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## Law for the elite, law for the million: Challenges of legal education in the Russian Empire (19<sup>th</sup>-early 20<sup>th</sup> centuries) \*

Michel Tissier °

In his classic book on the “development of a Russian legal consciousness,” Richard Wortman has offered the first in-depth study of the education and careers of imperial high-rank administrators. He has thus explained the meaning and role of the law in the administration of the Russian Empire before the Great Reforms.<sup>1</sup> As is usually the case with the concept of “rule of law,” the notion of “legal consciousness” that Wortman applies to Russian history involves a comparison with the relationship with the law in the West. The same idea of “legal consciousness” is, moreover, commonly used to describe a kind of prerequisite for the existence, or lack thereof, of this so-called rule of law in a given country, likewise by comparison with the West. Comparisons between East and West are interesting, but not so much so if we only consider a timeless definition of the “rule of law.” Indeed, no less important is the examination of the comparisons that were made directly by the contemporaries, both in the West and in the Russian Empire, and that historians can recover. There is no doubt that, at least from the 1860s onward, the issue of the Russian population’s “legal consciousness” was explicitly raised by legal scholars and officials, and that it was often done in direct comparison with what they perceived of the supposed “legal consciousness” of Western

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1 Richard S. Wortman, *The Development of a Russian Legal Consciousness*, Chicago: The University of Chicago Press, 1976; Richard S. Wortman, *Vlastiteli i sudii: razvitie pravovogo soznaniia v imperatorskoi Rossii*, Moscow: Novoe literaturnoe obozrenie, 2004. Several other works focusing on the topic of Russian administration and bureaucracy, in the same time period or earlier, have less directly contributed to the history of legal education in the Russian Empire: Marc Raeff, *Michael Speransky, Statesman of Imperial Russia: 1772-1839*, 2<sup>nd</sup> ed., The Hague: Martinus Nijhoff, 1969; Marc Raeff, *The Well-Ordered Police State. Social and Institutional Change through Law in the Germanies and Russia, 1600-1800*, New Haven-London: Yale University Press, 1983; W. Bruce Lincoln, *In the Vanguard of Reform. Russia’s Enlightened Bureaucrats, 1825-1861*, DeKalb: Northern Illinois University Press, 1982; W. Bruce Lincoln, *The Great Reforms. Autocracy, Bureaucracy and the Politics of Change in Imperial Russia*, DeKalb: Northern Illinois University Press, 1990.

people. Contrary to the German idealistic use of that notion,<sup>2</sup> “legal consciousness,” as it was understood in Russia in the second half of the 19<sup>th</sup> century, was considered as something relative, which could be measured and developed. The measure that was generally admitted at the time was the degree of respect shown to the written law, the law as it was formulated by professional jurists. In order to develop legal consciousness, it was thus considered necessary to increase the knowledge of the written law, which raised the issue of the objectives, structure and contents of legal education. This phenomenon deserves interest if we are “to produce an account of the internal workings of the legal system” in the Russian Empire.<sup>3</sup>

A common approach to make sense of the history of legal education in the Russian imperial context would apply a modernization theory to the development of both the contents of this legal education and the institutions through which these contents were elaborated and transmitted. Here, a distinction is in order. In the 19<sup>th</sup> and early 20<sup>th</sup> centuries, both legal scholars and officials’ concern with the performance of imperial legal education was based on a perceived international (that is, mostly, European) standard. However there possibly was a distance between the objectives stated by contemporaries, who were more or less used to a form of international conversation in the field of legal science and/or practice,<sup>4</sup> and means actually used for transforming the contents and structure of legal education. Any attempt at applying a “modernization theory” framework to the case of Russian legal education should therefore consider the existence and, if any, the extent of that distance.

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2 This is the use associated with romanticism and German idealism as it was developed by founders of the “historical school of law” at the beginning of the 19<sup>th</sup> century (Savigny and Puchta).

3 Jane Burbank, Tatiana Borisova, concept note for the workshop “The Middle Level of the Law: Russia, 17<sup>th</sup> to 21<sup>st</sup> Centuries,” 2015.

4 This “international conversation” is documented by those few works which directly deal with the topic of legal education. See Michael Silnizki, *Geschichte des gelehrten Rechts in Rußland. Jurisprudencija an den Universitäten des Russischen Reiches 1700-1835*, Frankfurt: Vittorio Klostermann, 1997; Florian Kolbinger, *Im Schleppseil Europas?: das russische Seminar für römisches Recht bei der juristischen Fakultät der Universität Berlin in den Jahren 1887–1896*, Frankfurt: Vittorio Klostermann, 2004; Martin Avenarius, *Rimskoe pravo v Rossii*, Moscow: Academia, 2008. See also the recently published books by Russian legal historian V. A. Tomsinov, which have considerably enriched the field, though the more recent the period covered, the less precise the information given about this international conversation: V. A. Tomsinov, *Iuridicheskoe obrazovanie i iurisprudentsiia v Rossii v XVIII stoletii*, 2<sup>nd</sup> ed., Moscow: Zertsalo-M, 2012; V. A. Tomsinov, *Iuridicheskoe obrazovanie i iurisprudentsiia v Rossii v pervoi treti XIX veka*, Moscow: Zertsalo-M, 2011; V. A. Tomsinov, *Iuridicheskoe obrazovanie i iurisprudentsiia v Rossii vo vtoroi treti XIX veka*, Moscow: Zertsalo-M, 2010; V. A. Tomsinov, *Iuridicheskoe obrazovanie i iurisprudentsiia v Rossii v epokhu “Velikikh reform” (60-e – nachalo 80-kh gg. XIX v.)*, Moscow: Zertsalo-M, 2013.

My aim in this short paper is to point out important issues that the growing concern about legal education among officials, legal scholars, lawyers, and publicists raised to the fore in the 19<sup>th</sup> century. My interpretation involves a synthesis of the historical literature on the topic of legal education in the Russian imperial context. It is also based on my own work on both archival and published sources concerning the teaching of law and the dissemination of legal knowledge among various parts of the Russian Empire's population, mostly in the late 19<sup>th</sup> and early 20<sup>th</sup> centuries. I have been able to document, in a variety of contexts, the existence of what I have referred to above, that is, a distance between a contemporaneous concern for legal education, seen as an urgent need for the elite or the ordinary people, and the means envisioned and actually implemented for that purpose. If the wish for enhancing legal education appears to have been quite general, it remained shallow and we can doubt that it represented a straightforward "modernization" enterprise. I will successively consider several possible characterizations of such a trend in the field of legal education and put them to the test with regard to the workings of the empire's legal system.

### **The challenge of professionalism: rationality and efficiency**

Interest in legal education among historians of post-reform Russia concerns two main areas. First, particular attention has been paid to the Russian Empire's higher education policies, and to the political and social history of *studenchestvo* during the empire's last decades of existence. Studies dealing with these topics have insisted on the dominant position occupied by law – on a par with medicine – in the higher education system of the empire.<sup>5</sup> Second, historians have focused on the emergence of "law professionals" within the context of the general development of "professions" in the Russian Empire. In that respect, the conception of legal education was closely connected to the notion of legal professions as occupational groups seeking a definite status in society according to

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5 See the studies by Patrick L. Alston, Daniel R. Brower, James C. McClelland, and Charles E. Timberlake in Konrad H. Jarausch, ed. (1983), *The Transformation of Higher Learning (1860-1930). Expansion, diversification, social opening and professionalization in England, Germany, Russia and the United States*, Stuttgart: Klett-Cotta; Samuel D. Kassow, *Students, Professors, and the State in Tsarist Russia*, Berkeley: University of California Press, 1989; A. E. Ivanov, *Vysshaia shkola Rossii v kontse XIX-nachale XX veka*, Moscow: Institut istorii SSSR AN SSSR, 1991; A. E. Ivanov, *Uchenye stepeni v Rossiiskoi imperii (XVIII v.–1917 g.)*, Moscow: Institut istorii RAN, 1994; A. E. Ivanov, *Studenchestvo Rossii kontsa XIX-nachala XX veka: sotsial'no-istoricheskaia sud'ba*, Moscow: ROSSPEN, 1999.

their technical and functional expertise. A specific education, shared technical and practical skills, a sense of “community” and a search for autonomy are at the core of this notion of profession, which has been widely adapted from the Western context by students of late imperial Russia in the late Soviet and post-Soviet era.<sup>6</sup> Scholars interested in the role of “law professionals” in the political, social and cultural history of Russia under the last three tsars have particularly scrutinized the impact of the 1864 judicial reform.<sup>7</sup> Most of the attention has focused on the formation of a Russian bar and on the category of lawyers, probably because it best fits the model, implicit or not, of Western legal professions. The ability of lawyers to constitute themselves as an autonomous corporation and organize collectively,<sup>8</sup> while limiting interference from the state, was counted as an achievement, already duly mentioned by some of their most prominent representatives at the beginning of the 20th century.<sup>9</sup>

However, in the context of the 1860s there was also another way of conceiving of legal professionalism, that is, through the emergence of a wide community of law professionals, notwithstanding the divide between autonomous lawyers and administrative and judicial state officials. The origin of such a community was twofold. First, it was the system of legal higher education, which itself developed through several institutions: universities on the one hand, elite

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6 Edith C. Clowes, Samuel D. Kassow, James L. West, eds., *Between Tsar and People. Educated Society and the Quest for Public Identity in Late Imperial Russia*, Princeton: Princeton University Press, 1991; Harley D. Balzer, ed., *Russia's Missing Middle Class. The Professions in Russian History*, Armonk: M. E. Sharpe, 1996; Ilya V Gerasimov, *Modernism and Public Reform in Late Imperial Russia. Rural Professionals and Self-Organization, 1905-30*, Houndmills: Palgrave Macmillan, 2009.

7 Eugene Huskey, *Russian Lawyers and the Soviet State. The Origins and Development of the Soviet Bar, 1917-1939*, Princeton: Princeton University Press, 1986, chapter 1; William G. Wagner, *Marriage, Property, and Law in Late Imperial Russia*, Oxford: Clarendon Press, 1994; Jörg Baberowski, *Autokratie und Justiz: zum Verhältnis von Rechtsstaatlichkeit und Rückständigkeit im ausgehenden Zarenreich 1864-1914*, Frankfurt: Vittorio Klostermann, 1996; Brian L. Levin-Stankevich, “The Transfer of Legal Technology and Culture: Law Professionals in Tsarist Russia,” in Harley D. Balzer, ed., op. cit., pp. 223-49; Peter H. Solomon, Jr., ed., *Reforming Justice in Russia, 1864-1996. Power, Culture, and the Limits of Legal Order*, Armonk: M. E. Sharpe, 1997; Frances Nethercott, *Russian Legal Culture before and after Communism. Criminal Justice, Politics, and the Public Sphere*, London-New York: Routledge, 2007. Early works on the prospects of “liberalism” and the “rule of law” in Russia were more concerned with the 1864 reform of local government (the *zemstva*) than with the consequences of the 1864 judicial reform: see Victor Leontovitsch, *Geschichte des Liberalismus in Russland*, Frankfurt: V. Klostermann, [1957] (translated into French as Victor Léontovitch, *Histoire du libéralisme en Russie*, Paris: Fayard, 1986); Jacob Walkin, *The Rise of Democracy in Pre-Revolutionary Russia. Political and Social Institutions under the Last Three Czars*, London: Thames & Hudson, 1963. The exception was: Samuel Kucherov, *Courts, Lawyers and Trials under the Last Three Tsars*, New York: Frederick A. Praeger, 1953.

8 See Jane Burbank, “Discipline and Punish in the Moscow Bar Association,” *The Russian Review*, 54:1, 1995, pp. 44-64.

9 *Istoriia russkoi advokatury*, 3 volumes, Moscow: Izd. Sovetov Prisiazhnykh Poverennykh, 1914-1916.

professional schools, such as the Alexandrovskii Litsei and the School of Jurisprudence, on the other hand. Second, the sense of a common belonging was to be nurtured thanks to the activity of the newborn “law societies,” first constituted in big university cities and judicial centers (Moscow, Kiev, St. Petersburg, Kazan, Odessa).<sup>10</sup> These societies were to encourage members of the projected legal community – scholars, administrators, members of the judiciary and lawyers alike – to take part all together in the pursuit of legality and justice. Professional journals and series published by these societies were supposed to be instrumental in this effect. Their purpose was to convey the results, advice and recommendations issued from both legal science and jurisprudential practice, to members of these societies and, beyond, to students preparing for a legal career as well as to former students engaged in daily legal activity. Yet, in the long run, the performance of these publications shows that they were far from being able to achieve these goals.

Reform projects of the legal education system are additional indications of the huge gap existing between the usual invocation of the needs for efficiency and effectiveness and the ability, among the elite of law professionals, to agree on the ways of reaching that objective. There are numerous examples of such discrepancies, many of them clearly related to political opposition, as we will see later. This is not to say that political motivations can be interpreted in a straightforward way. For instance, many of the Ministry of Education’s reform projects intended to “modernize” the legal education system were met with skepticism and criticism, to say the least, on the part of the Ministry of Justice. This happened to be the case, for instance, at the turn of the 20<sup>th</sup> century, when the Ministry of Education, backed by several prominent legal scholars (such as academic Ianzhul and university professor Kazanskii), advocated the introduction of “practical training courses” in the curriculum of law faculties on the model of Western European, particularly German, universities. They were forcefully opposed by “liberal-minded” scholars, such as Lev Petrazhitskii and Vladimir

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10 A. G. Gorin, “Iuridicheskie obshchestva dorevoliutsionnoi Rossii,” *Sovetskoe gosudarstvo i pravo*, 1989, 7, pp. 117-123; P. Liessem, “Autonomie in der Autokratie? Die Juristischen Gesellschaften im späten Zarenreich,” in H. Haumann, S. Plaggenborg, eds., *Aufbruch der Gesellschaft im verordneten Staat: Rußland in der Spätphase des Zarenreiches*, Frankfurt: Peter Lang, 1994, pp. 242-71; V. S. Miridonova, *Iuridicheskie obshchestva v Rossii (1865-1917 gg.): diss. na soiskanie uchenoi stepeni k.iu.n. Nizhnii Novgorod*, 2002; Michel Tissier, “Les sociétés juridiques dans l’Empire russe au tournant du XX<sup>e</sup> siècle: professionnalisation des juristes et culture juridique,” *Cahiers du Monde russe*, 51: 1, 2010, pp. 5-34.

Gessen, who stood, with many high-rank members of the judiciary, on the side of the Ministry of Justice.<sup>11</sup> Russian “liberal-minded” legal scholars were keen to claim that they were the counterparts of Western European law professors. If they sometimes advocated reforms to get closer to them, they also rejected other European-style adaptations which would have undermined their status and position in the legal system and higher education system inherited from the period of the Great Reforms.

In order to study the ways legal education was articulated with the search for efficiency in administering the spatially huge realm and vastly expanded territory of the Russian Empire at the end of the 19<sup>th</sup> century, I have devoted a specific study to the needs related to the management of its legal diversity. This topic engages with the idea of a modernization trend in two respects. The first perspective consists in considering the impulse for reforming the legal education and training of officials in the judicial administration with relationship to the variety of legal systems existing within the empire, at a time when professionalism and adaptation to new standards of efficiency were called for on a daily basis. Yet on a second level, this particular topic also allows us to examine a basic assumption of the historical literature dealing with the so-called modernization of the imperial system as a whole.

This purported process is supposed to have developed through the nationalization of politics and the weakening of the classic imperial logic, which was based on the all-encompassing authority of the sovereign and the dynasty he/she belonged to. With regard to the legal dimension of the imperial system, Russian legal historian Aleksei Gorin has studied the project of elaborating a “universal” law code in the field of private law. He argues that, in the second half of the 19<sup>th</sup> century and the early 20<sup>th</sup> century, “the idea of unitary structure of the imperial legal space became dominant” in “Russia’s public, professional (legal), political, and administrative discourses.” This idea was conceived as an ideal which “never became a reality in the Russian empire” and was implemented

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11 Michel Tissier, “Vysokostatusnaia distsiplina, neiasnaia nauka: teoriia i praktika rossiiskogo pravovedeniia v kontse XIX-nachale XX v.,” in A. N. Dmitriev, I. M. Savel'ev, eds., *Nauki o cheloveke: istoriia distsiplin*, Moscow: Izd. dom Vyschei shkoly ekonomiki, 2015, pp. 207-39.

only thanks to “Soviet modernization.”<sup>12</sup>

My own study focuses on the all-encompassing notion of “local laws,” which was used to describe the variety of legal traditions existing in the empire. That notion apparently assumed a common relationship between each of these traditions and an alleged “general” law applying throughout the empire. I have been particularly interested in testing how the concern for reforming legal education took into account the existence of these local laws for the sake of professional efficiency, and what it could reveal about the ways legal scholars and officials actually conceived of the Russian element, in the field of private law, in the imperial legal space.<sup>13</sup> My study of published and archival material certainly confirms that there was among these members of educated society a concern for an allegedly independent Russian legal tradition, which was recognized as superior to any other legal tradition extant in the empire. Officials and legal scholars were keen to assert the value of this Russian tradition in comparison with the internationally dominant models presented by Western European legal systems. In that respect, the knowledge of “local laws” had only secondary significance. Yet, precisely for the sake of professional efficiency, there were calls for a better education and training of those future judges and administrators who would have to serve in the provinces where these non-Russian laws were in force. The law faculty of St. Petersburg University was even authorized to open a new professorship to teach students the “local laws” of the Russian Empire, though this experiment was not extended further after the 1905 Revolution.

From these contradictory impulses I have concluded, contrary to Aleksei Gorin, that Russian law professionals were not convinced by the idea of unifying the imperial legal space. It did not become a widely shared “ideal” before World War I. Neither the debates on the perspectives for reforming legal education and training nor the actual legislative and legal practice did manifest a rejection of the classical methods for managing diversity.<sup>14</sup> I would argue that the concern for improving legal

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12 Aleksei Gorin, “Problema grazhdansko-pravovoi integratsii pozdnei rossiiskoi imperii v russkom obshchestvo-politicheskom diskurse (vtoraia polovina XIX – nachalo XX vv.),” *Ab Imperio*, 2012, 4, pp. 181-208.

13 Michel Tissier, “Local Laws and the Workings of Legal Knowledge in Late Imperial Russia,” *Ab Imperio*, 2012, 4, pp. 211-44.

14 Jane Burbank, “An Imperial Rights Regime. Law and Citizenship in the Russian Empire,” *Kritika*, 7:3, 2006, pp. 397-431; see also Stefan B. Kirmse, ed., *One Law for All? Western Models and Local Practices in (Post-)Imperial Contexts*, Frankfurt-New York: Campus Verlag, 2012.



education, training young officials to cope with administrative reality and widening the social basis of the administration was a better sign of the will to “modernize” the imperial legal system, if only that concern had been consistently and methodically implemented. We can wonder whether it was the case.<sup>15</sup>

### **The challenge of democratization: agency and authority**

Historians have usually connected the emergence of professions, in the last decades of the imperial regime, with the issue of politicization within educated society. Works specifically devoted to Russian legal professions have insisted on the growing opposition between liberal-minded law professionals, whose opinion and activity is widely documented, and the conservative imperial establishment. Russian lawyers in particular have been presented as a pivotal group in the so-called liberation movement at the turn of the 20<sup>th</sup> century.<sup>16</sup> Lawyers have even been described as what resembled most to a legal and political opposition to the tsarist government, at least before the Duma period (1906-1917). According to Jörg Baberowski, Russian lawyers paid only secondary attention to the professional interests of their own group, although their corporation had benefited from considerable autonomy in the aftermath of the 1864 judicial reform.<sup>17</sup> Yet other studies show, quite to the contrary, how lawyers tied their own political aspirations to the defense of their perceived professional interests when struggling against competition from so-called underground advocates.<sup>18</sup> For my part, I have pointed out the way in which “liberal-minded” law professionals –

15 For a “revisionist” interpretation of these trends in the “modern” history of legal professions, see David Sugarman and W. Wesley Pue, “Introduction: Towards a Cultural History of Lawyers,” in W. Wesley Pue, David Sugarman, eds., *Lawyers and Vampires. Cultural Histories of Legal Professions*, Oxford-Portland Oregon: Hart Publishing, 2003, pp. 5-22; and for the Russian case, see Elisa M. Becker, *Medicine, Law and the State in Imperial Russia*, Budapest-New York: Central European University Press, 2011.

16 Kucherov, *Courts*; Shmuel Galai, *The Liberation Movement in Russia, 1900-1905*, Cambridge: Cambridge University Press, 1973. Compare with Terence C. Halliday, Lucien Karpik, eds., *Lawyers and the Rise of Western Political Liberalism. Europe and North America from the Eighteenth to Twentieth Centuries*, Oxford: Clarendon Press, 1997.

17 Jörg Baberowski, “Rechtsanwälte in Rußland, 1866-1914,” in Charles McClelland, Stephan Merl, Hannes Siegrist, eds., *Professionen im modernen Osteuropa / Professions in Modern Eastern Europe*, Berlin: Duncker & Humblot, 1995, pp. 29-59; Baberowski, *Autokratie*.

18 William E. Pomeranz, “Justice from Underground. The History of the Underground *Advokatura*,” *Russian Review*, 52: 3, 1993, pp. 321-40; William Pomeranz, “Legal Assistance in Tsarist Russia: the St. Petersburg Consultation Bureaus,” *Wisconsin International Law Journal*, 14: 3, 1996, pp. 586-610; Joan Neuberger, “‘Shysters’ or Public

some of the most prominent Russian lawyers among them, put a lot into law societies. They worked to preserve them as elite places where they could meet high-rank officials of the imperial judiciary and administration on a regular basis. If there was a relative increase in the number of law faculty graduates during the last decades of the imperial regime, law societies were not ready to take advantage from such a development. For sure there were also political reasons for that, particularly after the forced closure of the Moscow law society in 1899.<sup>19</sup>

On the whole, the last decades of the imperial regime show that the entire system of legal higher education did not significantly open itself to newcomers from more diverse parts of the population, not to mention traditionally discriminated “groups” such as women and Jews. This is partly due to the regime itself. Prestigious elite status institutions maintained their role in the upbringing and training of new generations of officials. However, there also existed, within officialdom, a commitment to widen the recruitment base for administrators and produce workforce for companies in the growing private sector. Sergei Witte, finance minister at the turn of the 20<sup>th</sup> century, insisted on developing new possibilities and new venues for that purpose. He particularly encouraged the teaching of economics and commercial sciences. In so doing, he opposed the representatives of those prestigious institutions – elite schools and law faculties of the universities in the two capitals – where the teaching of law traditionally played a major role. “Liberal-minded” legal scholars were again side by side with officials of the Ministry of Justice in counteracting these attempts at opening the higher education system to newcomers before the 1905 Revolution. It is only in its aftermath that another cycle began, when new non-governmental institutions of higher education opened. Though some of these new institutions could be installed and attract students (of both sexes), law teaching only occupied a very limited place in their curriculum at both college and graduate levels.<sup>20</sup>

Furthermore, well beyond the advent of those whom the legal elite was ready, willingly or not, to

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Servants? Uncertified Lawyers and Legal Aid for the Poor in Late Imperial Russia,” *Russian History*, 23:1-4, 1996, pp. 295-310.

19 V. R. Leikina-Svirskaja, *Intelligentsiia v Rossii vo vtoroi polovine XIX veka*, Moscow: Mysl', 1971; V. R. Leikina-Svirskaja, *Russkaia intelligentsiia v 1900-1917 godakh*, Moscow: Mysl', 1981; Tissier, “Les sociétés juridiques...”.

20 David Wartenweiler, *Civil Society and Academic Debate in Russia, 1905-1914*, Oxford: Clarendon Press, 1999; Michel Tissier, “Iuridicheskoe obrazovanie i ego rol' v podgotovke administrativnoi elity v Rossii (konets XIX-nachalo XX v.)”, in S. A. Mezin, ed., *Nikolaiu Alekseevichu Troitskomu – k iubileiu: sbornik statei*, Saratov: Nauka, 2011, pp. 339-51.

recognize as “law professionals,” the general concern for developing the “legal consciousness” of the Russian population also challenged the then prevailing conceptions of both social and intellectual authority. In a way, this concern appears as a specific consequence of the plurality of legal systems existing in the Russian empire that I have described above. Indeed, in the aftermath of the abolition of serfdom, there existed among the Russian population a divergence between the “general” legal system and the peasant legal system.<sup>21</sup> The so-called peasant law was therefore considered by some legal scholars and officials as a kind of “local law” in its own right. Confronted with that reality – that we have come to know better thanks to recent works by Jane Burbank, L. I. Zemtsov and Corinne Gaudin,<sup>22</sup> most observers agreed that the people’s legal consciousness was poorly developed. From that period onward, the idea of the necessity of developing it became an integral part of the overall project for enlightening and educating the peasantry.<sup>23</sup> A “legal literature for the people” was created by members of the educated society.<sup>24</sup> Among the numerous questions raised by this literature,<sup>25</sup> the imagined relationship between the authors and their would-be readers deserves notice, so sharp was the contrast with their actual or

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21 Aurore Chaigneau, *Le droit de propriété en mutation. Essai à la lumière du droit russe*, Paris: Dalloz, 2008, p. 236 ff.

22 Jane Burbank, *Russian Peasants Go to Court: Legal Culture in the Countryside, 1905–1917*, Bloomington & Indianapolis: Indiana University Press, 2004; L. I. Zemtsov, *Krest’ianskii samosud: pravovye osnovy i deiatel’nost’ volostnykh sudov v poreformennoi Rossii (60–80-e gg. XIX v.)*, Voronezh: Izdatel’stvo Voronezhskogo gosudarstvennogo universiteta, 2007; Corinne Gaudin, *Ruling Peasants: Village and State in Late Imperial Russia*, DeKalb: Northern Illinois University Press, 2007.

23 See one of its first expressions in the aftermath of the abolition of serfdom: P. A. Mullov, “Iuridicheskie knigi dlia narodnogo chteniia,” *Iuridicheskii vestnik*, 1863, 4, pp. 43–67. On popularization as a general phenomenon, see E. A. Lazarevich, *S vekom naravne: populiariizatsiia nauki v Rossii (kniga, gazeta, zhurnal)*, Moscow: Kniga, 1984; Jeffrey Brooks, *When Russia Learned to Read: Literacy and Popular Literature, 1861–1917*, Princeton: Princeton University Press, 1985, chapter 9; James T. Andrews, *Science for the Masses: The Bolshevik State, Public Science, and the Popular Imagination in Soviet Russia, 1917–1934*, College Station: Texas A&M University Press, 2003, chapter 1.

24 See its emergence through the successive volumes of the widely circulated series “What to Read to the People? A Critical Guide to Books for Popular and Children’s Reading”: *Chto chitat’ narodu? Kriticheskii ukazatel’ knig dlia narodnogo i detskogo chteniia*, ed. Kh. D. Alchevskaia et al., vol. 2, St. Petersburg: Tip. V. S. Balasheva, 1889; *Chto chitat’ narodu? Kriticheskii ukazatel’ knig dlia narodnogo i detskogo chteniia*, ed. Kh. D. Alchevskaia et al., vol. 3, Moscow: Tip. T-va I. D. Sytina, 1906. See also Y. Abramoff, *L’École du dimanche pour les femmes à Kharkow et le livre “Que faut-il donner à lire au peuple ?” publié par les institutrices de cette école*, 2<sup>nd</sup> ed., Paris: typogr. E. Plon, 1889.

25 I have addressed some of these issues in: Michel Tissier, “Kakoe iuridicheskoe prosveshchenie nuzhno v Rossii? Perekhod ot populiariizatsii prava k populiariizatsii grazhdanskikh prav,” *Neprikosnovennyi zapas*. 6(44), 2005, pp. 57–63; “Malaise dans la culture juridique libérale en Russie après 1905: “pédagogie des libertés” et éducation au droit,” *Cahiers du Monde russe*, 48: 2–3, 2007, pp. 185–208; “Legal Literature ‘for the People’ and the Use of Language (late nineteenth- and early twentieth centuries)” [subsequently published in *Public Debate in Russia: Matters of (Dis)order*, ed. by Nikolai Vakhtin and Boris Firsov, Edinburgh: Edinburgh University Press, 2016, pp. 85–100].

even potential readership. The history of this literature is indicative of both the aspirations of the Russian cultivated elite and the practical limits that they encountered. Law professionals and public figures, such as Iosif Gessen, who criticized this literature on political grounds because they viewed it as subservient to tsarist power, did not question the very idea of popularizing law.<sup>26</sup> Their vision of the readership was as unrealistic as that of the authors they criticized. Besides, contrary to what these critics proclaimed, it cannot be said that literary attempts at popularizing law were supported by governmental authorities, except for very punctual initiatives.<sup>27</sup> In parallel, the governmental newspaper *Sel'skii Vestnik* developed a kind of legal information distinct from the popularization of law.<sup>28</sup> It started a column of legal advice answering questions from readers. It was a success, but was generally overlooked by the elites engaged in popular education before, during, and after the 1905 Revolution.<sup>29</sup>

Disdain for this form of “interactive” legal information was partly due to the political opposition to imperial law typical of a good part of Russian educated society.<sup>30</sup> It is the same opposition which, at the very outset, triggered criticism of the popularization of law. The 1905 Revolution marked the triumph of that rejection and saw the development of a political literature for the masses that criticized imperial law. However, the disdain for “interactive” legal information owes also to the very conception that Russian elites had of the so-called people. From the year 1905 on, in spite of the boom in the production of booklets and the prolific activity of their authors, the literature “for the people” dealing with civil rights inherited the old, paternalistic and remote, view of the popular readership.

26 I. V. Gessen, “Iuridicheskaia literatura dlia naroda (opyt kriticheskogo razbora),” *Pravo*. 1901, 47, cols 2035–49; 48, cols 2089–101; 49, cols 2164–73.

27 See the few booklets of the so-called “Obshchedostupnaia biblioteka pravovedeniia” (“The library of jurisprudence for everyone”), published by the officially sponsored Society for the spreading of useful books. For instance N. I. Palienko, *O zakone*, Moscow, 1903.

28 James H. Krukones, *To the People: the Russian Government and the Newspaper Sel'skii Vestnik ('Village Herald'), 1881–1917*, New York: Garland, 1987.

29 See the famous article by B. Kistiakovskii, “V zashchitu prava (Intelligentsiia i pravosoznanie),” in *Vekhi: sbornik statei o russkoi intelligentsii N. A. Berdiaeva, S. N. Bulgakova, M. O. Gershenzona, A. S. Izgoeva, B. A. Kistiakovskogo, P. B. Struve, S. L. Franka*, reprinted ed., Moscow: Izd-vo ‘Novosti,’ 1990 [1909], pp. 101–30. The only exception I am aware of is a positive comment made by I. Gessen in 1903: I. V. Gessen, “Bor’ba s iuridicheskoi bespomoshchnostiu (po povodu otcheta Moskovskoi konsul’tatsii za 1902 g.),” *Pravo*, 1903, 24, cols 1629–33.

30 Eventually resented by Kistiakovskii himself after the failure of the 1905 Revolution: see Tissier, “Malaise...”

The challenge of disseminating the knowledge of law derived from a progressive conception of “legal consciousness.” It led to an effort at democratizing legal education, which was widely recognized as an important task. However, this effort remained mired in the enduring intellectual and social conflicts over authority among members of educated society. These conflicts were themselves connected with oppositions about the meaning of professionalism in the realm of legal science and practice, but were not strictly deriving from political differences. For instance it is not possible to infer from them a direct relationship between the alleged liberal defense of the “rule of law” and the will to promote an inclusive model of professionalization. On the other hand, it is not possible either to identify a consistent move towards “modernization” on the part of those imperial officials who were committed to improving the general level of legal education for various reasons, be it for professional efficiency or for the sake of the legal prestige of the empire. The best we can say about it is, to paraphrase historian William G. Wagner, that imperial officialdom had no monopoly on inconsistencies.<sup>31</sup>

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31 William G. Wagner, “Tsarist Legal Policies at the End of the Nineteenth Century. A Study in Inconsistencies,” *Slavonic and East European Review*, 54:3, 1978, pp. 371-394.