

Rights, Courts, and Citizenship: Law and Belonging in the Russian Empire

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What difference does an empire make to citizenship? In this paper, I address the question of citizenship in imperial Russia through an exploration of imperial law, rights, courts and their use by lowly members of the polity. I want to enable a more expansive notion of what could constitute citizenship as a practice and to escape from a framework that privileges the "nation-state"—a short-lived phenomenon but a long-lived construct. In connection with my focus on empire, I challenge the notion that citizenship questions need be organized around nationality and national identity. I suggest that categories such as "equal rights" or "national identity" may be getting us off on the wrong foot, if we want to describe the multiple modes of political expression, claim, and exercise of rights characteristic of the Russian empire.

This paper sketches out what I call Russia's "imperial rights regime" and focuses on the law and courts as areas where citizenship is practiced. The essay describes Russia's "umbrella of imperial law," addresses the confusing category of "difference," explores the significance of the imperial rights regime for both elites and commoners, sets out the parameters of lower-level court practice, engages briefly a conflict between liberal plans for and peasant experience of local courts, and concludes with a consideration of the significance of an "imperial social contract." In my attempt to provide an overview and interpretation, I rely on the research of many colleagues as well as on my own work on peasant courts. I am grateful for the energetic new scholarship around empire, and I hope that the workshop can link empire with citizenship in productive ways. I also look forward to a critical discussion of the propositions I make and to correction of errors that I'm sure plague this essay.

I suggest that both rulers and subjects of the Russian empire—and later of the Soviet Union—employed shared conceptions of the state, its tasks, and relationship to citizens as well as, in many cases, a common language—all deriving from the experience of empire. The practice—one could say the habitus—of empire was critical to how the polity was held together, how it came apart, and how it was put back together again (twice) in the twentieth century. In particular, the imperial rights regime, based on the state’s assignment of rights and duties to differentiated collectivities, created conditions for including even lowly subjects in basic practices of governance; recognized social, confessional, and ethnic difference as normal to social and political life; and at the same time inhibited the formation of a democratically minded public and the reformation of the state on the basis of uniform citizenship.

1. The Umbrella of Imperial Law

Russia was an empire-state based on both conquest and law. The Grand Principedom of Moscow emerged as a spreading center of political control through piecemeal, often violent, incorporation of bordering territories and the people living on them. The wide dispersal of low-level resources over a large space uncoveted by any great power conditioned the formation of the Russian state. The center could afford to add on new regions bit by bit, but the populations of incorporated regions did not have the resources—social and economic—to resist incorporation, nor could they conceive of uniting against the center. Both territorial expansion and ad hoc imperial governance—the administration of regions as separate units through distinct regulations—were cheap and possible. The extension—also piecemeal and often violent—of Russian political control from the 18th to the 20th centuries into the wealthier spaces of Central Europe, Central Asia, and the Caucasus did not fundamentally alter the imperial mentality built into the Russian administrative system from its beginnings.¹

Governance for leaders of this empire was about control over resources—territory and labor—and the social order required to secure them. Administration, rather than law, was the

primary imperative of Russian rulers, but law entered the picture as soon as the imperial state asserted its claim to define the rights and obligations of people living on its terrain. Building on the tight connection established by Muscovite law² between state and subjects in the most vital aspects of their lives—status, resources, individual dignity—leaders of the expanding empire asserted their sovereignty through decrees and regulations. Military might or the threat of its use may have established imperial borders, but ruling by force alone was beyond the capacity of the governors.

Legislation addressed components of the imperial population in two ways. First, elites with the power to serve or undermine the Russian empire had to be themselves served or undermined. Thus a part of imperial law defined rights and obligations of local elites. In the seventeenth century, for example, Polish nobles in areas ceded to Moscow were ordered to “possess their estates...in accord with ... imperial commands and the grants and privileges of the Polish kings.”³ The language of this decree reflects the tsar’s superior power over property rights as well as the state’s incorporation of privileges that had been earlier assigned by other rulers. Edicts of this kind expressed the basic bargain of noble politics. Elites received certain rights, by category, in return for their service--military, administrative, economic--to the state.

A second kind of legislation addressed imperatives of maintaining order and acquiring resources at a different social level. For tribute or taxes to be paid, the organizing and reproductive capacity of local populations had to be sustained. An imperial dimension of Russian legal thinking was the assumption that all peoples possessed their own customs and laws. Incorporating these distinctive customs and laws into official governance was a means to enhance order and productivity in each region of the empire. This lesson was learned by negative experience on the occasions when imperial authorities tried to impose Russian legal institutions in conquered areas.⁴ A more efficient method was to validate earlier legal regimes by bringing them into the imperial fold. Over time, the empire produced a series of regulations and decrees that asserted the particular rights and obligations of whole groups of people, defined

by territory, confession, or ethnicity, or even work. This cumulative kind of legalism corresponded to real differences in social norms and legal practices throughout the empire. The multiplicity of legal regimes legitimated within the empire both asserted the superior authority of Russian rule and allowed populations to do a great deal of governance themselves. Drawing “customs” in under the umbrella of law expressed an imperial social contract: the empire enforced local judicial practices—a cheap way to keep the peace--in return for tribute and taxes.⁵

Imperial legal culture—for the rule-makers—had the following qualities. All people of the empire were governed by Russian law, emanating from the emperor. All rights and duties were created by this law—there were no natural rights. Rights and duties were assigned differentially to variously defined groups. The particular content of laws regulating many aspects of social life depended upon “customs” and “laws” of different groups. These customs and laws were regarded as products of collective historical experience. What was “natural” to Russian conceptions of law was not the possession of rights by individuals, but the practice of social regulation by groups. It was expected that peoples would have “their” collective customs and rules, prior to Russian conquest or annexation. Russian imperial law accommodated particular social institutions extant in the population, did not homogenize them, but legalized them selectively within the whole opus of imperial legislation. The law recognized and incorporated particularity, and retained its claim to be the ultimate source of justice.⁶

The imperial approach to law could be described as “legal pluralism,” although the term itself is controversial and variously defined.⁷ The Russian empire conforms to what has been called the “lawyer’s” view of legal pluralism: “the recognition by the state...of the existence of a multiplicity of legal sources which constitute its legislation.” Russian rulers recognized an array of local religious and customary practices within their enormous polity and legalized these sources of authority by integrating many kinds of local courts into the legal system. The point is not that multiple systems of social norms operated outside the Russian law—this is always the case even in the most conventionally law-based states—but that Russian law legalized local courts

whose decisions in some cases could be made on customary or religious principles. Imperial law thus included several different procedural and normative regimes. “Otherness” was a fact of life for imperial law, whose main problem was to attain completeness, not uniformity.

2. Difference in a Land of Uncertain We’s and Many They’s

In Russia, the acceptance of difference in legal practices and in historically established “customs” was enfolded in an ideology of imperial prerogative concerning rights. Rights belonged to peoples because and only because they were allocated to particular groups by the state. Thus, “difference” was a foundation of the empire’s existence, essential to the process of defining and allocating rights. Rights could not be had except through the state and through official identification as a member of one or another kind of collectivity. The recognition of “natural” social collectivity—not “natural” individuals—thus went hand-in-hand with the imperial practice of assigning rights to groups. The state kept for itself the authority to assign, reassign, and take away rights and privileges from the groups that comprised the empire’s population.

If differentiated collectivities were units of the polity—the groups of people to whom particular sets of rights were assigned—how were these groups defined? Religion, ethnicity, territory, status, sex, age, occupation, and culture were available and cross-cutting categories for imperial lawmakers. Although Russian elites were as engaged as their Western European and other contemporaries in efforts to catalog, characterize, and classify the “peoples” of their empire, their efforts did not produce a single regulatory scheme or map of civilization. Even under the strong influence of German ethnographic science and Herder’s romantic nationalism, Russian scholars and officials—often the same people—emphasized the multiplicity of the empire’s “peoples,” celebrated their diversity, and, for the most part, arrayed them in magnificent displays of imperial heterogeneity. The message of early nineteenth-century projects for a national museum was not the glory of conquest over natives or even the progress that Russia brought to them, but the wondrous creations of the “various tribes who inhabit areas of

our fatherland, and who are distinguished among themselves by their ancestries, customs, languages, and religions.” All of these were to be preserved and displayed to the public to enhance its awareness of their “fatherland” and its enormous family.⁸ The similarity between this nineteenth-century vision of grand diversity and the proud displays of “our native peoples” in Soviet times signals the positive appeal of composite empire to Russia’s self-image makers over two centuries.

Students of colonialism will find such representations of diversity familiar and may interpret them as displays of otherness and claims to cultural hegemony extensively analyzed in other imperial settings.⁹ The Soviet term “our native peoples” and, less clearly, the autocracy’s “our fatherland” indeed suggest that some undefined “we” claimed power over a motley array of natives. Certainly a tension existed throughout the imperial period between the legitimization of different heritages and practices and the prospect of transforming them into different, better, perhaps more unified behaviors and beliefs. But note that in the Russian version of empire, there was no national or metropolitan “we” confronting an inferior peripheral “they.” For one thing, there were multiple “they’s,” and for another, what a “we” might be was unclear in a number of respects.

Let’s begin by looking at the possible “they’s.” A classificatory impulse permeated Russian elite thinking from the eighteenth century, but the creation of a single ethnicized geography proved to be impossible.¹⁰ A satisfying alignment of peoples, spaces, and confessions could not be had. Nations (in the eighteenth-century sense), religions, and territories were not alike in their distribution; settlements, migrations, and long-term, long-distant contacts continued to mix people up; most important, perhaps, this non-bourgeois polity did not acknowledge permanence of property rights. It was not in the rulers’ way of thinking to draw up eternal territorial boundaries and to localize government in a final fashion in “national” or “ethnic” hands. Acknowledging the importance of letting locals use their own “laws” for certain purposes did not mean a commitment to thorough-going federalism. The administration kept multiple

maps of “they’s” in play—religious, ethnic, status-based categories were all possible objects of legal attention and manipulation.¹¹

Another obstacle presented itself to aspiring builders of absolute civilizational divides and hierarchies: Russians were also “they’s.” Or at least some of them were. The question of who Russians were bogged down in ethnographic confusion in the mid-nineteenth century. Neither the leaders of the Ethnographic Division of the Imperial Geographical Society, nor Russia’s foremost historian working with a vast compendium of surveys of local material culture, language, and folklore were able to produce a “scientific” analysis of Russianness. Too many “Russian” peasants did things in too many different ways for would-be systematizers. Very thick description and extendable, incorporating research into a multitude of “peoples” and their many ways of being became the hallmarks of imperial (and later Soviet) ethnographical investigations of Russians and the other natives of the empire.¹²

One reason that Russians could not be securely attached to a hegemonic “we” was serfdom, which until 1861 subordinated half of the peasant population to their landlords (not all of them Russian). Another was the estate system that endured until the end of the Romanov empire. Both before and after emancipation, most Russians were peasants and tax-payers, not members of a civilizing and non-taxpaying nobility. The lived divide between estates, between nobles and peasants with their very different rights regimes, meant that commonality as Russians and as a dominant people was hard to think of in the present. There was nothing in the political imagination of Russian elites that would compel them to see themselves and peasants as equal members of a national community or to construct institutions that would reflect such shared membership in an ethnicized “we.” Even those who hoped for a more uniformly governed polity imagined extending “Russian” law and culture over everyone—including both Russian peasants and other ethnic groups--rather than consolidating the power of Russians over others.

Besides, many of the most powerful administrators, military leaders and advisors to the emperor were not Russian anyway. The political economy of empire was based from its earliest

days upon cooptation of high-ranking and powerful local elites into a serving and ruling class.¹³

Some of the highest-ranking families in the realm were originally Tatars or Poles; over time, these great landed families became the “Russian” aristocracy. Even in the beginning of the twentieth century, half of the titled members of the State Council came from non-Russian families.¹⁴ One consequence and cause of the imperial rights regime was the absence of a nationalized “we” in both the metropole and among delegated authorities dispersed throughout the enormous realm.

Thus, difference was vital to the polity and to ideas and practices of citizenship, but not in a dichotomous way. The Russian imperial rights regime took shape in a polity based on difference, with a strong awareness of social categories, but without absolute divisions of an ethnic or racial sort between the rulers and ruled. A division into self and other made no sense for elites in a society of multiple “others” and little sense of “self.” The human heterogeneity of the polity was a given for Russian leaders, but just what constituted grounds for classification and division and what was thought to be gained from differentiated governance shifted over time. Governance based on differentiated collectivities provided a framework for social life and had a profound effect upon political imagination of both rulers and subjects.

3. The Imperial Rights Regime

What did governance based in law and on differentiated collectivity mean for subjects? First, for ordinary people, as well as elites, imperial law was a source of rights. Rights, like obligations, were assigned to people through their status as members of collective bodies. The empire’s legal codes spelled out the rules for social life by addressing particular groups. It was by belonging to a collective, with its assigned rights, that an individual gained the possibility of engaging legally in many of the most fundamental aspects of social life. Marriage, buying property, changing one’s place or residence, bequeathing land and goods were not simply regulated, but regulated according to the estate, confession, ethnicity, or territorial location of

individuals concerned.¹⁵

Individuals living in the empire thus possessed rights through their inclusion in a particular category of imperial subjects addressed by imperial law. These rights were no less rights for having been assigned to groups. Moreover, the particularity of imperial legislation, and its concern for local custom, meant that a variety of norms and sanctions relating to basic social institutions were not only tolerated but legalized within the imperial system of governance.

The right to be married by the rules of one's own faith was offered to most subjects of the empire. The laws on marriage in the Russian Civil Code display the habits of collectivist thought, communal particularity, and state-assigned rights characteristic of imperial governance. Book One of the Civil Law code, entitled "On family rights and obligations" sets forth the rights and obligations of marriage possessed by the empire's members. These rights were defined differently according to the religion of the spouses. The first three chapters of the marriage code are titled: "On marriage between people of the Orthodox faith"; "On marriages of non-Orthodox Christians among themselves and with Orthodox people, and on the registration of marriages of sectarians"; and finally "On marriages of non-Christians among themselves and with Christians."¹⁶ The law assumed that every person seeking marriage was either a Christian of a particular denomination, or a non-Christian member of a "tribe" or a "people [narod]" with its own marriage rules. No place was made in the legal code for a person without a religion, nor was it conceivable to Russian lawmakers that a church, "tribe" or "people" would not have marriage rules.¹⁷

Imperial marriage law both recognized differences in marriage practices and made some universalizing assumptions. The law assumed that there were social concerns—such as marriage—that all "peoples" would address according to their particular ethical beliefs and regulating practices—religion, custom, and law. Equally foundational was the notion that all individuals belonged to one or another group, and would participate in a group's regulatory practices. When individuals wanted to marry someone of another faith, it was critical for the law to establish how

the intersection of two moral regimes could be achieved and whether marriages of this type should be allowed. There was no “civil” marriages outside religious authority, in our terms, but from an imperial perspective, all marriages attained a legal force by virtue of their regulation by religious authorities recognized and empowered by imperial law.

In accord with the imperial prerogative of differentiated governance, the rules for marriage were not uniform: Orthodox Christians, non-Orthodox Christians and non-Christians could marry under laws particular to their religious group. The Civil Code was far more specific in its regulations of Orthodox and non-Orthodox Christians, than it was for non-Christians. Non-Christians had the right to “marry according to the rules of their law or customs, without the participation of civic authorities or Christian spiritual administration.” This right devolved authority generously and far outside the state.¹⁸

The marriage code spelled out relationships between religious status and other potential sources of rights and obligations. For the Orthodox, religion explicitly trumped other collective categories. The first statute in the Civil Code declared,

“People of the Orthodox confession of all estates [sostoianie] without distinction, may enter into marriage with each other, without soliciting for this a special permission from the administration, nor a discharge from the soslovie or societies, to which they belong.”¹⁹

This statute, which explicitly addressed the post-emancipation right of Orthodox people of different estates to marry each other, was followed by a series of “limitations and exceptions” upon this right of the Orthodox to marry. Some of these restrictions applied to all Orthodox subjects. For example, marriage over the age of eighty was forbidden, as were fourth (consecutive) marriages. Most “limitations and exceptions” were based on a prolific variety of other collective conditions, such as belonging to a particular monastic group, being of a certain age and sex, serving in the military or the civil service, having been convicted of a crime, or coming from a certain province or area of the empire—all of which affected a person’s marriage

rights. Orthodox Christian natives of the Caucasus, for example, could marry earlier than other Christians.²⁰

In accord with this imperial vision of a confessionally clustered society, many of the marriage code's statutes addressed the problematic, diverse, and numerous interfaces between people of different faiths. Orthodox and Roman Catholic subjects were forbidden to marry non-Christians, and "Protestant marriages with Lamaites and pagans" were also not allowed. A large section of the Civil Code was devoted to regulating marriages between Orthodox and various non-Orthodox Christians, and to ensuring the primacy of the Orthodox faith in these unions.²¹ Thus in the late nineteenth and early twentieth centuries, a subject's rights in the matter of marriage were established primarily by religion, but age, sex, occupation, location, marriage history, criminal record, and place of settlement were also addressed in the law. The imperial state aspired to include multiple social norms within the law, but also to sustain oversight and ultimate authority over all subjects. Accordingly, imperial family law legitimated a wide arena of different practices, offering subjects the right to be married both officially and within their own faith's terms.

Marriage rules are only one example of how legal pluralism enabled people from vastly different social spheres to use legal rights for their own ends. Adoption, inheritance, transfers of property rights, contracts—these procedures were all addressed by imperial law, and in all such areas of ordinary life, the law made "exceptions" or referred to special regulations that covered particular categories of people. The law's asserted authority over all rights and their use was enhanced by its incorporation of a multiplicity of ways of legitimating transactions and principles of decision making. Under the rubric, "On the means of acquiring rights to property," Statute 699 of the Civil Code declares: "Rights to properties [imushchestva] are acquired only by means defined in the laws."²² This statute is followed by others that specify the distinctive property regimes recognized for different categories of people and different regions—for members of the rural estate, for Cossacks, rural inhabitants of the Grand Princedom of Finland,

for certain transactions in Siberia, in the western and Baltic provinces, etc.²³

Imperial law thus extended civic possibilities to its subjects in the most fundamental aspects of their lives. Because all marriages were legalized indirectly through the recognition of a variety of religious regimes, people could enter into legally defined unions and gain many regulated rights associated with marriage—inheritance, family support, protections from certain affronts, etc. Because property transactions had to take place in accord with the law, the empire’s subjects possessed the legal means—at various instances and according to various rules—to acquire and manipulate property.

In addition to acquiring rights and civic possibilities through the imperial rights regime, subjects of the empire gained protections of these rights through the imperial legal system. Through the Criminal Code and other legislation, the empire’s law makers took on the task of protecting the multiple collectivities of the polity and the state itself against outlawed behaviors. In addition, a subject’s civil rights—in family and property matters—could be enforced through civil suits at the empire’s courts. Both the criminal and civil legal systems asserted the state’s ultimate authority over rights, crime, legal process and punishment, while making way for differentiated and localized legal practice.

Criminal law in the late empire was both all-encompassing and differentiated. The empire’s Criminal Code asserted the state’s primacy in defining criminality. Statute One of the Criminal Code declares as a “general principle”: “A criminal action is one forbidden and punishable by the law at the time it is undertaken.”²⁴ Because all crimes must be defined by law, people could not be punished for actions that had not been forbidden by the state. In a more positive sense, the empire’s criminal laws offered subjects and communities the protection of law by providing an array of official institutions through which justice could be sought. Church and military regulations, exile, treasury and administrative codes, and other “special regulations and legislation” were empowered to define and punish certain kinds of crime committed by people belonging to particular groups.

For criminal cases, jurisdiction was determined by the application of these codes and regulations concerning region, status, ethnicity, confession, or activity. In some regions--established by law, of course--the Criminal Code was not to be applied to “actions punishable according to the customs of non-Russian tribes.” With legally defined exceptions, criminal actions arising in the Grand Princedom of Finland, were exempted from the rules of the Criminal Code.²⁵ The state, while maintaining its monopoly on defining the law of the whole land, ceded specific kinds of crimes to different legal jurisdictions and granted some subjects the right to judge certain kinds of criminality on their own terms.

The civil law expressed a similar inclusivity and particularity. For civil cases, the first principle was that “any conflict over civil rights is to be decided by a judicial institution.”²⁶ This statute of the Regulation on Civil Procedure affirmed the supreme and unique authority of the law over subjects’ rights. Disputes over rights had to be decided in a legal forum, and the law took it upon itself to resolve conflicts over jurisdiction.

The Regulation on Civil Procedure explicitly rejected uniformity as a prerequisite for justice. Statute 10 of the 1914 edition of the Regulation forbade the refusal to decide a case on the grounds of “the incompleteness, lack of clarity, insufficiency or contradictions of the laws.” Imperial law was to be universal in its coverage of the collectives of the empire, but it did not aspire to equivalency in legal processes or rules. Instead, imperial legalism incorporated custom into court practice in a capacious way. Custom was to be applied not only when “the law itself makes the application of custom obligatory,” but also

in making a decision, the court...may, citing one or both sides, be ruled by generally recognized local customs, when the application of local customs is allowed expressly by the law, or in cases that are not positively resolvable by laws. Litigants who in support of their claims cite local custom that is unknown to the court are obliged to demonstrate its existence.²⁷

This regulation, based on 1912 and 1913 legislation, reiterated what we might call a fundament

of imperial law: custom—that is, locally established rules—is the default law, when no positive law is available.

The integration of custom into imperial law was enhanced by legislation permitting litigants to cite earlier custom-based decisions as evidence for the existence of a customary norm. Statute 10² established “earlier decisions on similar matters and the attestations of appropriate institutions” as evidence of the “existence of a custom” and thus as grounds for deciding a case.²⁸ This statute both displayed the state’s respect for earlier legal decisions and acknowledged the courts as a realm of ongoing interpretation of social norms.²⁹ In this respect, the code-based legalism of the Russian empire opened a vast realm of precedent-based lawmaking.

The incorporation of prior decisions into jurisprudence completed a circle of interdependence of law and custom. Imperial law legitimated custom as a basis for legal decisions; legal decisions using custom became the evidence for existence of established norms; these resolutions entered into future judicial practice. The state’s cautious treatment of uncodified normative practices as well as its tolerance of a wide degree of judicial creativity in the definition of custom empowered judges and litigants in local courts to engage and use the law in diversified, yet legal ways.

Differentiated imperial jurisprudence was thus a domain where the imperial rights regime was activated by subjects. The local courts of imperial Russia--“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), “people’s (as in native peoples) courts³⁰—were places where litigants, judges, clerks, and witnesses practiced and defined the social reach of imperial law in different languages, with different rules, and with different social referents, with the legitimization of official majesty.

The imprint of long-sustained efforts of imperial administrators to manage an useful but unwieldy system—an umbrella in the wind--can be seen in the similarity of some structures of

jurisprudence across the multitude of local legal instances in the late nineteenth century. First, litigants at the various kinds of local courts would be bringing their accusations, disputes and hopes for justice before a college of judges from their region and religion. A basic principle for lower level courts was the recruitment of respected members of local communities to serve as judges. At the township courts of central Russia, judges were chosen for three-year terms from candidates elected by village assemblies. At the rural oral courts in Dagestan, the judges would include a local specialist in Islamic law and a local specialist in adat (customary) law, both elected for three years, as well as elders from rural societies of the region, also elected for three-year terms.³¹

Regulations for elected judges stressed maturity, economic responsibility, probity, and various degrees and kinds of literacy. In the Russian township courts, township judges were to be

peasant householders [domokhoziaeva] who have reached the age of thirty-five, enjoy the respect of their co-villagers and [are], if possible, literate. Those who cannot be chosen: 1) persons convicted of theft, swindling, misappropriation or squandering of another's property and not acquitted with a court verdict, and likewise those who were condemned by a court to corporal punishment, imprisonment, or another form of severe punishment...2) the keepers of institutions for the retail trade in [alcoholic] beverages, and 3) people, occupying another post in the township or village administration.³²

These rules incorporated local patriarchs into imperial governance, legitimated choices made by local communities, and encouraged respect for court decisions.

A second common feature of jurisprudence at the empire's lower level courts was the direct address of litigants to judges. Lawyers were not allowed at these lower level instances; parties argued their cases themselves. Litigants and witnesses testified orally, although documents could be presented as evidence to the court. At the Russian township courts,

participants in hearings signed their testimony—or had a representative sign for them—as an indicator of their truthfulness; in other areas, participants swore oaths appropriate to their circumstances. The empire’s lowest level courts were arenas where people from a particular locality came to engage in litigation conducted in their local language, validated by procedures familiar to them, and decided by judges who had been elected by people like themselves.³³

A third shared aspect of lower-level justice was a pragmatic concern for convenience. Instructions to hold hearings on established religious holidays meant that both litigants and judges would be free from their work and able to attend court sessions. The provision of a local court at the lowest level of administration meant that travel to court was not a major obstacle for rural people. In rural areas of central Russia, no place of settlement was to be further than eight miles from the township court.³⁴ My study of distances traveled by litigants showed that both accusers and defendants came to court from villages distributed over entire townships.³⁵ The eight-mile radius established a usable and much used legal space.

A fourth characteristic of all lower-level courts throughout the empire was their connection to other, higher judicial institutions. Decisions of lower-level instances could be appealed. For courts connected to the civil or military administration, a three-tier hierarchy of legal instances in the provinces or territories emerged as a general pattern in the late nineteenth century. After 1889, litigants at Russian township courts could appeal first to a district official, then to a county-wide college of officials, then to a provincial board under the supervision of the governor. Litigants not satisfied with results of appeals could take their cases even further up the judicial ladder to the senate—the empire’s supreme court.³⁶

These chains of connection were replicated in outlying regions. Decisions of the “people’s courts” (narodnye sudy) of the steppe could be appealed to a township assembly of judges, and these decisions could be appealed to a yet higher “extraordinary” assembly. The rural oral courts of Dagestan were subordinated in appeals cases to the district people’s court, and further to an instance for all of Dagestan (Dagestanskii narodnyi sud). Some of these higher

instances might also serve as courts of first resort for crimes or suits beyond the jurisdiction of lower level courts. In a complication typical of the empire, other parallel judicial institutions might be empowered to hear cases concerning conflicts between litigants from different confessions or ethnicities.³⁷ For some kinds of cases, litigants had a choice between different instances, including custom-based courts, religious instances, and the courts based on the civil and criminal codes.³⁸

These qualities of localized jurisprudence allowed local populations a considerable input into the content of imperial law. When litigants brought their small claims or accusations of small crimes before local judges, they sought justice from a legal process fine-tuned to local practice and endowed with imperial authority. Police or other administrators were not much interested in the kinds of disputes that litigants brought to lower-level courts—small debts, minor crimes, insults to dignity, family disputes—but the empire nonetheless provided a place for subjects to settle such matters legally. The habit of inclusionary legalism—the imperative to bring regulatory practices under the wing of empire—gave subjects rights in the enactment of the law.

The imperial rights regime was not a one-way street, but a irregular web of connectivity. To subjects, imperial law provided rights assigned through collectives. (There could be no rights without the state in this context.) Individuals, by belonging to one or another or the empire's collectives, were enabled by the law to marry, participate in various inheritance regimes, acquire and manipulate property, engage in other social relations. Second, the law provided a framework of rules for the interactions of subjects as they exercised their rights. By insisting that all property transactions had to conform to the laws—however various—of the polity, imperial law enabled peaceful initiatives and liberated its subjects from violence and disorder. Third, imperial law offered a means to stigmatize and punish violators of legally established rights and locally defined morality. Because the law incorporated lower-level courts into the judicial system and gave local authorities a wide (and variable) range of powers to punish small crimes, subjects

could participate in social discipline by prosecuting crimes defined and punished in accord with both statute law and local norms. Both judges, in their capacity as officials of the state, and litigants who defended their category-based rights in local courts, could imagine themselves connected to state power, and see its workings in matters of immediate concern.

4. The Rights Regime for Rulers

If imperial law granted subjects rights and enabled their use of these rights in localized ways, what did this inclusionary and differentiated rights regime mean for elites, their practices and affiliations? A first consideration is that rulers and would-be rulers lived, like ordinary subjects, in a polity where rights derived from the state. Dependence upon the lawgiver was if anything more apparent to elites than to lowly subjects. The state worked for centuries by granting rights (rights superior to those given to others)³⁹ to elites and holding the threat of taking these rights away over their heads. The connections that bound elite servitors into the skein of service and rule were personal, but their ultimate reference was always to the state and its unmatchable and unchallenged ability to reward or punish. This was not a bourgeois world.

Men who entered state service could see themselves as sharing in the power of the empire to grant or deny rights to other subjects. The weak development of administrative law—the legal regulation of relations between the state and subjects and of the administration itself⁴⁰—meant that little stood in the way of functionaries’ use of their powers in flexible and personal ways. Instead of interpreting endemic complaints against imperial bureaucrats as evidence of “corruption,” we may more fruitfully envision the ethos of the Russian rights regime at work in officials’ thinking. Because the essential link between individuals and the state was ascribed, not natural, rights, persons who made this system work took their place among the ascribers. The manipulation of rights was a foundation of Russian administrative practice and a characteristic behavior of even humble bureaucrats.⁴¹ Both lower and upper reaches of administration worked through responses to petitions, complaints, and pleas for justice, expressed in the language of

rightful claims that governors could satisfy or reject.

In this essay, I focus on the empire's high officials—ministers, military leaders, governor-generals—the people who could shape imperial policy toward subjects. As observed earlier, high officials were not necessarily of Russian nationality, and in this sense, they constituted a potential “we” not of a nation, but of the state. Collectivity, however, was not a quality easily come by for imperial officials. In stark contrast to the apparently spontaneous corporate reflex of professional, artistic and laboring groups⁴²—a spontaneity directly related to the long-term practices of collectivity encouraged by the imperial rights regime—insistent individuality was the hallmark behavior of powerful advisors, ministers, and bureaucrats. One explanation for the individualism of elite politics was that high officials did not have an institutional basis for seeing themselves as a group. After a false start in 1730, the traumatic history of official political institutions distinct from the emperor's administrative chain of command began only in 1906.⁴³ For most of the imperial period, the empire's officials served in ministries or other offices in administrative hierarchies leading up to the emperor.⁴⁴ In such a system, vertical and personal linkages were critical to making one's way within the state or to falling off its ladders of command and reward.

For those elites who stayed within the state, the imperial regime of rights offered certain ways of doing politics and conceiving of it. First, the operative environment of government based on difference meant that an alternative principle of uniform administration was ever present as a proposition for reform. The aspiration to bring all the subjects of the empire into a uniformly ruled polity was not a product of nationalist imagination in the nineteenth century. Eighteenth-century rulers, including the Empress Catherine the Great, shared the goal of an eventual “civilizing” of native populations according to Russian and European standards. Uniformity was also championed in the cause of national power. Russia was strengthened, wrote a mid-nineteenth century statist, by the “gradual merging of unlike elements into one whole, one unbounded state, where every one submits to the one Russian law, where the Russian language

reigns supreme, and the Orthodox Church is triumphant.”⁴⁵ The functioning regime of particularity provided reformers with a handy instrument of criticism: the ground was always prepared for ambitious administrators to propose system-wide rules, the extension of “Russian” law to all, and similar unifying projects.

But as the term “gradual merging” suggests, throughout the imperial period the project of unification was only minimally and sporadically engaged; legal and cultural likeness was a remote goal, not to be achieved in the short term. The ongoing tension between universalizing, homogenizing ends and pragmatic, differentiated practices was embodied in various “temporary” regulations produced during the reform period. The 1889 code introducing modifications to the township courts was issued as “Temporary Rules”; the 1868 statute on administration, including courts, in the steppe region was also described as “provisional.”⁴⁶ Even in the early twentieth century Russian officials shied away from policies that would force Russian Muslims out of confessional schools and into Orthodox, Russian-language institutions.⁴⁷ Only in the 1906 Fundamental Laws was the phrase “unified and indivisible” applied to the Russian state, a formula of rule borrowed from European models and drawn upon by law-writers at a time of internal duress. Statute 3 of the new Fundamental Laws, which made Russian the “general language of state,” allowed for “special laws” on the usage of other languages in state and public institutions.⁴⁸ To the end of the empire, and even after the bitter confrontation with ethnic, regional and religious political formations in the Duma, differentiated governance remained the foundation of imperial rule.

This meant, for ruling elites, that projects directed toward the dreamworld of uniformity were always pushing up against practices of particularity. The pragmatic, plausible way to participate in governance was to accept the politics of difference and become a spokesman for “one’s” people(s). Difference, then, provided the foundation for recommending policies toward particular groups, for decisions about allocating resources, for exceptional statutes, special codifications, etc. Arguments based on particularity provided both the language and substance

of politics for imperial actors.

Let us look at an example of how the “rights of difference” grounded imperial governance and the high politics of service to the state. In his forthcoming monograph, Nicholas Breyfogle examines the history of the Dukhobors and other religious dissenters in the South Caucasus.⁴⁹ In the early twentieth century, the Dukhobors gained an international reputation as anarchists thanks to Tolstoy’s championing of their cause. But the particularities of their claims and circumstances in imperial Russia were created through the politics of difference, a politics in which both rulers and subjects participated.

Breyfogle’s title, “Heretics and Colonizers,” underlines the duality of his subjects’ status in the empire. In the first third of the nineteenth century, after an extended debate over how to address the threat that non-Orthodox Christians posed to Orthodox Russians, the government decided to sponsor resettlement of sectarians from central and southern Russia to the Caucasus. The origins of the policy lay in a request from Dukhobors living in Siberia for the creation of a “separate, mono-confessional colony.” This request—note the petitioners’ expectation that the state could grant them a separate territory—was communicated to the central administration by two high-ranking members of the Senate, the highest legal institution of the empire. In the mid-nineteenth century, Dukhobors and other sectarians moved—in accord with the state’s schedule—to new villages in Transcaucasia where they were allocated land and even provided with start-up provisions and houses built by the Caucasian “native peoples” in anticipation of their arrival. After the trauma of relocation to an unfamiliar climate, the Dukhobors prospered and, for a time, were considered the empire’s ideal “Russian” colonizers by central administrators.⁵⁰

At every stage of this fascinating imperial odyssey, a politics of difference was at work, based in the imperial rights regime and mediated by administrators who spoke for their particular collectivities. Officials took different positions on the question of settling sectarians in the borderlands. The greatest legislator of the early nineteenth century, author of the administrative

code for governance of Siberia and compiler of the empire's laws, Mikhail Speranskii, opposed the resettlement terms as too generous compared to those applied in other areas and to other people. He feared that other groups, both peasants and nobles, might call out for similar deals. The Minister of the Interior, Lanskoi, wanted to put more distance between the contaminating sectarians and the majority Orthodox Russian population; he favored a generous settlement package. Both military leaders and the leaders of the Orthodox church were hopeful that the sectarians could be used in combat on the frontlines of engagement with Caucasian banditry.⁵¹ General Paskevic wanted to enhance his armies with sectarian auxiliaries; the Orthodox Church, in the interests of "their" faithful, just wanted dissident Christians to die. Powerful members of the Georgian nobility living in the Caucasus had another idea: the sectarians could become indentured laborers on their huge estates, and to make matters even sweeter, the state could assign official administrators to be sure that the new laborers paid their bills.⁵²

These discordant views on a single policy display assumptions, complications, and process typical of governing Russia. First, everyone, including sectarians, made arguments based on particular interests, directly for themselves in the case of sectarians and Georgian nobles, for the people under their supervision in the case of Senators, Ministers, military men, and Orthodox churchmen. Second, all addressed the state as an allocator of alienable rights to groups. The state is recognized as having the power to decide which people can utilize which lands, where certain people have a right to live and where they are compelled to move, what kinds of work they will perform, not to speak of whether they can practice their religion. Third, the members of the ruling elite were divided in their views: the autocracy did have a politics beyond and around the emperor, a politics played by officials who voiced individual and conflicting opinions. Fourth, the problem of sectarian settlers places dilemmas typical of imperial governance before us. The collectivities of the population did not line up in satisfying ways: Russians were not all Orthodox, even though they were supposed to be; the Caucasus were populated with many ethnic groups, including Russians, not neatly settled in separate

spaces; Georgian nobles were more than willing to enserf Russian peasants; heretic and pacifist exiles made their fortunes by assisting the military in its wars against mostly Muslim enemies. But none of this was deeply problematic—in principle—to people for whom the politics of difference was a given. The arguments for particular policies enjoyed a large playing field, full of exasperating contradictions, and thereby enabling a wide range of pleas.

This kind of politics put a premium on knowledge of the people who were being ruled: which groups should receive which rights to resources, work, or religious practice or have land, work, and religious expression taken away from them was always a matter of concern. The rampant institutionalization of ethnographic, cartographic, and statistical endeavors in the eighteenth and nineteenth centuries was part of a long-term search for secure information on the populations of the realm. An imperative to understand distinctive ways of organizing life was an outcome of the imperial rights regime. Respect for research on social groups presumed to be different in their fundamental being gives academics to this day an entrée into Russian governance, a claim upon the state’s resources, and a salient place in the formation of policy.

“Knowing one’s natives” was thus a strategy for Russia’s ruling elites, but this knowledge was never secure. As the Dukhobor case illustrates, people could move around in their categories and undermine foundational ideas about how groups should be defined.⁵³ The assumption that each group had a singular way of life in which ethnicity, religion, and customs all cohered did not always work, perhaps especially for Russians. The confident positivism of experts’ search for facts about the peoples of the empire went hand-in-hand with the practical experience that categorical schemes could be challenged by other readings of the imperial map. Difference and groupness were the constants of imperial governance but which differences and which groups would demand attention was not predictable. Governance took shape as a series of ad hoc and partial resolutions of claims to rights, which made perfect sense to people who understood that no solution was permanent and that new claims based on different differences could always arise.

Even in the late nineteenth century, when some reformers pushed harder for universal regulations, the principle of ruling through allocated and differentiated rights persisted. In the local courts mentioned above, certain structural similarities were achieved in the composition of judicial colleges, but the judges themselves might be peasant elders, mullas, other religious authorities, representatives of local communities depending on particular arrangements in any region. The gradual enhancement of peasants' rights after the emancipation took place in a piecemeal and politically expedient way. Peasants in the Polish areas received extensive land rights and freedom from all obligations to former owners in 1864,⁵⁴ while emancipated peasants in central Russia paid redemption dues for their land allotments over forty years.⁵⁵ The major legislation expanding peasants' rights to engage in financial activities, to change their place of residence, to enter state service and educational establishments without the permission of the communities through which they paid taxes was issued in 1906. Typically of the imperial rights regime, the first item of Nicholas II's ukaz is his command to

provide to all subjects of Russia [rossiiskie poddannye] without regard to their descent, with the exception of native aliens [inorodtsy, literally, people of other descent]⁵⁶ ...the same rights relating to state service, conforming to such rights of people of the noble estate, with the abolition of all special advantages dependent upon estate descent in appointment by the Administration to certain posts.⁵⁷

In other words, peasant' new rights to enter state service were defined by rights earlier allocated to nobles and nobles were to lose their advantages in appointment to certain positions. Peasants gained the rights of nobles; nobles lost a particular right to preferential selection. Further, in accord with the politics of difference, there were still people—native aliens—whose rights in this matter were not covered by this law's provisions, but in another legal code.

To the end of the autocracy, and even after the reforms initiated by the revolutions of 1905 and 1906, imperial politics was based on the allocation, reallocation, and revocation of rights to different groups. Ruling through alienable rights allowed pragmatic solutions that were

always subject to further change. The culture of imperial rule took shape in a distinctly unbourgeois environment: rights to property could be given and taken away, people could be moved about, nobles could be deprived or granted a labor force comprised of other members of the polity with their particular rights. For elites, the imperial rights regime enabled a wide range of arguments—for or against a variety of particular measures, useful worries about setting examples that other groups might copy, pragmatic propositions based on superior knowledge of one's terrain and peoples. Impermanence of rights meant that government was a flexible art, free from the constraints of universal principles. If elites felt their personal vulnerability in the imperial scheme of things, they also knew the meaning of being of the state—the possibility of deciding rights for others, if not for oneself.

5. Liberals vs. Peasants

The political landscape I have described did not lend itself to imagining a single community, which may account for the paucity of sustained efforts on the part of elites inside the government or intellectuals outside it to institutionalize democracy based on equal rights in Russia (and the Soviet Union).⁵⁸ But in the last half of the nineteenth century and the beginning of the twentieth, Russian liberals were deeply concerned with the differentiated judicial system and in particular with what they saw as inferior—unlettered, unprofessional, unEuropean—justice at the lower-level courts. The gradual introduction of “Russian” law to non-Russians was one unfulfilled civilizational concern of Russian elites. Another area where unequal legalism came under attack was the township court system of the Russian provinces. Many jurists and other elites regarded the township courts and other local instances as retrograde institutions.

One irritant to liberal jurists was the subordination of township courts to administrative, rather than judicial authorities. The “independence of the judiciary” was a slogan of liberal jurists—a goal not inconsistent with the collectivity endemic to the imperial rights regime. In 1889, the township courts had been placed under the immediate supervision of a local noble

official—the land captain. Liberal critics of the autocracy regarded these officials as retrograde nobles exercising their traditional prerogatives to rule the countryside. But the primary target of liberal reformists was the, to them, repugnant notion, of difference in the law—of courts headed by different kinds of judges who made decisions on different kinds of cases according to different standards. The labels of custom and customary law were used to stigmatize the workings of local courts as inferior to “real” law.⁵⁹ The diversity of the empire and its legalism could drive liberals to despair, as in this outburst at a meeting of a subcommittee of the venerable Free Economic Society on April 5, 1904: “In our life there’s chaos, a muddle of conceptions and relations; in the localities you can’t figure anything out, everything happens arbitrarily. We call this the application of customary law. But it’s necessary finally, to create something general.”⁶⁰

The creation of something general where the law was concerned meant, to reformers, general laws and general citizenship. At this same session of the Free Economic Society, A. I. Ventskovskii insisted, “Legal questions must be the same for all citizens and equally applicable in all places and all circumstances.”⁶¹ A bitter and drawn-out fight in the Duma and highest levels of the administration eventually resulted in new regulations for a “local” court. This last gasp of imperial legal reform did not satisfy liberals’ demands for a universal jurisprudence and, typically, was slated to be introduced gradually, beginning with ten provinces in January 1914.⁶² It was not until the fall of the autocracy that the liberal reformers finally were able to write their own rules. One of their early targets was the township court, with its associations with peasant judges, customary law, and the despised estate system. After the abolition of estate distinctions in March 1917, the new government proceeded to create a non-estate administration at the township level (the township *zemstvo*) and to replace the township courts with a new non-estate-based local court.⁶³

The fate of Provisional Government’s attempt to institute a new kind of governance and a new kind of court at the township level in the first year of the revolution opens up another perspective on the imperial rights regime. The essence of the reform was to destroy estate-based

justice and to make all citizens of Russian townships, whatever their former estate, subject to the jurisdiction of new local courts. The judges at these courts would no longer be peasants elected by individual villages. Instead, cases would be decided by a college of judges—one Justice of the Peace, elected at by all voters—not peasants alone—in county-wide elections, and two “members” of the court elected by all voters at a township-wide assembly. The educational requirements for judges were substantially changed. Justices of the Peace were to be at least twenty-five years old and have completed at least secondary education, unless he (or she, in theory now) could demonstrate significant experience in legal practice. Liberal reformers reasoned that local courts should be adapted to the procedures of the Justices of the Peace courts, where cases were decided by educated judges.

In May 1917, the Provisional Government tried to put these reforms in place. The new township zemstvo was established by decree to replace the former township administration; a local court was to replace the township court; the old township court was abolished.⁶⁴ In the liberal press, these initiatives were presented as unquestionably progressive and essential to the new democracy. Moscow’s major centrist newspaper declared:

The reorganization of the local courts is as imperative as other reforms that touch upon the arrangements of local life. The strengthening of the bases of law in local life is now one of the pressing tasks advanced by the present epoch. This task can be fulfilled only by a court that will command the complete confidence of the population. The new justice-of-the-peace court, which is close to the population and which is organized on the principle of election by a wide stratum of the population, will be able to fulfill this lofty task....⁶⁵

A new pamphlet size magazine called The Township Zemstvo (Volostnoe zemstvo) was produced in Petrograd to popularize these initiatives and to encourage rural people to vote in the township elections to the new non-estate based township administration. This publication recounted the thwarted struggles under the autocracy to establish the township zemstvo and the

great significance of this reform: “Without it [the township zemstvo], the village cannot stand on its legs, cannot leave its wretched life behind.”⁶⁶ The elections to the township zemstvo began July 30, 1917 and were completed by mid September.⁶⁷

The results were not what reformers had expected. The editors of The Township Zemstvo were forced to confess their disappointment. According to these enthusiasts of local power, almost everywhere peasants were indifferent to the elections--“busy with agricultural work and badly informed about what the township zemstvo is.” One observer commented, “The general mass of the peasants is completely passive; it [the mass] is busy with the harvest and relates to the township zemstvo as if to something foisted on it, like a boss or a lord.” Reporters to the journal wrote that peasants, if they voted, tried to send “useless, excess” people--those who could not work--or those with little land, in the hope that the township zemstvo might give them new territory.⁶⁸

The disappointing outcome of the Provisional Government’s attempt to reform township governance displays the attractions that participatory local regulation held for lower-level subjects of the imperial rights regime. Peasants were right to see the township zemstvo as a usurpation of earlier administrative arrangements. Now not just one nobleman--the land captain--would supervise their township administrations and their courts, but a raft of specialists, estate proprietors, teachers, and dacha-owners would take over the local institutions that had been theirs to control. It was hardly likely that peasants could outmaneuver better educated people in the elections to the township zemstvo and to the bench of the new local court. People were supposed to vote by submitting a list of names to the electoral commission, an open-ended way of voting to be sure, but one that guaranteed that literate, organized, and mobilized voters had a huge advantage over most peasants. According to the new regulations, representatives elected to the township zemstvo did not have to live in the same province of the zemstvo in question, let alone within the township they were to represent.

While reformers declared that the new non-estate township governance would mean the

“liberation of the peasantry from its burdensome guardianship,” peasants with reason might have seen the same reform as vastly increasing the number of their guardians. In the place of the township headman and the township clerk—both peasants—the area would now be run by “twenty to fifty elected people, the township representatives,” who would decide “all matters of local economy and administration” and appoint all local authorities. The axe hanging over the heads of township judges was clearly visible. They would be replaced, enthused populist propaganda, with “people who could help the peasantry carry on court affairs and understand the laws.”⁶⁹ For peasant users of the township courts, their right to administration and legal judgment by their peers was threatened by the abolition of their estate-based empowerment to elect their own judges and officials.

The fate of the township court was not determined by the Provisional Government’s decrees. Contrary to what elite observers might have anticipated, rural people did not rush to shut down the township courts and did not wait for new people to come help them understand the laws. The township courts were demand in the summer and fall of 1917. They provided a means for peasants to settle disputes and allocate property—when they could obtain the necessary documents—during the uncertainties of the revolutionary period. As authority in the capitals collapsed, at township courts in the countryside, judges continued to hear cases and clerks entered their decisions in record books intended to become part of the empire’s repository of law, law interpreted by peasant judges.⁷⁰

6. The Imperial Social Contract

The proposed replacement of peasant judges elected by their villages with judges unscripted to any estate and elected by all residents of a township was a violation of the imperial rights regime. Of course, legally the emperor could have at any time taken away peasants’ rights to elect their own judges, but the experience and practicalities of administration meant that this kind of intervention in local affairs would have been unlikely. Experiments in shaping up

peasant regulation through direct administration had failed miserably in the past.⁷¹ More consistent with the ways the empire worked was the devolution of a great deal of power in the interpretation of rights to lowly, local people, at least when these rights did not impinge on those of other groups. For a half century, peasants had litigated before peasant men who had been chosen from villages in their townships and who were knowledgeable about local practices and problems. From a peasant perspective shaped by the imperial rights regime, the Provisional Government's proposal abolishing estate-based difference and instantiating a non-estate administration in the townships was a disenfranchisement.

It may be difficult for people whose political imaginaries—if not their practices—are shaped by the powerful idea of natural (human, in its recent variant) rights to step into the practices and assumptions of a fundamentally different rights regime. One way to cross this threshold is to juxtapose Rousseau's complex notion of a social contract (a political project) with the imperial rights regime (a social practice).

Rousseau's ideal version of the contract begins with people exercising their right to construct a government and to cede some of their individual rights to this formation in return for its protection of the expressed general will. Almost every element in this paradigm is incomprehensible from the perspective of Russian imperial practice. States spread their wings (and tentacles) over the widely distributed populations of the Eurasian plain; the project of making state law did not belong to the area's many peoples. The gathering of all would-be members of a would-be polity is not imaginable even as a conceit (as in Rousseau's text). Why would people want to make a government, when their histories are of various kinds of socially ordered collectives, over which one or another conqueror claims superior authority, takes and gives, declares some kind of law, and adjusts to the realities of local arrangements? The long-term conquest arena of Eurasia has produced people who to this day see state power as properly and ideally emanating from a distant ruler, while at home they go about organizing their own affairs.⁷²

The notion of ceding some of one's natural rights to the state is similarly alien to the imperial rights regime. What natural rights? Rights appear with the state and in relation to it, in gestures made by the distant ruler to appease, accommodate, and manipulate his subjects. Unless we want to impose the assertions of some Western European theorists upon all humanity, there is, perhaps sadly, no reason to assume that people everywhere think they have natural rights. Rights are not necessarily "self-evident," nor do they necessarily reside in individuals. Rights are always relational, always expressions of claim outside the self, but in many contexts it is the state that makes the claim and asserts the rights. Under the imperial rights regime, a person obtains rights only when the state appears on the social scene and grants rights to its subjects. When a Soviet citizen, as was often the case, asserted in daily life, "I have the right to [buy this ticket, send this letter, etc.]," this person was wielding, or hoping to wield, the capacity to engage in an activity granted to her by the state.

The general will—a notion that bedevils liberal theory—would have been thinkable by some in the imperial rights regime. Liberated from institutions that might have formulated an empire-wide will, Russian intellectuals certainly asserted their own notions of what "the people" wanted.⁷³ Elites' assignment of their-different-desires to the population was enabled by the empire's practice of differentiated governance and the absence of even representative (anathema to Rousseau in any case) all-empire bodies until 1906.⁷⁴ But as the case of the township courts displays, the integument of justice and authority in the realm enhanced notions of segmentation—our rights as peasants—rather than a sense of collectivity among all subjects. An assumption of ungeneral and ungeneralizable wills informed imperial government and was expressed in the diversity of institutions and standards included under the imperial legal umbrella.

If almost everything in the imperial rights regime turned Rousseau's ideal upside down and inside out, did Russian governance nonetheless express a social contract? An expansive notion of the social may be of help. Rousseau's project was a political one. He called his

contract “social,” because he rooted the authority to make law in society, not already existing states. The Russian empire, in which the state made law, was always enacting a profoundly social kind of politics aimed at regulating and forming society. Both permanent rules that would freeze society in a single shape and foundational statements about legitimacy were avoided by a government that extended itself over already existing peoples and their recognized differences. Rights were assigned and alienable, which facilitated management of diverse collectivities. Unconstrained by imperatives of equality or universal good, rulers could fulfill their side of their kind of social contract: protection of those who were assigned rights. By defending the polity from external foes, by keeping the internal peace, and by providing superior legal authority, rulers provided the various peoples of a differentiated polity with the possibility to use their rights. At the same time of course, rulers filled their pockets and went to war and pursued their own self-defined goals in ways that benefited few and exploited many.

What did imperial subjects gain from this kind of social contract? On society’s side, or better on the side of multiple societies, the social was allowed a good deal of self-shaping and self-regulating in the absence of an imperious and impossible general will. Elites, of course, were situated to play directly in the game of assigned rights and social manipulation. The state’s unfettered—by theory—ability to assign and reassign resources meant that elites situated in different locations could take part in regulation and exploitation of “their” people. But even ordinary subjects attained a share of social power through the differentiated rights regime. As individuals, subjects received their rights from the state; as members of collectivities, they participated in defining how these rights could be used. The existence of different kinds of ascribed boundaries allowed the empire’s subjects to develop local, cultural, or confessional affiliations and to utilize these linkages for their various interests.

Was there a contract at all between society and state in the imperial regime? At various moments in Russian history, the polity did come under threat, in ways that reveal the pragmatic bargains of the imperial rights regime. On the state’s side, the contract was explicit. Groups

who endangered the imperial order were punished collectively; moving the Dukhobors to Transcaucasia is a case in point. But subjects, too, shared a sense of an imperial social order. When groups of Cossacks, serfs, Bashkirs and others joined the vast Pugachev revolt in the Volga and Urals region in the late eighteenth century, rebels' political imaginary reproduced imperial rule. A true tsar would grant better rights to different people.⁷⁵ When nobles assassinated emperors in the same period, the goal was a better break—for the nobility. Bolshevik slogans did not appeal for universal rights, but proletarian ones. An enduring politics of social particularity was one consequence of the imperial rights regime.

In conclusion, I return to questions of comparison. What difference does difference—as a premise of rule—make? Although all empires can be said to have universalizing aspects—in their attempts at extension in the universe, as they knew it—the Russian empire was not based on universalism within its borders. In 1813, Benjamin Constant bemoaned the homogenizing effects of empire:

“The conquerors of our times, peoples or princes, want their empire to possess a unified surface over which the arrogant eye of power can wander without encountering any inequality which hurts or limits its view. The same code of law, the same measures, the same rules, and if we could gradually get there, the same language; that is what is proclaimed as the perfection of the social organization....

The great slogan of the day is uniformity.”⁷⁶

Constant's reference and despair was Napoleon, and this generalization (a typical European's extension of his vision to all empires?) did not apply to Russian empire, then or now.

Instead, the Russian empire in all its phases made difference a part of government. There was no nationalized center—no single “we”—and there were many—the more the better—“they.” There was no sure “self,” and all subjects—nobles, Muslims, sectarians, Bashkirs—were collectivized “others,” defined by their differentiated and alienable assigned rights. The imperial rights regime, based on difference, was expressed in law, and imperial legalism empowered even

lowly subjects in the enactment of justice in local settings. The politics of difference provided a flexible tool for rulers to use in administering, ordering and trying to transform their polity.

Governance through social difference and through the imperial rights regime gave both rulers and subjects perspectives on politics that differ from those fortified by the ideals (and tensions) of natural and universal rights. There was no implicit standard of equality to work with, no declared rights of (all) men and citizens to be seized. For elites, the stakes of being in and of the state—where rights could be assigned and manipulated—were very high. Among imperial subjects, the practices of legalized and multiple difference allowed a certain flexibility as well—to use an array of localized institutions, to appeal on grounds of special needs, to address authorities who found power in speaking for a particular group. The petition and special pleading—political forms privileged by the politics of difference—enabled personalized connections to authority. Elite rule, a pragmatic politics of social inclusion, a citizenry that relates to itself in groups and to the state as petitioners, lowly subjects who exercise extensive legal powers to discipline and regulate their local affairs—these may be consequences of the rights of difference. Such long-term practices of imperial governance, embodied in a regime of differentiated rights, have deep significance for the social imaginaries of elite and ordinary subjects and thus for both practices and potential reconfigurations of citizenship in the imperial polity.

¹On Russian expansion and geography, see John LeDonne, The Russian Empire and the World: The Geopolitics of Expansion and Containment (New York: Oxford University Press, 1997), especially p. 7-8 on a “forward policy.” On the principles of Muscovite conquest, see Boris Nol’dé, La Formation de l’Empire Russe: Etudes, Notes et Documents (Paris: Institut d’Etudes Slaves, 1952), 2 vols., I: 63-76.

²See Nancy Kollmann, By Honor Bound: State and Society in Early Modern Russia (Ithaca: Cornell University Press, 1999), and Valerie Kivelson, “Muscovite ‘Citizenship’: Rights without Freedom,” The Journal of Modern History 74 (September 2002): 465-489.

³Cited in Andreas Kappeler, The Russian Empire: A Multiethnic History (Harlow, England: Pearson Education Limited, 2001), p. 70.

⁴As in Dagestan in 1840 when the Russian authorities for a short time attempted to replace Shariat and *adat* courts with Russian courts; see B. V. Bobrovnikov, "Sud po adatu v dorevoliutsionnom Dagestane (1860-1917)," *Etnograficheskoe obozrenie* (March-April 1999), no. 2: 31-32.

⁵For an example, see Yuri Slezkine's discussion of Russian administration of northern natives in his *Arctic Mirrors: Russia and the Small Peoples of the North* (Ithaca: Cornell University Press), pp. 29-31.

⁶On the superior claim of law, see Elise Kimerling Wirtschafter, "Legal Identity and the Possession of Serfs in Imperial Russia," *Journal of Modern History* 70 (September 1998): 561-563.

⁷See the discussions in Baudouin Dupret, Maurits Berger, and Laila al-Zwaini, eds., *Legal Pluralism in the Arab World* (The Hague: Kluwer Law International, 1999), particularly pp. vii-xviii, and 3-40.

⁸Cited in Kevin Tyner Thomas, "Collecting the Fatherland: Early-Nineteenth-Century Proposals for a Russian National Museum," in Jane Burbank and David Ransel, eds., *Imperial Russia: New Histories for the Empire* (Bloomington: Indiana University Press, 1998), p. 97. The quotation is from a proposal drawn up by Burckhard von Wichmann and published in 1821.

⁹See the huge literature on colonialism of the bourgeois empires in the nineteenth and twentieth centuries. The notion that difference and otherness were essential, formative, constructing aspects, even agents, of Western European colonialism and that the maintenance of boundaries between culturally superior Europeans and inferior indigenous people structured selves both in the colonies and the metropole is argued strongly by Ann Laura Stoler; see her *Race and the Education of Desire* (Durham: Duke University Press, 1995), esp. 95-136, and her "Sexual Affronts and Racial Frontiers: European Identities and the Cultural Politics of Exclusion in Colonial Southeast Asia," in Frederick Cooper and Ann Laura Stoler, eds., *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley: University of California Press, 1997), pp. 198-237.

¹⁰On eighteenth-century views of peoples, see Yuri Slezkine, "Naturalists versus Nations: Eighteenth-Century Scholars Confront Ethnic Diversity," *Representations* 47 (Summer 1994): 170-195.

¹¹On the multiplicity of imperial registers, see Jane Burbank and Mark von Hagen, "Coming into the Territory: Uncertainty and Empire," in Burbank and von Hagen, eds., *Geographies of Empire*. On federalist projects for Russia, see Mark von Hagen, "Federalisms and Pan-movements as Reformist Re-imaginings in/of the Russian Empire," in this volume.

¹²Nathaniel Knight, "Science, Empire and Nationality: Ethnography in the Russian Geographical Society, 1845-1855, in Burbank and Ransel, *Imperial Russia*, pp. 124-129.

¹³John P. LeDonne, *Absolutism and Ruling Class: The Formation of the Russian Political Order*,

1700-1825 (New York: Oxford University Press, 1991) and Dominic Lieven, Russian Rulers Under the Old Regime (New Haven: Yale University Press, 1989), pp. 1-26.

¹⁴Lieven, Russia's Rulers under the Old Regime, pp. 48-49. By non-Russian, Lieven means families who had not become Russian before 1600, a description that sees becoming Russian as a long-term process. Lieven emphasizes the dominance of old landed families in the late ruling elite.

¹⁵Age and gender were grounds for further specifications of rights within these categories, but these qualities were not, usually, addressed by separate legal rules (addressing all youth or all women for example). Lawmakers seemed to see age and gender as inherent to every individual in every society, to be addressed by each social collectivity in its particular way.

¹⁶Svod zakonov grazhdanskikh, [hereafter SZG], kn.1, st. 1-99. SZG is Vol. 10, part 1 of the Collected Laws of the Russian Empire (Svod Zakonov Rossiiskoi Imperii [hereafter SZRI]). I am using an edition of the Collected Laws prepared for use by legal specialists: Svod Zakonov Rossiiskoi Imperii, 5 vols., ed. I. D. Mordukhai-Boltovskii (St. Petersburg: Russkoe Knizhnoe Tovarishchestvo "Deiatel'", [1912]. This version of the Collected Laws includes changes made according to the 1906 "continuation," including the Fundamental Laws declared that year.

¹⁷In theory, an atheist might have found a way to marry legally, if he or she were part of an atheist "tribe" or "nation." But such a concept would be outside the government's notion of historically established communities with their cultural traditions, and establishing a new religious collectivity was a perilous endeavor in the late empire: see Paul Werth, "Big Candles and 'Internal Conversion': The Mari Pagan Reformation and its Russian Appropriations," in Michael Khodarkovsky and Robert Geraci, eds., Of Religion and Identity: Missions, Conversion, and Tolerance in the Russian Empire (Ithaca: Cornell University Press, 2001), pp. 144-172.

¹⁸SZG, kn. 1, st. 25-33, 90.

¹⁹SZG, kn. 1, st. 1.

²⁰SZG, kn.1, st. 2-23.

²¹SZG, kn. 1, sts. 85, 61-78. On the question of "mixed marriages," see V. Shein, "K istorii voprosa o smeshannykh brakakh," Zhurnal Ministerstva iustitsii 1907: 231-273.

²²SZG, kn. 2, st. 699.

²³SZG, kn. 2, sts. 708, prim. 1, 4; kn. 3, sts. 961, 966, prim.

²⁴Ulozhenie ugolovnoe [hereafter UG], st. 1. The Criminal Code is in Volume 15 of the Svod zakonov Rossiiskoi imperii [SZRI]. I am using an edition of the SZRI, published in 1914, that incorporates the continuations of 1912 and 1913 into the 1909 edition of the code.

²⁵UG, sts. 4-8.

²⁶Ustav grazhdanskogo sudoproizvodsta (UGS), st. 1. The UGS is in volume 16, part 1 of the 1914 edition of the SZ. I am using an edition compiled by I. M. Tiutriumov: St. Petersburg: Zakonovedenie, 1916.

²⁷UGS, st. 10¹, comp. Tiutriumov, p. 210.

²⁸UGS, st. 10², comp. Tiutriumov, p. 227.

²⁹In other areas of Russian law, judicial revision took place at the higher level of cassation review. I argue there that for customary practices, law could in effect be made at a very local level. On judicial revision, see William Wagner, Marriage, Property, and Law in Late Imperial Russia (Oxford, Clarendon Press, 1994), pp. 206-223.

³⁰For studies of these various kinds of courts, see on the Caucasus: Materialy po obozreniiu gorskikh i narodnykh sudov kavkazkogo kraia, eds. N. M. Agishev and V. D. Bushen (St. Petersburg: Senatskai tipografiia, 1912); V. O. Bobrovnikov, Musul'mane severnogo kavkaza: Obychai pravo nasilie (Moscow: Vostochnaia literatura, 2002), pp. 98-204; Austin Jersild, Orientalism and Empire: North Caucasus Mountain People and the Georgian Frontier, 1845-1917 (Montreal and Kingston: McGill-Queen's University Press, 2002), pp. 89-109; Irina Babich, Evoliutsiia pravovoi kul'tury adygov (1860-1990-e gody) (Moscow: Institut etnologii i antropologii, RAN), pp. 31-137; on nomad steppe courts, see Martin, "Barimta: Nomadic Custom, Imperial Crime," in Daniel R. Brower and Edward J. Lazzerini, eds. Russia's Orient: Imperial Borderlands and Peoples, 1700-1917 (Bloomington: Indiana University Press, 1997), pp. 254-257; on township courts, Jane Burbank, Russian Peasants Go to Court: Legal Culture in the Countryside, 1905-1917 (Bloomington: Indiana University Press, 2004), forthcoming.

³¹V. O. Bobrovnikov, Musul'mane severnogo kavkaza: Obychai pravo nasilie (Moscow: Vostochnaia literatura, 2002), p. 162. These were the terms of the Dagestan rural courts as reformed in the 1860s.

³²Obshchee polozhenie o krest'ianakh, 1902, [hereafter OPK] st. 115. The General Regulation on Peasants [Obshchee polozhenie o krest'ianakh] is Book One of Polozhenie o sel'skom sostoianii: Svod Zakonov Rossiiskoi Imperii, IX, Osoboe Prilozhenie. My references are to Svod Zakonov Rossiiskoi Imperii, 5 vols., ed. I. D. Mordukhai-Boltovskii (St. Petersburg: Russkoe Knizhnoe Tovarishchestvo "Deiatel'", [1912]).

³³On court procedures, see for Russian township courts OPK, sts. 113-125, 132-139; for adat courts in the Caucasus, Bobrovnikov, Musul'mane, pp. 163-166; for lower level courts in the steppe region, see Martin, "Barimta," pp. 255-257.

³⁴OPK, sts. 50-52. On the size of townships, see S. Latyshev, "Volost'," in Entsiklopedicheskii slovar', Vol. 13: 95.

³⁵See Burbank, Russian Peasants Go to Court, forthcoming.

³⁶On appeals from township courts, see Gareth Popkins, "Peasant Experiences of the Late Tsarist

State: District Congresses of Land Captains, Provincial Boards and the Legal Appeals Process," *The Slavonic and East European Review* 78, no. 1 (January 2000): 90-114.

³⁷See for example, the exemptions for Jews and non-Russians of particular regions from the purview of the township courts: OPK, st. 125, prim. 1, 2.

³⁸On the multiplicity of court systems and the tiers of appeals, see Martin, "Barimta," pp. 255-257; Bobrovnikov, "Sud po adatu," pp. 32-33; for the Russian township courts and their appeals ladder, see N. P. Eroshkin, *Istoriia gosudarstvennykh uchrezhdenii dorevoliutsionnoi Rossii*, 4th rev. ed. (Moscow: Tretii rim, 1997), pp. 213-214, and Popkins, "Peasant Experiences."

³⁹I avoid the category privilege, because of its grounding in the assumption of equality as the starting point. The point of assigning rights was to address and manipulate difference.

⁴⁰On the history of administrative law in imperial Russia, see E. A. Pravilova, *Zakonnost' i prava lichnosti: Administrativnaia iustitsiia v Rossii (vtoraia polovina XIX v.-oktiabr' 1917 g.)* (St. Petersburg: SZAGS "Obrazovanie-kul'tura," 2000).

⁴¹On law, personal power, and legal culture in Russia, see Jane Burbank, "Legal Culture, Citizenship, and Peasant Jurisprudence: Perspectives from the Early Twentieth Century," in *Reforming Justice in Russia, 1864-1994: Power, Culture, and the Limits of Legal Order*, ed. Peter Solomon, Jr. (Armonk, New York: M. E. Sharp, 1997), pp. 82-85.

⁴²On corporate behavior among professionals, see Jane Burbank, "Discipline and Punish in the Moscow Bar Association," *Russian Review* 54, no. 1 (January 1995), 44-64. For an intriguing analysis of group formation among intellectuals, see Barbara Walker, "Kruzhok Culture and the Meaning of Patronage in the Early Soviet Literary World," *Contemporary European History* II , I, Special Issue: Patronage, Personal Networks and the Party-State (2002): 107-123.

⁴³In 1730, a proposal for a noble council that would set limits on the autocrat was defeated, by other nobles; see Valerie Kivelson, "Kinship Politics, Autocratic Politics: A Reconsideration of Early-Eighteenth-Century Political Culture," in Burbank and Ransel, eds, *Imperial Russia*, pp. 5-31. The Duma—a parliamentary institution--was established in 1906 and continued until 1917.

⁴⁴For descriptions of the institutions of Russia's central government, see N. P. Eroshkin, *Istoriia gosudarstvennykh uchrezhdenii dorevoliutsionnoi Rossii* (Moscow: Tretii Rim, 1997), pp. 67-276.

⁴⁵N. Ustrialov, *Istoricheskoe obozrenie*, p. 167, cited by Willard Sunderland in his manuscript, "Steppe-Building: Colonization and Empire in the Russian South," p. 160.

⁴⁶OPK, st. 113-153; on the steppe statute and on the hesitations concerning natives' ability to use "Russian" law, see Martin, "Barimta," p. 255.

⁴⁷For a dramatic example of the autocracy's unwillingness to take a stand for Orthodoxy and against separate Muslim schools, see Robert Geraci, "Russian Orientalism at an Impasse: Tsarist

Education Policy and the 1910 Conference on Islam,” in Daniel R. Brower and Edward J. Lazzerini, eds. Russia’s Orient: Imperial Borderlands and Peoples, 1700-1917 (Bloomington: Indiana University Press, 1997), pp. 138-161 and on Russian policy toward natives in the Volga regions, see Robert P. Geraci, Window on the East: National and Imperial Identities in Late Tsarist Russia (Ithaca: Cornell University Press, 2001) and Paul W. Werth, At the Margins of Orthodoxy: Missions, Governance, and Confessional Politics in Russia’s Volga-Kama Region, 1827-1905 (Ithaca: Cornell University Press, 2002).

⁴⁸On the formula and its significance, see B. E. Nol’de, “Edinstvo i nerazdel’nost’ Rossii,” in Nol’de, B. E. Ocherki russkogo gosudarstvennogo prava. St. Petersburg: “Pravda,” 1911, pp. 223-554. Even Nol’de acknowledged the complexities of statute 3 (op. cit., p. 226).

⁴⁹Nicholas Breyfogle, “Heretics and Colonizers: Religious Dissent and Russian Empire Building in the South Caucasus, 1830-1900,” forthcoming from Cornell University Press.

⁵⁰Breyfogle, “Heretics and Colonizers,” pp. 53-59 on the origins of the Transcaucasian resettlement.

⁵¹Banditry as applied to Caucasian people is an old term, related to the long-term battle for control in this area, see Vladimir Bobrovnikov, “Bandits and the State: Designing a ‘Traditional’ Culture of Violence in the Russian Caucasus,” in Burbank and von Hagen, Geographies of Empire, forthcoming.

⁵²On policy makers’ opinions, see Breyfogle, “Heretics and Colonizers,” pp. 63-95, 332-334.

⁵³The idea that legal divisions of society provided everyone with a field to play on is developed by Elise Kimerling Wirtschafter, Social Identity in Imperial Russia (DeKalb: Northern Illinois University Press, 1997).

⁵⁴Ukaz ob ustroistve krest’ian. February 19/March 2, 1864.

⁵⁵Redemption dues were finally abolished in 1907. On the emancipation’s aftermath, see David A. J. Macey, Government and Peasant in Russia, 1861-1906 (DeKalb: Northern Illinois University Press, 1987).

⁵⁶Paul Werth argues that the more frequent usage of the untranslatable word inorodets—a person of other origin—reflects a shift in imperial thinking in the mid-nineteenth century from primarily religious to primarily ethnic kinds of identification systems: “Changing Conceptions of Difference, Assimilation, and Faith in the Volga-Kama Region, 1740-1870,” in Burbank and von Hagen, Geographies of Empire, forthcoming. I use the translation “native aliens,” suggesting comparisons with American usages. A term used in the same period in the United States for native Americans is “resident foreign nations,” see D. W. Meinig, The Shaping of America: A Geographical Perspective on 500 Years of History, Vol. 2: Continental America, 1800-1867 (New Haven: Yale University Press, 1993), p. 179.

⁵⁷PSZ RI, III, vol. 26, 1906 (Spb, 1909), 28392, I, October 5, 1906.

⁵⁸For a Russian perspective on this issue, see Mark Vishniak's discussion of the weak interest in calling a constituent assembly to found a new political order: M. V. Vishniak, "Ideia uchreditel'nogo sobraniiia," Griadushchaia Rossiia 1920, no. 1, pp. 270-292; no. 2, pp. 182-216.

⁵⁹On this issue, see Burbank, "Legal Culture, Citizenship, and Peasant Jurisprudence," pp. 85-94, and Cathy A. Frierson, "Rural Justice in Public Opinion: The Volost' Court Debate," Slavonic and East European Review 64, no. 4 (October 1986): 526-545.

⁶⁰Trudy Imperskogo volnogo ekonomicheskogo obshchestva, 1904, t. 2, kn. 4-5, 96-97. I am grateful to Joseph Bradley for drawing my attention to this source.

⁶¹Ibid.

⁶²On the battles for mestnyi sud, see Zyrianov, "Tret'ia duma," pp. 45-62; Ob'iasnitel'naia zapiska k proektu Ministerstva iustitsii o vvedenii v deistvie zakona 15 iiunia 1912 g. o preobrazovanii mestnogo suda (n.p., n.d. [24 April 1913]); Kots, E. S., Mestnyi sud i ego reforma (St. Petersburg: Zemledelets, 1913); M. M. Mogilianskii, "Zemstvo i mestnyi sud," in Iubileinyi zemskii sbornik 1864-1914 (St. Petersburg: O. N. Porova, 1914), pp. 86-92; N. Rudin, Zakon 14 iiunia 1912 g. o preobrazovanii mestnogo suda (St. Petersburg: Sotrudnik, 1912).

⁶³ For the texts of civil rights and local court decrees see Robert Paul Browder and Alexander F. Kerensky, eds., The Russian Provisional Government 1917 (Stanford: Stanford University Press, 1961), vol. 1: 226-238.

⁶⁴Sbornik ukazov i postanovlenii Vremennogo pravitel'stva. Vyp. 1. 27 fevralia-5 maia 1917 g. (Petrograd: Gosudarstvennaia tipografia, 1917), II, 99; Browder and Kerensky, Provisional Government, I, 234-235.

⁶⁵Browder and Kerensky, Provisional Government, I, 236. Translated from Russkie vedomosti, no. 106, May 13, 1917, 3.

⁶⁶Volostnoe zemstvo, no. 3, 1917, p. 83.

⁶⁷Volostnoe zemstvo, no. 17-18, 1917, p. 343.

⁶⁸Volostnoe zemstvo, no. 17-18, 1917, p. 343-5.

⁶⁹Volostnoe zemstvo, no. 9-10, pp. 262, 263, 266, 267.

⁷⁰On usage of the township courts in 1917, see Burbank, Russian Peasants Go to Court.

⁷¹One example was an early nineteenth-century attempt to organize Russian peasants in military colonies; see George L. Yaney, the Systematization of Russian Government: Social Evolution in the Domestic Administration of Imperial Russia, 1711-1905 (Urbana: University of Illinois Press, 1973), p. 164.

⁷²See the fascinating discussion of distant rulership in Morgan Liu, “Recognizing the Khan: Authority, Space and Political Imagination among Uzbek Men in Post-Soviet Osh, Kyrgyzstan,” Ph.D. dissertation, University of Michigan, 2002.

⁷³This was a theme of my study of the Russian intelligentsia at the time of the Bolshevik revolution: Intelligentsia and Revolution: Russian Views of Bolshevism, 1917-1922 (New York: Oxford University Press, 1986).

⁷⁴On the autocracy’s attempts to undermine national representation in the Duma, see Rustem Tsiunchuk, “Peoples, Regions and Electoral Policy: the State Duma and the Constitution of New National Elites (1906-17),” in Burbank and von Hagen, Geographies of Empire, forthcoming.

⁷⁵On a popular political imaginary, see Claudio Sergio Ingerflom, “Entre le mythe et la parole: l’action Naissance de la conception politique du pouvoir en Russie,” Annales HSS, July-August 1996, no. 4, pp. 733-757.

⁷⁶Quotation from Ken Alder, The Measure of Things: The Seven-year Odyssey and Hidden Error That Transformed the World (New York : Free Press, 2002), p. 317.