. Implementing the principle of vnutrisoslovnoe ravenstvo[1], which was already propagated in the nakaz of 1766, positive law was extended to part of the peasantry (Efremova, 2011: 8). In districts with at least 30% of personally free rural dwellers, courts of first instance (so-called nizhnye raspravy) were opened, thus giving this population group the opportunity to seek justice in a crown court[2] (PSZRI-1. T. 20. № 14392).

By the standards of the 18th century, extending positive law to part of the peasantry can be considered a fairly bold decision. In its realization of this project, the government showed great caution; the peasants, in turn, were no less reserved about their newly acquired rights. In the Central Urals[3] this opportunity was seldom exploited. Though state peasants, mineworkers, coachmen, and representatives of indigenous peoples made up 95 % of the total population in the Perm vicegerency (1781-97), court activity at the nizhnye raspravy was low. Criminal and civil cases constituted no more than 17.5 % of court business per year (Balbashevskii, 189: 24-47; GAPK. F. 53. Op. 1. D. 5. L. 2 ob. 18. D. 9. L. 33, 36 47; GASO. F. 491. Op. 1. D. 46. L. 112, 121ob., 130. D. 98. L. 46, 53, 62. D. 296. L. 9, 18, 26 ob. D. 299. L. 37, 51, 60ob.).

In this article I will not focus on the "classic" question of whether peasant courts were frequented or ignored. Instead, I will try to gain an understanding of when and under what circumstances people did appeal to the norms of positive law and its institutions. In order to answer this question I suggest to take a closer look at the lower courts that ranged below the crown court system and subsequently concentrate on those situations and constellations when customary law failed to satisfy the plaintiff´s needs.

Studying this issue in the Central Urals seems to be promising for at least two reasons. As already mentioned, in the Perm vicegerency, the vast majority of the population belonged to the category of "free rural dwellers". In addition, here (as well as in the other non-European regions of Russia), the "Statue for the Administration of the Provinces", the initiating document of Catherine`s judicial reforms, was implemented almost simultaneously with the "small reform" of the Perm and Tobolsk Governor-General E.P. Kashkin, which was aimed at the "govermentalisation" of the peasant commune and the volost courts.

2. Materials and methods

The present research is based mainly on unpublished sources. In order to find out for what reason, in which cases and under what circumstances the free rural population of the Perm vicegerency turned to a crown court for settling legal conflicts, we analysed quite a large number of court records that are kept in three fonds of the State Archive of the Sverdlovsk Region (GASO): Alapaveskaya nizhaya rasprava (F. 771), Verkhoturskaya nizhnaya rasprava (F. 491) and Yekaterinburgskaya nizhnaya raspava (F. 591).

These court records contain valuable quantitative and qualitative data. From them we learn about the number and types of crimes (property offences, crimes against the state, crimes against the person) mostly committed in the region and period under consideration. In addition, which is of no less significance in our case, these documents include information about the place and time of the crime, the course of events and about the court's decision. The excerpts of the witness transcripts give an idea about the litigants and other persons involved in the case. Information on age, marital and educational status, their financial situation and social affiliation help to shed light on the motives for filing a complaint to court, and maybe even on the story that hides behind it.

A useful method to answer the questions formulated above is the concept of Justiznutzung or uses of justice, which was introduced by the German historian Martin Dinges at the beginning of the century (Dinges, 2004: 159-175; Dinges, 2000: 503-544). The aim of this notion is to shift the attention of researchers from the top-down approach of social control preferred in older studies on crime and deviance in early modern period to a more nuanced bottom-up perspective.

According to Dinges early modern courts occurred to be not merely an instrument in the hands of state authorities to impose social discipline on their subjects by means of implementing norms and laws. Rather, he argued the population of this period made active use of the state`s juridical infrastructure in an instrumental way. Following this line of argumentation the filing of an official complaint to local court was one in a multitude of options available to ordinary people for settling a conflict that started out of court.

3. Discussion

In Russia, the discussion about the preparedness of the peasants to seek the assistance of courts for the resolution of their legal problems was not new. Two camps predominate the Russian and western scholarly literature. From one camp's point of view, legal dualism was an unsurpassable obstacle to any cooperation between the village and the state. According to this view, the Russian peasantry was characterised by a legal nihilism based on their social position and the legal and religious context. In order to resolve conflicts, they frequently resorted to extrajudicial methods, such as lynching or arson (Baberowski, 1996; Engelstein, 2003: 338 353; Kucherov, 1953; Pipes, 1974: 187 197; Wortman, 1976).

The representatives of the other camp regard these elemental "just retaliations" as isolated acts that derived from hopeless and were the exception rather than the rule. They attribute to the peasantry a rather high level of

legal consciousness. The rural population was not only well versed in the legal framework, but also demonstrated the ability to apply this knowledge before the court in order to defend their interests and receive satisfaction. The legal institutions created by the government were adapted to the needs of the peasants, who turned to them willingly (Burbank, 2004; Czap, 1967: 149-178; Farnsworth, Popkins, 2000: 90-114).

Regarding the Ural region during the reign of Catherine the Great, the question of rural court activity has been discussed in the works of V.A. Voropanov. This historian maintains the position that the policy aimed at 'governmentalizing' the court system was entirely successful. They protected normative and institutional pluralism, allowing the population access to alternative procedures for minor offences: they thus satisfied the requirements of villagers. The nizhnye razpravy and the lower courts outside the crown judicial system fulfilled the function assigned to them by the legislator (Voropanov, 2015: 104-120; Voropanov, 2002: 137-160).

While I do not desire to entirely reject this optimistic view, it is nonetheless worth mentioning that the author seems to be entirely dependent on a bird's-eye view of the issue. An analysis of legal documentation and the cases tried in the nizhnye razpravy of the Central Urals reveals a less one-dimensional picture. Equally, in order to evaluate the judicial activity in peasant courts, I believe it is advisable to expand the research base by trying to account for the norms of customary law.

4. Results

In order to find out why the nizhnye raspravy were rarely frequented, I would suggest taking a closer look at the lower courts below the crown court system.

Catherine II`s legal reform did not stop at district level: a logical consequence of the introduction of an estate-based court system was the "governmentalisation" of traditional justice. As for the rural estates, the legislator sought to systematically incorporate peasant communities into the mechanism of public authority. Subsequently, during the last third of the 18th century the government launched a number of decrees aimed at the regulation of the peasant mir and the formalization of its judicial status. Approval was given to such local regulatory enactments as the "Instruction for the establishment of parish courts" by the Perm and Tobolsk Governor-General E.P. Kashkin (1782) and the "Establishment of a rural order in state-owned villages in Yekaterinoslav gubernia" (1787). Three years later these local regulatory acts, which confirmed for rural communities the status of a collective legal subject, were extended to other regions of the Russian Empire (Apkarimova i dr., 2003: 23; Dunaeva, 2010: 15-16).

In the Central Urals, the Statue for the Administration of the Provinces and the so-called "small reform" of General Governor Kashkin were implemented almost simultaneously. The latter focused on the establishment of *volost* courts. The document enclosed instructions for staffing the judiciary apparatus of these courts, specified the requirements that candidates applying for the position of judge had to meet and also gave a detailed description of their responsibilities and duties.

The "reformed" volost courts were supposed to fulfill two government intentions: firstly, they should "release" the crown courts and, secondly, they were meant to provide peasants with "their own" less bureaucratic courts. In order to make them more attractive to peasants, justice was exercised according to the norms of customary law. The courts had conciliative functions, and the proceedings were heard orally.

Their judicial and procedural competencies, however, were formulated less clearly. The jurisdiction of the volost courts was limited to deciding on "minor disputes". But what exactly was meant by this was not specified. There was no definition or list of cognizable cases, this is of those crimes that fell under jurisdiction of the volost justice. A judgment of the volost court was not binding. When the litigant did not agree with the decision or when it failed to meet his expectations, he was entitled to appeal to the competent crown court of first instance (Akishin, 2003: 73-83; Suvorova, 2008: 100-104).

Among the criminal law cases which were heard at the nizhnye raspravy of Alapaevsk, Verkhoture and Yekaterinburg in the last decades of the 18th century, property offences ranked first (45 %) (GASO. F. 491. Op. 1; F. 591. Op. 1; F. 771. Op. 1). Almost half of the committed crimes cases of petty theft (the theft of movables whose total value did not exceed 20 rubles) (PSZRI-1. T. 21. № 15147; № 15483; № 15657). Usually the delinquents were men of all age groups. Concerning their social state, most persons having committed such a crime belonged to the middle strata of rural society. Almost all of them regularly performed their religious duties. They were married, had children and were wealthy enough to have a "home of their own". As for their level of education, none of them could read and write (GASO. F. 491. Op. 1. D. 233. L. 12; d. 321. L. 7; d. 384. L. 4; F. 771. Op. 1. D. 14. L. 3).

People were prone to steal anything that was "badly placed": boots, clothes, tools, food supplies and money. They stole producer goods like iron, iron ore or copper. Thieves and their victims used to know each other. They were neighbours whose paths crossed in the market, at the tavern, and during fieldwork. Sometimes their contact was job-related or the thief abused the confidence of a person who had offered him a place to sleep at his house (GASO. F. 491. D. 40. L. 1 9; F. 591. Op. 1. D. 12. L. 1 4; F. 771. Op. 1. D. 106. L. 5). These crimes were committed spontaneously and left the thief facing the problem of where to keep the stolen goods. Typical hiding places were the seni (entrance hall), root cellars or just a pit in the yard. Things were hastily buried somewhere in the snow or in a nearby forest. Thieves sought to sell these items in the market or bartered them for something more suitable (GASO. F. 491. Op. 1. D. 196. L. 40b. 7; F. 771. Op. 1. D. 55. L. 5).

This category is followed by crimes against the state. In the Central Urals, this category mainly consisted of cases of flight or attempts to flee from the mining and metallurgical plants. One reason for such high rates might have been the broad corpus delicti. Under this article fell all violations of the passport regime (PSZRI-1. T. 14. № 10233). In addition, not only were the fugitives themselves persecuted by government organs, but also anyone who either offered help or knew the delinquent`s whereabouts (PSZRI-1. T. 15. № 10987; t. 16. № 11750; t. 17. № 12352; t. 22. № 16078).

This kind of crime was mainly committed by mineworkers. According to interrogation records, most of them had fled because of a threatening or recent transfer from one plant to another and the fear of being separated from parents, wives and children (GASO. F. 491. Op. 1. D. 306. L. 1 6. See also: GASO. F. 491. Op. 1. D. 227, 229, 281, 288. F. 771. Op. 1. D. 19, 107). Others preferred a life in the underground to criminal process. Old Believers could live for years in the forests near the Nevyansk and Nizhny Tagil plants (GASO. F. 491. Op. 1. D. 314, 332, 362. F. 771. Op. 1. D. 179).

Runaways were considered to be so-called otkhodniki. Provided with an otkodnichiy bilet, a real or a fake one, or even "without any written document", they left their homes and signed up for work in trade caravans. With enviable regularity, they changed location, employer and identity. On the quays along the Volga and Kama, few people showed an interest in the origin of their documents. The number of printing houses was low, literacy was poorly spread, and workers who offered their skills on the free labor market were sought after (GASO. F. 771. Op. 1. D. 81, 85).

Fights and verbal confrontations such insults, threats, harassment and slander were part of village life and therefore were not considered a reason to launch a lawsuit. Despite this, most cases heard at the volost courts fell into this category, which might be one of the reasons why crimes against personality were comparatively seldom brought before the nizhnye raspravy.

According to archival records, violent crime made up quite a low percentage (13 % of the total). Most were cases of domestic violence. The victims of these family dramas were illegitimate children, daughters and, above all, wives (GASO. F. 591. Op. 1. D. 12. L. 1 260b.). Outside the family, violence usually followed drawn-out tension. The scene of crime was usually the local tavern or a private house. Alcohol played a key role and often gave the necessary boost to smoldering conflicts and personal animosity (GASO. F. 491. Op. 1. D. 218. L. 1-8; F. 771. Op. 1. D. 104. L. 1-29).

Re-establishing justice was the main goal both in positive law and in common law. However, opinions differed on how to reach this state. According to the ideas of customary law, the main function of justice was to reconcile the parties before the court. An important step in settling conflicts was the culprit's willingness to repent. But in those cases where such a conciliative approach occurred to be ineffective, peasant communities sought justice by turning to other sources of law, such as, for example, the verdict of a crown judge. Positive law held different views on justice, based on the coordinates of crime and punishment. According to this conception, the main aim of criminal law was not compensation, but to fine and sentence lawbreakers.

Therefore, the question is: in which situations did the peasant courts fail to fulfil the claim for justice? In this context, the focus should not be laid on crimes regarded as serious according to both positive and customary law. These were (on this both sides unanimously agreed) some types of crime against the person, for instance public insult of a representative of authority, grievous bodily harm, arson, crimes against morality and certain types of property crime. These types of crime, without question, aroused public anger, horror or disgust, and sometimes it was simply impossible to hide them from the local authorities' eyes. In such cases, legal proceedings opened ex officio or due to a complaint from a private person.

In my opinion, this will make more sense if we focus on property offences, as on those crimes positive and customary law held different views. While in positive law any violation of another person's property rights was sanctioned, in customary law theft was considered merely a personal offense. Because of this in village jurisdiction thieves were sentenced only lightly – trespassers usually got away with a short-term arrest or by paying compensation. When the parties reached an amicable settlement at the volost court, the thief would be released without any punishment at all.

In my analysis I draw on the studies of Vladimir Borisovich Bezgin, which are based on ethnographic sources (Bezgin, 2013b: 1373-1380; Bezgin, 2012). Though these materials on customary law and volost justice refer to the European part of Russia and reflect the situation in the 19th century, I consider it is possible to project the conclusions that Bezgin made to the Central Urals in the late 18th century. Most inhabitants of the Perm vicegereny descended from peasants who, during the previous centuries, had migrated from European Russia to its eastern provinces; due to the closed nature of the rural world, the norms of customary law did not undergo fundamentals changes.

These works deliver an explanation of why in customary law some forms of theft were not considered a crime. For example, the theft of small amounts of food and small household items, especially when taken to secure survival, was not regarded as immoral and subsequently was not prosecutable. In contrast to positive law, customary law took into consideration the personhood of both the delinquent and his victim. Moreover, because of the closed nature of rural communities peasant mentality strictly divided people into friend and stranger. As part of the latter they viewed any representative of the authorities as well as persons from other population groups.

When deciding legal matters, volost judges would take into account personal criteria such as the social and financial situation of the persons involved into the case. Culprits were judged according to their reputation as a neighbour, head of a family and taxpayer, as well as with regard to their behaviour during the trial. Recognition and repentance were essential mitigating factors. In addition, rural courts ascribed importance to the circumstances of the crime: burglary or stealing things from closed rooms or vessels were seen as an aggravating factor (Bezgin, 2013a: 302-305).

Given this, the theft cases dealt with at the nizhnye raspravy appear in another light. According to positive law, most fell into the category of minor property offences. But when we look at them from the point of view of a person thinking in terms of customary law, things are quite different.

In the files of the nizhnye raspravy, the overwhelming majority of thieves appeared as first offenders - as representatives of the rural middle class who had previously not come into conflict with the law. However, this did not necessarily mean that their reputation within the peasant community was equally immaculate.

For the volost justices, as the following example shows, some of them did not exactly possess what one would call a blank slate. In the fall of 1788, the nizhnaya rasprava at the district town of Alapaevsk heard the case of the state peasant Grigory Shibayev from the Glinskaya volost. The 39-year-old family head was in need of money. In spring he had borrowed seeds from other peasants, and now in August, as the harvest was being brought in, he was touring the villages to return his debt. On his way home to his native Kamenka, he passed the village of Lenevka late in the evening, where his friend Isaak Zharableev lived. In his house a window was open, and, probably wishing to improve his modest family budget, Shibayev broke in and stole two coats made from lambskin, a caftan, shirts, four bales of wool and a couple of other things. He hid the stolen goods not far away from his place in the forest, planning to sell them later. To the volost judge Shibayev was a known quantity: he had already fined him several times for having stolen small amounts of grain and clothes (GASO. F. 771. Op. 1. D. 55).

Cases like this show that volost courts probably only decided to hand over a matter to crown justice when a critical mass of aggravating circumstances was exceeded. The reason for this might be the way crime was defined in customary law. In contrast to positive law, the peasants' notion of crime was broad and meant more than just breaking the law. As the origin of crime was seen in the sinful nature of man, to them a person who had committed a crime was a victim of unfortunate circumstances rather than a culprit. Given this, in peasant society the attitude towards first-time offenders was tolerant: about a person who had never come into conflict with the law before, one used to say that "the devil had confused him" (Bezgin, 2013a: 307).

Forbearance, however, did not last forever. Closely connected with the concept of justice was that of usefulness. If this balance was disturbed, that is, when a person was no longer able to contribute to the community's well-being because of his behavior, protection was denied. Peasant communities strove to exclude exploiters and criminal elements: virtually forever by sending them to the army or temporarily by transferring the matter to a crown court.

When a person had the reputation of being prone to stealing, mere suspicion could be sufficient grounds to report him to the police. In December 1789 at the Baranchinsky plant in the district of Verkhoture three horses were stolen from the brothers Savva and Yefim Fedotov. At practically the same time, a second crime was committed in this settlement: Clothes worth about 16 rubles belonging to a serf named Yakim Shlyapnikov went missing. In both cases, suspicion fell on Danilo Bespalov, one of the residents of the Baranchinsky plant. When it became clear that there would not be sufficient evidence to arrest Bespalov for having stolen the horses, investigation focused on the theft. The mineworker Ivan Doronin, a pub acquaintance of Bespalov, was a willing witness (GASO. F. 491. Op. 1. D. 233. L. 1-29).

It should be noted that, in most cases, legal action was the last act in a conflict scenario with a long history, and filing an official complaint with the police was just one of many options. As the incident about the stolen rifle mentioned in the introduction to this paper shows, the plaintiffs did not act on a whim. Stepping out of the sub-system of the lower courts was a well-considered decision made to pursue a concrete goal.

I am almost certain that the prosecutors knew about the consequences of their actions when they reported Prichinin to the police. Property offences were a widespread phenomenon, and the law "on three types of theft" (о трех родах воровства) (PSZRI-1. T. 21. № 15147) had been launched more than a decade prior. The court assessed the value of the rifle at two rubles, which even in those times was a negligible amount of money. Prichinin could have completed his sentence within a short time. Everyone involved in this case probably knew about the triviality of this matter. But that was not the point. Having paid the fine, Prichinin would be a different person, a criminal who had broken the norms of positive law. This did not happen. The police handed the case over to the nizhnaya rasprava, which stopped the proceedings due to their insignificance. Prichinin signed a warranty "that further he would not commit any crime and stay away from the company of criminals" and then he was released (GASO. F. 771. Op. 1. D. 106. L. 5ob.–6).

It is unlikely that these events started from nothing without any history or preceding conflicts. Prichinin had probably undermined someone's interests: his behaviour might have aroused the envy and resentment of more influential people, who used their authority to lobby against Prichinin at the volost administration. The complaint to the police was merely a pretext. Their real aim was to exclude Prichinin from the community.

Half a year later, tragedy struck Prichinin. We learn about this from another lawsuit, the case "of the peasant maiden Avdotia Prichinina, who had hanged herself", filed at the verkhnaya rasprava, a court of appeal in Yekaterinburg (GASO. F. 771. Op. 1. D. 114. L. 1-340b.). In July 1792, Prichinin became a father. But happiness did not last long: His wife suffered, as we would put it today, from a postnatal depression, and a few days after giving birth she was found hanged in the bathhouse. Initially Prichinin was suspected of having killed his wife. However, witness statements did not confirm this. His criminal record in the volost court, though mentioned, did not have any consequences. None of the villagers believed he could have committed a murder and the case was qualified as suicide (GASO. F. 771. Op. 1. D. 114. L. 32–320b.).

The family tragedy did not have anything to do with the theft case. At least at first sight. I presume that both cases are somehow interrelated. The conflict had reached its peak in the winter of 1792 when the report was filed to the Alapaevsk police. But it had already been simmering for some time: rumors, suspicions and threats finally culminated in denunciation. The child was born in the first half of July of 1792; sometime in the previous summer or early autumn, the Prichinins had celebrated their wedding. It cannot be excluded that the conflict had started at this point: the marriage might have been made without the family's consent or maybe Prichinin had been more successful in his courtship than one of his more influential competitors.

Notes

[1] By the term vnutrisoslovnoe ravenstvo is meant equality before the law within one certain estate.

[2] When referring to courts where justice is administered according to positive law this article uses the term "crown court" instead of "state court". This is done in order to avoid confusion with institutions belonging to the lower court system that the author considers also part of the state.

[3] For a geographical definition of the term Central Urals see the description given by T.V. Solovyova (2013: 139; 147 148).

5. Conclusion

Until recently, legal dualism seems to have been the universal reasoning favoured in historical research to explain the low level of activity in peasant courts. Enlightened positive law and peasant customary law (dismissed de facto as backwards) were regarded as irreconcilable. However, the idea inherent in the concept of a legal dualism between two hierarchically arranged and therefore mutual exclusive spheres of law is not particularly applicable to practice: in the Central Urals of the late 18th century, the local crown bureaucracy and courts were not a "foreign body [facing] the reality of a pre-modern surrounding society" (Baberowski, 2008: 23). The norms of positive law were well known in the village; if they were willing, people were able to use them for their own advantage.

Given this, it would be more appropriate to speak of legal pluralism, the juxtaposition of several valid legal forms to whose norms people were free to turn. Therefore, a court ought to be understood as a non-obligatory offer made by the legislator, the use of which is not necessarily enforced.

The nizhye raspravy must be understood precisely as such an offer. Low court activity should not be interpreted as an indicator of poor legal consciousness or as a sign of mistrust in the local authorities. For the people belonging to the free rural population of the Perm vicegerency, a lawsuit before the nizhnaya rasprava was just one of many possible ways in which one could choose to restore justice.

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