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## REFORMING THE PUBLIC AUTHORITY INSTITUTES OF THE RUSSIAN EMPIRE (REGIONAL ASPECT)

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### Abstract

The article analyzes the problems of the relationship between the individual and public authority represented by state bodies of the Russian Empire. Particular attention is paid to the aspect of authority exercise by the officials of state bodies, which were created during the public administration reform in the Russian Empire in the XVIII - early XX centuries. The peculiarities of forming state bodies staff are revealed using the example of the police department of the Novgorod province. The authors focus on the problems of implementing the ideas of the legislator on improving the public administration system in the practice of provincial administrative and judicial bodies. The article introduces into scientific circulation new archival materials from the funds of the judicial authorities of the Novgorod province. Based on the study of materials of criminal cases of the XVIII - XIX centuries, conclusions are made about the level of legal and professional culture of employees of state bodies of the Russian province. The authors come to conclusions about mistakes in organizing the fight against malfeasance in the Russian province using the example of the Novgorod province. Systemic and comparative legal research methods allowed identifying the main trends in the development of relations between the individual and public authorities during the construction and reform of the state mechanism of the Russian Empire. The study summarizes the scientific approaches to assessing the practice of counterstanding malfeasance.

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**Keywords:** Archival documents, Novgorod province, public administration, public authority, reforms, the individual.



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## **1. Introduction**

One of the most important tasks of modern jurisprudence is the development of scientific approaches to improving the practice of reforming the state mechanism and fighting against malfeasance in order to achieve harmonization of the relationship between the individual and public authorities. Experts in the field of state and law history of Russia pay great attention to the analysis of historical experience that can serve as an example or lesson in developing a strategy for modern governance reforms (Kozel'chuk, 2015; Obidin, 2017; Podkovyrov, 2015; Senyavskiy, 2018; Shestakov, 2015; Sheverdyayev & Shenfeldt, 2019). Despite the centuries-old differences, the tasks of lawmakers in the XVIII - early XX centuries who formed the normative basis for public administration reforms and the tasks of present-day reformers are almost the same and come down to improving the state mechanism in order to increase its clear, coherent and efficient functioning.

In any period, the ideas of the legislator are implemented at all levels of the administrative hierarchy by definite people, endowed with varying degrees of authority. By analyzing archival materials (for example, funds of the State Archives of the Novgorod Region), comparing the practice of applying legislation in the regions of Russia, one can trace the level of compliance with the goals and objectives set by the central government in the course of public administration reforms and the final result of their implementation. One of the factors determining the effectiveness of reforms was the level of law application. The practice of applying the law was dealt with by a huge "army" of civil servants, whose special training in the Russian Empire was practically not carried out. In the conditions of extant absolutism and class privileges, the bulk of the population was excluded from the practice of active participation in the reform process and monitoring the implementation of reforms. It ultimately undermined the progressive potential of the reforms and minimized their results.

## **2. Problem Statement**

The problem of the relationship between the interests of the individual and public power in the process of state building in the Russian Empire epoch is associated with the goals of the legislator, who determined the direction of reforms, and the quality of the application of the laws issued locally in the Russian regions. In the framework of modern science of the history of law, the question of the impact of the practice of applying legislation in the Russian provinces on the overall result of state reforms is debatable. The court cases on malfeasance kept in the State Archives of the Novgorod Region and the decisions of the provincial administration allow revealing the characteristic features of the exercise of functions by state bodies in the Russian province. These materials contain representative cases of the population response to the actions of officials and government bodies, which is an indicator of the effectiveness of public administration reforms.

## **3. Research Questions**

The authors study the following issues:

**3.1.** What factors determined the results of legislation implementation in the provinces of the Russian Empire?

**3.2.** What were the features of public administration reforms implementation in the Russian province (on the example of the Novgorod province)?

**3.3.** What are the historically determined reasons for the insufficient effectiveness of reforming public institutions and the persistence of malfeasance in the Russian province?

## **4. Purpose of the Study**

The purpose of the study is to identify the historical experience of reforming public administration in the Russian province, which allows determining the effective and ineffective methods of fight against malfeasance typical of the Russian Empire that influenced the trust level on the part of population in public authority institutions.

## **5. Research Methods**

The research is based on the dialectical method of scientific knowledge. In addition, specific historical, comparative legal, comparative historical, systemic methods were used, as well as an integrated approach to the analysis of the phenomena and patterns of their development. The principle of scientific objectivity and reliability required a comprehensive and in-depth study of available documentary material, verification and comparison of opinions and judgments, analysis of sources and their critical assessment.

## **6. Findings**

### **6.1. Relevance of the research task**

The power of authority is an institution of the state legal organization of a society that characterizes the scope and nature of the rights and responsibilities of an individual acting on behalf of public authority. World practice shows that the reform of public authorities is always aimed at adjusting the power of authority. The main objective of reforms, as a rule, is to eliminate the negative manifestations of the exercise of power, including malfeasance. Presently, researchers note the continued relevance of the problems of ensuring anti-corruption control over the activities of officials (Zulaikha et al., 2019). The problem of political self-isolation of the bureaucracy, which negatively affects the level of competence, has not yet been overcome (Mueller, 2015). In Russia, despite the change of epochs, the problem of the uncertainty of the legislation governing the functions and powers of state bodies, as well as legal liability for malfeasance, remains unresolved (Lipinsky et al., 2019). In addition, according to experts, the historically determined tolerance of Russian society to the officials' offenses, determined by the coincidence of private and public interests, remains intact (Tsepelev et al., 2019). All this gives reason to consider it important and necessary to study the historical tradition of reforming public administration and the peculiarities of the formation of public authorities in the Russian province.

## 6.2. The results of the analysis of archival documents

The state mechanism of the Russian Empire was formed in harsh political and economic conditions. At the same time, power was perceived by the officials as the right of peremptory application of power to subordinates on the social ladder and the obligation to bear responsibility only to the higher authorities. The class hierarchy of society and absolutism most directly determined the nature of the institution of power and the relationship between the individual and public authority.

Already at the first stage of the formation of the imperial bureaucratic apparatus under Peter I, the central government was faced with the problem of ensuring control over the activities of officials, applying legal responsibility for manifesting mercenary abuse of service. Empowered officials did not hesitate to exercise administrative and judicial arbitrariness. This not only diminished the prestige of state power, but also caused direct material damage to the state. It is for this reason that the central government tried to eliminate the officials' abuse of power in departments at various levels. Locally, in the Russian hinterland, the problem of power abuse by officials was complicated by its "latent" nature. The local population most often than not hesitated to report oppression by officials. Moreover, it did not concern only the lower strata of society. Nobles also suffered oppression from "colleagues" in the civil service. This is evidenced by the court cases found in the archival funds, which were at the time considered by the Criminal Court Chamber of the Novgorod Province.

In the spring of 1781, the case from the Borovichi district court was submitted for revision to the Criminal Court Chamber. The basis of the trial was a report from the official of the seventh grade, outward adviser Alexei Balk. At that time, the court was already investigating the theft of things and money from the house of Balk. The Balk's report submitted to the court stated that on January 22, 1781, secretary Ivan Suslov came to Balk's apartment drunk and with the witness Kozma Arbuzov, a warmaster, asked Balk to take back the things stolen from his house from the ensign Timofey Semichev and the apprentice Grigorius, and also "to give Semichev and Grigorius a deferment for a year" to return money that had already been partially spent. Later Suslov attempted to persuade Balk to "litigation without court" with threats. The trial took several years. Finally, in the statement of the Criminal Court Chamber in 1784, it was said that due to the death of Secretary Suslov and witnesses from the side of the Bulk, the case, by virtue of the Military Charter and the Decree of February 10, 1763, should "be given to God's will, put in resolved cases of the archive and excluded from the number of unsolved cases listed in the journals" (GANO, n.d. h).

Often, legislative decrees and decrees aimed at resolving any problematic issues were perceived by local officials as an excuse to apply power to their own advantage. In 1781, as part of the implementation of "Institutions for the management of provinces" (paragraph 258) in the Borovichi district of the Novgorod province, the local administration organized the seizure of illegally produced wine. District officials saw in this situation an opportunity to get rich at the expense of caught illegal winemakers. By order of the secretary of the Borovichi Lower Zemsky Court, Semyon Dorofeev, the full-time district court team, despite titles and ranks, rudely, without following any procedural order, conducted searches of the district residents, in particular, in the house of the landowner Solopova, the major's wife. At the same time, the hussar, who commanded the full-time team, broke the landowner's face to blood. After that, Solopova was dragged by interrogation to a peasant's house, where bottles of wine were discovered, and then brought to the Lower Zemsky Court. During the interrogation, the landowner was made aware that a criminal case

would be opened against her for the sale of wine. The attorney of the local pub who participated in the interrogation, Ivan Tagvoev, tried to persuade the intimidated Solopova to make a deal, offering to transfer him a serf with his family to work off at the expense of an allegedly existing debt. It is noteworthy that the local mayor wanted to get his own benefit in this matter. Having appeared in court, he sat down in the place of the chairman of the court and, pointing Solopova to the hanging mirror, stated that it was the eye of the tsar, and he (the city mayor) had authority over the local courts. After that, he ordered her, in order to avoid a judicial investigation, to agree to the terms of Tagvoev (GANO, n.d. f). Solopova admitted guilt regarding the sale of wine, but did not want to come to terms with the “grievances inflicted on her” and sent a petition and complaint to the Novgorod Governor’s Board and the Borovichi Noble Custody. However, in spite of the criminal case initiated by the complaint, which was pending before the Borovichi District Court, and then the Novgorod Criminal Court Chamber, the culprits did not receive real punishment. The court clerk Dorofeev justified sending the full-time team to the landowner Solopova’s house by order of the mayor. The landlord did not put signatures on orders because of illiteracy. The judicial investigation dragged on. During this time, the mayor managed to resign and did not suffer any punishment, despite the unauthorized appropriation of judicial powers and the promotion of extortion. Instead of punishment, Dorofeev received a warning: “...in the future to act decently in the production of cases, being careful ...”. The indictment was passed only against the attorney of the Tagvoevpub, who was warned (GANO, n.d. f).

Reforms of Catherine II increased the number of officials and clerks. Small and medium local nobility was attracted with a stable salary. As a result, many positions of officials and clerks were occupied by nobles. The research literature gives an example of the Tambov province, where most of the noble officials served in the ranks of the X-XIV grades and belonged to the small noblemen. The class rank made it possible to occupy the posts of secretaries, registrars, recorders, clerks of various structures of the provincial and district governments (Shestakov, 2015). However, it did not guarantee professional, competent, responsible and disinterested performance of official duties. Contemporaries assessed the financial situation of provincial bureaucracy of middle and lower level as disastrous. This resulted in a low cultural level, the spread of bribery and other negative features of the domestic bureaucracy noted by law historians (Kozel’chuk, 2015). This layer of the serving nobility was distinguished by a low level of home education and low income of estates. The latter was a decisive factor in the desire to obtain a “profitable” place in the public service.

The fact that for the XVIII - the first half of the XIX centuries, official duties performance was accompanied by the use of violence against representatives of different classes, especially against tradesmen and peasants, was commonplace. Officials did not think of a service that was not profitable. The position itself was perceived as an addition to the estate from which the “good owner” would always make a profit, even by applying coercion.

The judicial authorities of the Novgorod province regularly examined cases of complaints about the actions of officials: the peasants complain about members of the zemstvo police involved in lawless requisitions (1795), then the manager of the State Chamber accuses the zemstvo police officer (head of the police in the district) of beating up different people and causing other offenses (1797), lawsuits are filed against officials of the Department of Army Recruitment, who are accused of bribes, beatings and oppression of recruits (1801) (GANO, n.d. b, c, d).

According to the surviving archival materials of the Criminal Court Chamber's foundation, the legal qualification of officials' malfeasance was one of the "vulnerabilities" of procedural practice. In modern conditions, malfeasance can be considered a crime or offense, depending on the degree of public danger of the act. The determining role in qualification is played by the facts of intentional use of one's official position, causing substantial harm to the state or public interests or to the interests of citizens. However, the problem of malfeasance qualification still retains a deep methodological character. For example, the definition of corruption that exists in the scientific literature, which legislation uses as a basis, is, in its opinion, incredibly vast, complex and compromise (Sheverdyayev & Shenfeldt, 2019).

Things were even more complicated with the qualification of power abuse. Most often in qualification definitions of criminal cases of the XVIII century descriptive definitions were used, such as "oppression", "beatings", "insults". For example, a criminal case of 1784 accusing the mayor of Balbekov of oppressing, insulting merchants and bourgeois of the district town of Tikhvin. A crime charge has been brought against the town mayor that he demanded "14 men to become recruits and money" from merchants and tradesmen. The townspeople claimed that they had already fulfilled all the duties, but the mayor, despite this, orders to make arrests right in the churches, to surround the churches during the service with soldiers, to conduct house searches, and finally Balbekov personally beats "... the tradesman Feoktist Volkov twice in the face, knocked out his teeth" (GANO, n.d. g). There was enough evidence of the atrocities of the mayor: traces of beatings, whipping, etc. However, the result of this court case was determined by a decree from the Viceroyalty Board, which ordered the Tikhvin town government to prescribe merchants and tradesmen who do not want to pay official taxes, to be taken under guard, not to be released until they paid the taxes (GANO, n.d. g). There is no verdict against the mayor Balbekov in the court case.

The apparent impunity of officials for "crimes of office" could not but cause a negative reaction of the population. But only in rare cases was it expressed in an appeal to higher bodies of state power. More often, indignation manifested itself in spontaneous actions, which in turn led to a violation of the order established by law. In 1782, from a district court institution of the Staraya Russa Lower Court the Criminal Courts Chamber filed a criminal case for accusing the tradesman Ivan Korelin and peasants Evstrat Ivanov and Larion Fedorov of hitting the gates of the Starorussky magistrate with a log and bragging to break it up (GANO, n.d. e). As follows from the case file, Korelin, Ivanov and Fedorov, "drunk" at the first hour of the night passed the city magistrate's building and, seeing the guards Timofey Myasnikov and Yakov Kudryashov, began to curse at the magistrate's employees and threaten to break the gates. In confirmation of the threats, Karelin hit the magistrat's gate with a log. The guard team arrived in time and delivered lawbreakers to the guardroom. However, the detainees there also cursed and threatened to "break the guardroom" and leave. The next day, all three pleaded guilty, tried to justify themselves by a state of intoxication. The Staraya Russa Lower Court on the basis of the Military Article (44, 45) sentenced Korelin, Ivanov and Fedorov to punishment in Staraya Russa before the magistrate with "lashesmercilessly" (GANO, n.d. e). The case materials, as expected, were sent for revision to Novgorod in the Criminal Court Chamber, where a number of procedural violations were revealed. The Criminal Court Chamber found that Korelin was bailed without a special resolution; in the case file there are no copies of the statement on sending Ivanov and Fedorov to the class Upper court of the second instance. In addition, the Staraya Russa Lower Court violated the decree of the Criminal Court Chamber of May 19, 1780, which

forbade the lower public places (district state institutions) to make extracts from documents that took time in vain and resulted in long-term detention of defendants in custody. Finally, there were no signatures in the minutes of the case, which was a gross violation of the procedural order. Upon the fact of official misconduct revealed by the Criminal Court Chamber, the First Department of the Viceroyalty Office assigned a fine of thirty rubles to the Staraya Russa city magistrate, and twenty rubles to the Lower Court (GANO, n.d. e). The slow court proceedings mentioned as an omission in the decree of the Criminal Court Chamber did not mean the concern of the provincial court about the fate of the defendants, but the desire to avoid penalties from the Senate.

An example from the practice of the judiciary of the Tambov province also indicates problems with the timing of the consideration of cases. A fairly ordinary case of a district clerk accused of not fulfilling official duties and leading a vicious lifestyle was considered from 1795 to 1798. The result was a sentence of dismissing a clerk from his position and a fine of 12 rubles. The analysis of this criminal case also leads to the conclusion about the features of qualification of official crimes. Abuse of authority could be understood as the “wild life” of officials (Podkovyrov, 2015).

### **6.3. Discussion**

There is a point of view in the research literature that present-day Russia traditionally has some similarities with China and India, where the regional government has significant powers, which causes the corruption of economic sectors. Strengthening the role of corruption in economic relations is facilitated by the consent of entrepreneurs to accept corruption as an integral part of business and society. In the end, this leads to instability in the institutional environment (Bertrand et al., 2019). Based on this provision, one of the traditional reasons for the malfeasancespread in Russia can be considered the consent of the population with the presence of unlimited powers of authority and lack of its control. However, historical experience suggests that the problem of reform inefficiency and the prevalence of misconduct has wider grounds. From time to time, the central government demonstrated real intentions to combat the arbitrariness of local officials, but did not reinforce them with relevant legislation and judicial practice. At her time, Catherine II, in her manifesto of 1785, granted broad liberties to the nobility, actually providing Russian officials with insurance from the direct effect of the law providing for legal liability for malfeasance (Mitina et al., 2019). The impunity of the bureaucrats was also facilitated by the practice of a formal approach to the testimony of representatives of the lower classes, especially peasants. The authorities simply were not interested in the real opinion of the population regarding the functioning of institutions.

Any reforms carried out in imperial Russia represented modernization “from above”, carried out in the interests of the aristocracy, the nobility or the bourgeoisie (Senyavskiy, 2018). Indeed, even the abolition of serfdom was not aimed at endowing the bulk of the population with real civil rights. The reforms of Alexander II shocked the legal consciousness of society, but did not realize its hopes. At the first stage of the reforms, the attitude of the individual and the authorities was determined by hopes for the triumph of liberal ideas. There was an increase in self-esteem of representatives of different classes who were competent in legal matters due to the spread of education and the implementation of the principle of the court publicity. However, the counter-reforms of Alexander III revived the system of total domination of the bureaucracy, strengthening government control over all spheres of society. But even in such

conditions, the processes of liberalization of society could no longer be stopped. Representatives of different classes demanded that the state guarantee their rights, demonstrated a deeper knowledge of the law and legal procedures than officials vested with authority. Archival documents contain many examples of the impact of reforms in the second half of the XIX century and political transformations of the beginning of the XX century on relations between civilians and government officials. After the publication of the 1905 Manifesto, which proclaimed personal and political rights and freedoms, the liberal press actively joined the fight against the offenses of officials, trying to publicize the cases of malfeasance of officials of various titles and ranks. The journalist of the *Dvadtsatyy Vek* periodical in the April 1906 issue published an article on “torturing the peasants by the police”, in which he spoke about the beatings inflicted by the police officer Fadeev on the peasants at the Chudovo railway station. The article provides testimony and demands to immediately bring to trial the officer Fadeev. In response to the publication, the Provincial Board requested only a report from the police department regarding a newspaper article (GANO, n.d. a). In this way the provincial bureaucracy tried not to notice changes in public consciousness and consistently engage in the implementation of the entrusted function of control over the population.

## 7. Conclusion

Reforms of public administration did not change the essence of the position of the individual in the public authority system or under the control of public authority. The public nature of state power, which determined its dependence on the will of the people, did not appear during the reforms of the state apparatus and the system of local self-government. In such circumstances, the fight against malfeasance was doomed to failure. In turn, the problem of malfeasance itself showed a lack of understanding on the part of the authorities of the social and political nature of their powers. The historical experience of public administration reforms in the Russian Empire allows us to objectively assess the value of the law enforcement practice of regional authorities in improving the state mechanism and determine the prospects for the correlation of private and public interests in the process of state building.

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