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Arson, Law and Society in Russia: Contemporary Issues and Historical Perspectives

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TITLE: ARSON, LAW, AND SOCIETY IN RUSSIA: CONTEMPORARY ISSUES AND HISTORICAL PERSPECTIVES

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Summary of Themes and Conclusions

The following report consists of two essays examining the phenomenon of arson in Russia in two periods of accelerated social change and reform: during the post-Emancipation era (1861-1905) and in the late 1980s and early 1990s. In both essays, the author examines the crime of arson as an aspect of Russia’s century-long struggle to establish an effective rule of law in society and in the state. During both periods under review here, Russia was without an effective rule of law. One hundred years ago, during the post-Emancipation era, arson in rural Russia was commonplace and served as a reminder of how far Russian legal reformers had to go before they could draw the peasant majority of the population into understanding of, trust in, and use of the law to mediate their relations with other members of their society. Despite sincere and serious efforts on the part of the state and of members of the legal community to bring law to the Russian countryside, arson continued to plague villages and gentry estates alike. Arson fires represented three obstacles to the development of the power of law in Russian society: as a common and frequent crime, they demonstrated general lawlessness in the countryside; as weapons of social control and retribution within the peasant community and between classes, they reflected community norms and concepts of justice that blocked the introduction of a national system of shared ethics and laws; and as unsolved crimes, they testified to the weaknesses of the system of policing, investigation, and judicial institutions. It is important to note that the second obstacle sometimes had the paradoxical effect of maintaining community stability by reinforcing community norms and ethics of behavior. While these community norms frustrated efforts to introduce a shared legal system, a genuinely national rule of law, they did not necessarily contribute to chaos or a generalized insecurity among the population.

The author’s examination of arson in Russia beginning in the late Gorbachev era identifies two areas of continuity. First, the increase in the incidence of arson reflects the spread of lawlessness in post-Soviet Russia. As such, it is simply one of the many crimes
contributing to the explosion of criminality in Russia today. Second, the breakdown in the institutions of the police, investigation, and the courts resembles the failures of these institutions in the pre-Soviet period. This breakdown has contributed to the population’s willingness to commit crime and to take the law into their own hands as a way to protect themselves. In this sense, post-Soviet Russians find themselves resorting to a twentieth-century form of samosud, self-help, a stage in the development of legal cultures that has always been associated with the evolution of a society toward the rule of law, and that has represented the immaturity of that legal culture. In post-Soviet Russia, self-help has resurfaced as the only route to self-protection in the wake of the utter collapse of institutions of law and order.

The author concludes that comparing arson in the post-Soviet era with arson in the pre-Soviet era leads to the pessimistic conclusion that Russia today has further to go to develop a rule of law than a century ago. By examining the uses of arson and its reach into various elements of society, she concludes that arson illuminates the wholesale deterioration of shared ethical norms in the culture. Whereas communities in rural Russia a century ago displayed shared morals and constraints, even while practicing arson, urban residents of Russia today float in a population of no limits, bespredel, with no guidelines for acceptable and unacceptable behavior, much less for fundamental definitions of criminality.

This report presents the essay on contemporary arson first, then provides the historical essay on arson in rural Russia a century ago.

**Policy Recommendations**

This report supports the continuation of American assistance in reviving, reforming, and financially supporting law enforcement and criminal investigation in Russia. This is probably the area in which assistance can have the quickest effects. While it is equally important to continue to support legislative reform and assistance in the effort to develop a rule of law state through reform from above, a genuine rule of law state will take shape in Russia only when and if (an enormous if, because it would be the first time in the history of Russia that this would be the case) citizens of Russia internalize understanding of, respect for, and trust in statutory law as the best agent for mediating their relations with their fellow citizens. Given the lengthy and tenuous nature of that process, we should assist the reform of the institutions that can effectively provide external enforcement of criminal law. Continuation of efforts by the FBI in this area, therefore, would be appropriate.
While this report does not touch on this aspect of arson and the daily life of the Russian citizenry, I would also like to suggest that assistance to the Fire Departments of Russia's major cities (at a minimum) would be effective and appropriate. These Departments are suffering a double blow in their ability to fight fires and protect property. First, like all government institutions, they are suffering cash flow problems. Their fleets of equipment are archaic, their budgets for fuel low, the salaries are demoralizingly low, if they are paid at all. Only an idealistic commitment to the mission of the fire fighter as a servant of society keeps many men on the force. The second blow is that the system of volunteer fire fighting units attached to enterprises has completely collapsed. Previously, the Fire Departments of major cities relied heavily on these units. With the general deterioration of association between enterprises and their employees, these units have simply disappeared. The St. Petersburg Fire Chief anticipates that property owners and insurance companies (who already have begun to contribute directly to the Fire Department's funds) will eventually revive some of these auxiliary fire fighting units as they recognize how important they are to the prevention of fires and protection of property and assets. But he anticipates that that will be at least five years coming. Direct financial assistance to Fire Departments throughout Russia would contribute to the average citizen's confidence in the ability of city institutions to protect them. Finally, fire prevention educational efforts are extremely limited. Their budgets come from the Fire Departments, which, of course, have to tank up their trucks before they can hand over funds for school or television programs. Including fire prevention programs as part of our educational assistance could be very beneficial. As it is now, my acquaintances in Russia say that their only source of such information is the American television program "911" which they all watch avidly.
Summary of Conclusions

Arson in urban Russia in the late Gorbachev and post-Soviet eras serves as a manifestation of the collapse of law and order in this period of accelerating and compounding political, social, and economic change. It is one of the many crimes that have increased dramatically during the breakdown of the Soviet order. As a crime against property, its targets have shifted from official, state buildings and monuments to the property of private individuals and enterprises. Its meanings have shifted from political protest to economic competition and retribution. The individuals involved in setting arson fires or in protecting property against arson fires issue from the social and economic dislocation of the post-Soviet era. Arson thus reflects the discouraging aspects of the collapse of the Soviet state and poses challenges to those who strive to establish a national legal culture and stable society of property-owners in post-Soviet Russia.

Introduction

On May Day, 1989, participants in the usual state-sponsored parade in Red Square were treated to an unexpected spectacle. Just as the demonstration was beginning at 10:00 in the morning, smoke and flames rose from the USSR Ministry of Power and Electrification building adjacent to Red Square. When firefighters reached the roof, they found "pieces of rubber, a packet, and containers with the remains of some liquid fuel in them.... (and) a black wire leading from the lampshade in an attic room to the scene of the fire." A home-made incendiary device had produced the alternative "fireworks". Within a week, the arsonist was apprehended. A 25-year-old philosophy student from Rostov State University confessed and "attributed his actions to his hostility toward the socialist system." Roughly a year later, two young men in a rural community in the Pskov Region poured gasoline over the local Lenin Monument and set it ablaze. In both of these cases of arson in the late Gorbachev era, the meaning of the actions was transparent. Arson here functioned as political protest, despite the fact that the sentence in the first case identified it as "committing an act of sabotage" and in the second as "malicious hooliganism." Much the same could be said of an incident in Dnepropetrovsk, Ukraine in January 1991, when someone "set fire to the back doors of the party obkom building and the oblast and city soviet executive committee canteen." The language of arson was easily understood by local officials, newspaper reporters, and western
analysts alike. It spoke of resentment against the Communist state and of the willingness of citizens to strike against the state’s property and most sacred symbols. It also pointed to the breakdown in law and order and the growing brazenness of the population in defying the moribund Soviet system.

The arsonists’ message was less clear in a series of fires that struck state farms in Estonia in the fall of 1989. In the Yegevaskii Raion, grain and livestock barns began to burn in late September. By November, twenty storage facilities had been torched. Millions of tons of hay and grain were destroyed, and buildings and farm animals threatened. Without an identified arsonist or confessed motive, these fires simply contributed to the rapid growth of rural crime that characterized 1989 across the USSR, with Estonia being one of the republics with the highest increase of rural crime over the previous year (+35.5%). They also contributed to the 42.8% increase over 1988 in reported arson cases across the USSR. In this, they were part of a phenomenon that has continued to plague post-Soviet Russia.

From 1989 to 1990, there was a 25.6% increase in the incidence of arson in the USSR. In 1992, there was a 45% increase in the incidence of arson in Russian Federation over 1991. In the city of St. Petersburg alone, the number of recorded arson fires leapt from 190 in 1986 to 713 in 1993. These figures confirm the appropriateness of two newspaper article titles: "St. Petersburg on Fire" (Smena, December 23, 1992) and "We Burned, We are Burning, and We Will Burn!" (Moskovskie Novosti, May 16, 1993). In the history of the collapse of the Soviet state and the emergence of post-Soviet Russia, arson has been both an indication and an expression of shifting currents in the society. It has been part of the general process of expanding crime. It has also reflected the changing definitions of what is criminal and harmful to the society and the state. Whereas two young men setting Lenin on fire in a Pskov village constituted the threat of the late 1980s during a period of heightened political struggle and dissolution, the arsonists of the early 1990s chose targets and acted out of motivations which bespoken the primacy of economic concerns and social disintegration in their lives.

What Has Been Burning?

In December 1992, Aleksandr Ivanov, then Chief of the St. Petersburg Fire Department, explained to the readers of Smena that "Practically everything is burning." As Valerii Gavrilovich Erokhovets, the current Chief of the St. Petersburg Fire Department, declared in the first moments of my interview with him on June 6, 1995, arson is a crime against property. In the most simplistic analysis, arson in the Communist era was almost always a crime against the state because the state held the monopoly on property. In the post-Soviet
era, arson has increasingly become a crime against society, in the form of destruction of property owned by individuals or by private enterprises. It has become an efficient and destructive weapon in the rapacious competition for the spoils of the marketplace. Its targets have shifted as those spoils have grown larger.

One of the most frequent locations for arson fires in the post-Soviet era has been the area around subway stations. Here arson entered the struggle for existence and survival of the fittest among kiosk owners. Anyone who spent time in Russia from 1989 through 1995 remarked the sudden appearance of kiosks -- unsightly, non-descript, 6’ by 6’ metal or wooden boxes -- around hotels and subway stations. Here Russia saw some of the first stages of the shift away from the official command economy as street corner capitalism brought the underground, black market economy out of the shadows and into the open on Moscow, Leningrad/St. Petersburg, and other city streets across the empire. At a typical Moscow kiosk in late 1989, one could buy a pair of Nike running shoes, an East German brassiere, some Turkish chewing gum. Soviet stockings that weren’t available in the department stores, ballpoint pens, a bottle of shampoo, perhaps a Chinese backpack. By 1991 in Moscow and St. Petersburg, one could buy imitation Ninja Turtle toys, colored sugar water sold in bottles with foreign liquor labels, more Nike shoes, Snickers bars, Scandinavian beer, Hungarian fruit juices, and more chewing gum. By 1995, such foreign firms as Kodak had set up their own polished kiosks to serve as locations to sell film and handle orders for film processing. Fast food trailers set up shop each day, sharing the space with Kodak; booths offering pirated videocassettes, cds, and cassette tapes; and fruit vendors. As unlikely as these Portolet-size kiosks with their erratic and low-quality goods seemed as the crucible of capitalism, they were the first step in the accumulation of capital for many young entrepreneurs determined to get a share in what Stephen Handelman has so accurately dubbed the "hustle and grime" of the post-Soviet era.11

As early as 1992, I talked with members of the intelligentsia whose children had abandoned higher education to work in the kiosk economy. Some had already accumulated enough cash to buy cars, apartments in St. Petersburg, and dachas in the countryside. The stakes were high. There was clearly a market, and with enough hustle, one could get the goods to sell. But there was not enough square footage around subway stations to accommodate all the aspiring vendors. The solution? Clear some space by burning down the booths that were already there. This use of arson was especially frequent in 1993, when the St. Petersburg Fire Department answered calls for two or three such fires every 24 hours. They usually broke out between midnight and 6:00 am. Because the booths were often
wooden and always closely packed together, several would burn in each fire. According to one of the inspectors in the St. Petersburg Fire Department, rare was the day in 1993 when there wasn’t such a fire.12

This was a turf battle in its most basic form. These arson fires did not necessarily or even probably grow out of the gang wars that have characterized 1994 and 1995, as the thousands of criminal organizations in Russia’s cities have killed each other off, establish protection zones and local monopolies.13 Rather, they marked the effort of often ordinary citizens, who in another age might have become linguists, biologists, or physicists, to get started in the new world of “bizness.” Furthermore, they were so constant that they warranted little attention in the Russian press and even less in the Western press. But to citizens in Russia’s cities, a smoking heap of the remains of one or several kiosks was a reminder that “bizness” was risky business indeed.

Arson fires that attacked the property of individuals or groups who moved beyond kiosk capitalism to engage in more substantial profit-making enterprises have become equally familiar to readers of the Russian press and to Western observers. Under the new, regular column headings “Incidents,” “Fires,” and “Explosions” in the daily and weekly newspapers, readers found a steady stream of reports on fires in newly-established, often very modest, economic ventures. Thus, a television repair shop set up in a small brick annex built onto an apartment house went up in flames on August 4, 1993, in Moscow. The fire fighters suspected immediately that the cause of the blaze was arson, not only because the target was a small business, but also because one of the windows had been broken and the fire had been extremely rapid and fierce.14 On August 16, 1993, a one-story structure housing the German joint venture “Bauklots” burned to the ground, destroying the entire inventory of building supplies inside. There was no doubt that arson was the cause, because the fire began with an explosion and flames swept through the floor within seconds.15 And, not the least important indicator was the target itself, a small-scale profit-making enterprise. During the summer of 1993, these were the kinds of fires that drove fire statistics through the roof. According to newspaper reports, based on the Moscow Fire Department’s releases, the department answered 202 calls on July 13 and 189 calls on July 14 alone.16 Many of the fires began with bombs, otherwise described as explosive incendiary devices. Consistently, the targets were “commercial offices, apartments, cars, and the country houses of businessmen and their families.”17

The fact that there were several commercial offices in a building on Tverskaia Boulevard in Moscow was one reason that witnesses suspected arson as the cause for a major fire in
February 1995. The fire also broke out within the usual, early morning hours for arsonists -- at 5:51 a.m. -- and in the offices of the one commercial concern that had no guard on duty, "Alfa-Soiuz." Finally, the results could have served the purposes of several interested parties. All of the residents of the building, many of whom had resisted moving to apartments elsewhere, were now forced to do so, effectively emptying out this desirable property in the center of Moscow. Virtually none of the commercial offices were insured, so it was considered quite unlikely that any of them would profit directly from the fire. But in the competition of the new Russian economy, fires in these offices had the effect of setting back all of the entrepreneurs considerably, who would have to start over. And, as many of them muttered as they walked through their burned out offices, this time they would probably have to pay twice as much for the space. 18 Like the kiosk-owners in 1993 who often found themselves one fine morning without a place to do business and having to come up with the cash to buy a new kiosk and find a place to put it, these capitalists who had moved in from the street corners found themselves equally dispossessed and disadvantaged due to a major fire of suspicious origin.

Arson also served those who wanted to settle a score or simply strike a financial blow against their competitors. Following the principle of hitting them where it hurts, arson often struck the physical repositories of new Russian wealth. Because competitors could not easily reduce the capital holdings of their opponents in Western bank accounts, they attacked what they could. For this reason, arson against cars, and especially against "inomarki" (foreign-made cars) followed close on the heels of the kiosk fires. In St. Petersburg, the attacks on cars have been a prolonged second wave of arson. Like the kiosk fires, these have tended to happen in the hours between midnight and 6:00 a.m. They have required little sophistication (contrary to the image one might get from reading Martin Cruz Smith's Red Square, which opens with a spectacular automobile arson fire generated by sophisticated mixing of chemical explosives). The typical auto arsonist simply threw a brick through a window and set the highly flammable interior on fire. The arsonist could disappear before the car was engulfed in flames, the gas tank exploded, and all evidence except for a charred brick vanished.

There was little hope that arson investigators would ever find a culprit, especially because the victims rarely cooperated with the investigation. Within the St. Petersburg Fire Department, investigators explained this reaction in two ways: first, victims knew there was little chance that the arsonist would be caught, and second, victims usually knew who the arsonist or his employer was, and preferred to settle the matter themselves. 19 Like peasant victims of rural arson a century ago, these urban victims were skeptical about the ability of
official agents to take care of the culprit. They were also confident that, having received and understood the message sent by the fire, they could continue the "dialogue" with their opponents on their own and achieve their aims more effectively through a late twentieth-century form of self-help, samosud.20

Consequently, automobile arson fires became a daily occurrence, rapidly becoming a common feature of the urban landscape. In one day alone in late September, 1993, for example, seven cars burned within ten hours in Moscow. Of these, five burned between 2:00 a.m. and 4:30 a.m., and two during the daylight hours.21 This meant that at seven different points of the city, residents emerged from their apartments or workplaces to confront the sight of burned out skeletons of cars and trucks. Like the smoking ruins of kiosks near subway stations, these skeletons served as reminders of the willingness of their fellow citizens to attack property and take the law into their hands. For the residents of No. 13 Novokhokhlovskaya Street in Moscow on February 5, 1995, this reminder took on large and frightening proportions.

Just after 4:00 a.m., the Fire Department began to receive frantic calls from residents around No. 13. All of the callers said that the garages around the building were on fire. When the fire fighters arrived, they found the entire garage complex of around sixty buildings in flames. The fire was made all the worse by the fact that many of the garages held not only cars, but also several cans of extra gasoline, which contributed to an explosive, smokey blaze. By the time the fire fighters were able to contain the blaze, it had already consumed fifteen garages with all of their contents. Several of the garage owners explained that they had just bought the cars they lost in the fires. During the examination of the complex following the fire, investigators discovered a store of artillery equipment in one of the garages. Officials suspected arson primarily because they discovered that the doors to the majority of the garages had been opened before the blaze. They concluded that it was most likely that the motive for the arson was connected "with the struggle for the territory occupied by the garages."22 It was not clear exactly who the winners in this contest were, but it was clear who the many losers were. Not only the owners of the destroyed property lost their cars, garages, and other possessions in storage. All of the residents in the apartment blocks overlooking the garage complex had the occasion once again to lose another bit of their confidence in the security of everyday life. They also were reminded of how vulnerable they were to the skirmishes in the struggle for economic existence in contemporary Russia.

Each of the targets and forms of arson I have discussed was connected in some way with the extension of capital and property in the Russian economy. There have been other forms of
arson that are not the direct products of economic processes. Arson has also been the product of teenage hooliganism and revenge, as well as protest against official policies. Of the latter, for example, there was an interesting, transparent gesture of protest during the summer of 1993. On the night of July 26, the date of the major currency reform which eliminated the use of rubles issued between 1961 and 1992, someone tried to burn down branch No. 52781/022 of the central savings bank, and in this way, "expressed his attitude toward the currency reform." 23

Of teenage misconduct, there have been several cases involving arson. On February 14, 1995, the Moscow Fire Department had to dispatch fifteen engines to fight a blaze on Lomonosovskii Prospekt. Residents in the building where the fire broke out in the attic explained to fire fighters and newspaper reporters that they were convinced that a group of 14 - 15-year-olds had set the fire. These teenagers had been using the roof as a hangout for several weeks before the residents lost their patience. Just before the fire broke out, they had forced the teenagers off the roof, who then slipped into the attic of another wing of the building, where the fire erupted minutes later. 24 No such exchange preceded the decision of two young teenagers to set fire to the library of the Academy of Sciences in St. Petersburg in May 1995. Having broken into the building, and perhaps intending to steal some books, they set fire to the foyer of the library, only to be caught. 25 "Hooligans" were also expected to be the culprits of an arson fire on the family estate of the Nabokov family outside St. Petersburg. On April 10, 1995, fire broke out at 4:00 in the afternoon in the eighteenth-century mansion, quickly spreading through the wooden structure that was under restoration as a Nabokov Museum. 26 These fires were not so much a part of the changing rules of the economic game in Russia as of the general breakdown of order in society and the prominence of teenagers in the expanding disorder.

No Limits

In his fascinating, but ultimately very disturbing portrait of Russia's powerful criminal elements, Stephen Handelman returns time and again to the term bespredel to describe the perception and reality of Russia in the post-Soviet era. 27 This is a term that Russians have used in the last five years to characterize the disorienting collapse of boundaries of acceptable behavior. As one of Handelman's interlocutors explained, "As a result, bespredel has completely overtaken us. Now, we have wild democracy, an epidemic of seizing everything in sight, of getting rich at any cost." 28 Not only have the norms of acceptable behavior collapsed. So have the systems that normally protect citizens from violent behavior.
assault, and destruction of property. In this environment, arson has become commonplace. And, it seems, its most frequent practitioners are young people. While the initiative behind an act of arson may lie with an entrepreneur, the individual who strikes the match, detonates the bomb, or tosses the grenade is likely to be a hired hand, drawn from a broad pool of young people to do this kind of work for quick and easy money.

This conclusion on the part of fire fighters and investigators in St. Petersburg came up in a discussion of the frequency of arson cases in which human lives have been lost. On the basis of my research on rural arson a century ago, I had concluded that in that era, community constraints and shared ethical norms established the limits, the boundaries on acceptable uses and targets of arson. (See accompanying historical essay.) I was curious to know whether such constraints were still operative in the 1990s. Certainly there was plenty of evidence to the contrary. Handelman entitled one of his chapters devoted to the features of the hired guns of contemporary criminals, "They Can Shoot. They Can Kill." There were reports in the press describing arson cases in which not only cars burned, but also the drivers in them. But the experience of the men fighting these fires was that there were rarely human victims, and when there were, they were incidental, not targeted. When cars burned, for example, the gas tanks often exploded, and sometimes, bystanders were injured or killed in the explosions.

Sometimes there were accidental victims of the kiosk fires as well, who became victims precisely because arsonists usually hesitated to take a human life. As the kiosks began to burn more frequently in 1993, the kiosk owners began to try to protect them. It was common knowledge among kiosk owners, police, and fire fighters that young men and teenagers usually set the kiosk fires, being paid a modest sum, but quick cash all the same, to start the fires in the dark, early hours of the morning. It was also accepted wisdom that for such a modest fee, they would burn down a booth, but not kill a person. So, the kiosk owners began to hire 'guards'. One St. Petersburg fire inspector described these guards to me as usually being vagrants and homeless people who hung out around the subways and were easily hired by the kiosk owners for a small sum of money, some cigarettes, and liquor to spend the night inside the kiosk. In order to ensure that the 'guards' didn't wander off after receiving their pay, their employers usually locked them in the kiosks from the outside before departing for the night. Locked inside, they often fell asleep on the floor and were not visible to the young arsonists who set fire to the kiosks in which they slept or to the kiosks nearby. Sometimes, the 'guards' set fire to themselves accidentally by smoking after they had drunk themselves into a stupor. Finally, during the winter months, the kiosk owners sometimes gave the guards cheap kerosene heaters to stay warm overnight, and the heaters caught fire. In any of these events, the
'guards' were most likely to burn alive, locked inside a burning kiosk and unable to break out before fire fighters arrived.\textsuperscript{31}

This phenomenon constitutes a minor snapshot of the post-Soviet era, but it is a revealing snapshot. First of all, it captures the rootlessness of numbers of the urban population who provided the pool of potential arsonists and guards. The fact that either of these activities constituted a job opportunity in the post-Soviet era is a reminder of the problem of unemployment. As Louise Shelley has recently stressed, the loss of full employment during perestroika and afterwards has been a major contributing factor in the development of crime.\textsuperscript{32} Unemployment as fallout from the dislocation in late-Soviet and post-Soviet industrial production has been especially challenging among the young. One obvious result has been the sharp rise in juvenile delinquency as greater and greater percentages of serious crimes have been committed by individuals between the age of 14 and 29. As early as 1989, this age group was responsible for 74\% - 82\% of armed robberies, thefts, and acts of 'hooliganism.'\textsuperscript{33} Over a third of those convicted were neither in school nor employed at the time they committed their crimes.\textsuperscript{34} In 1990, the age group 14 - 29 years old was responsible for 51\% of all crimes, and the number of identified and arrested 'vagabonds and vagrants' had grown by 21.2\% over 1989.\textsuperscript{35} In 1992, these statistics continued to climb at a rapid pace.\textsuperscript{36} Kiosk owners did not have to look far to find people willing to commit a crime or risk their lives in order to receive some of the crumbs from the table of their more entrepreneurial peers.

This snapshot also reveals the need for self-protection in the absence of adequate police protection. The constant kiosk fires over the course of 1993 in the predictable location of subway stations highlight the degree to which the security forces had been diminished. Louise Shelley has emphasized this feature of post-Soviet life, as well, in explaining the growth in crime, pointing to the "mass dismissals" of police personnel and the difficulty those remaining on the force had in doing their jobs or being convinced of the value of their work.\textsuperscript{37} Declining arrests and convictions, failure to take investigations to their conclusion, and more lenient sentencing contributed to the growth in crime. For arson cases, only 43.4\% were solved in 1989 and the number of unsolved cases grew by 2.6 times over 1988.\textsuperscript{38} By 1993, there were areas in Russia where the rate of unsolved cases in all categories of crime was simply staggering. This was especially striking in St. Petersburg, where only 29.4\% of criminal cases were solved in 1992, leaving an increase of over 84\% of unsolved cases over the previous year.\textsuperscript{39} While the average kiosk owner was unlikely to know these statistics, he or she was likely to suspect that there was virtually no chance that either a) a member of the police would apprehend an arsonist who attempted to set fire to their property or b) that
anyone would ever be convicted. Just as in the Russian countryside in the late Imperial era (see accompanying historical essay), individuals caught up in the phenomenon of arson in the late 1980s and early 1990s were in a milieu largely untouched by the forces of law and order. This reality fits under the expression bespredel as well as the rapacious, no-holds-barred rush to grab a share of the emerging capital market does. Boundaries had broken down between the acceptable and the unacceptable in assaults on property as a tactic of economic competition. But the external boundaries, or limits, had also collapsed, as there were no agents to enforce legal constraints on that rapacious behavior. The practice of arson and the systems entrepreneurs used to defend themselves against it illustrate, thus, the absence of a rule of law in post-Soviet Russia. Jane Burbank has recently redefined the concept of legal culture as part of an examination of Russia’s century-long challenge of developing a rule-of-law state. She identified three components of the challenge, of which two are especially pertinent here: “that a legal culture rests upon the citizenry’s recognition of the legal system as a preferred means of solving conflicts and punishing evil:...and that effective legal systems permit and contribute to widespread national definitions and redefinitions of ethical behavior.” In the light of arson fires, the contemporary legal system of Russia fails on both counts. They demonstrate that many citizens prefer violent or destructive means of solving conflicts and that Russia continues to suffer from the absence of a redefinition of shared ethical norms in the wake of the failed Soviet ideology. There are no boundaries, no limits in resolving conflicts, and no shared visions of what appropriate behavior is.

Conclusion: Arson as an Aspect of a Post-Legal Society

I would like to close by going a step further with the question of appropriate behavior and the system of kiosk owners hiring people off the street to protect them from potential arsonists. These comments issue from a conversation in June 1995. But before I get to that, I want to place the conversation in the broader context of the impact of criminality, of which arson is only one example, on the broad Russian public. As both Stephen Handelman and Louise Shelley have stressed, crime and corruption, organized crime and gang activities are evils in and of themselves. But, in Shelley’s words, the “most alarming” aspect of these evils is “the impact of crime on daily life,” and in Handelman’s words. “It is the impact of disorder and illegality...on the individual Russian that should worry us.” Both Shelley and Handelman stress, as have others, the corrosive effect that visible crime has on the population’s willingness to work through the transition from the closed, orderly world of the Soviet Union to a system of capitalism and more pluralistic politics. While I do not want to
deny this effect of crime on the average Russian who longs to feel secure again in his or her
daily life and to be confident that property they buy will enjoy some protection. I am struck by
the corrosive effect that visible crime and the absence of law and order have on the behavior of
ordinary citizens.

As Konstantin Simis explained a decade ago, the final level of corruption in the USSR
was the society itself, in which everyone became part of the system of bribery, theft of state
property, and unofficial sources of income by the end of the Brezhnev era. The corruption at
the top filtered down to the bottom, despite the moralistic preachings of Party officials,
political leaders, and schoolteachers.42 The ubiquitous and visible nature of crime in Russia
today has much the same effect of erasing boundaries between what one should or should not
do. What used to be called speculation is "bizness," and what used to be called exploitation
and extortion are now called profit and the just rewards of cleverness. As one St. Petersburg
police inspector explained to Handelman, "'The law punishes only those who lack
imagination.'"43 It is increasingly common wisdom in Russia that only fools and old people
will be squeamish about doing whatever is necessary to participate in the new economy.

This was brought home to me this June on the evening following my discussion with a
St. Petersburg Fire Inspector about the kiosk fires and the deaths of the guards caught inside
them. I recounted my conversation to some friends I have known for ten years. Just as I said
that most of these guards were homeless people and vagrants, my friends’ thirty-year-old son
guffawed and exclaimed, "Don’t be ridiculous! Not only vagrants, in fact, not even primarily
vagrants did this work! I did, too, and so did several of my friends. It was a quick way to
pick up some cash, and it didn’t cost us anything except an uncomfortable night." His parents
blanched and demanded to know when he had done such a "stupid thing." He explained that
he had done it many times in the spring and summer of 1993. He added that he always
brought home a little extra money beyond the 1500 rubles (between $1 and 2$) the kiosk
owners gave him, because he sold the cigarettes and liquor they gave him to passersby. When
his parents asked him where he had spent these nights, he gestured toward the subway station
nearby and shrugged his shoulders.

This revelation shocked me and I had to reflect on why it did so in the face of all I knew
about the deterioration of post-Soviet life and the degradation of the population. In the end, I
realized that it shocked me because of the family background and educational level of this
young man who had willingly become part of the kiosk culture in a potentially life-threatening
way. The grandson of one of the USSR’s most famous scientists, this young man had himself
graduated from the equivalent of M.I.T. and was a researcher in a major scientific institute.
Both of his parents held respected positions in the scientific intelligentsia. His friends came from similar backgrounds and had the same level of education. Yet the barriers separating him from the "hustle and grime" of street corner capitalism were so porous that kiosk owners had approached him on the street and he had agreed to spend many nights sleeping on the pavement surrounding his local subway station. As he lay there on those nights, he was only a stone's throw from the institute where his grandfather's face looks out from a memorial beside the front entrance. But neither he nor any of his friends found anything distasteful or inappropriate in this juxtaposition within one family of the rewards of Soviet science and the rewards of post-Soviet capitalism. In the end, his parents retreated from their initial disapprobation and said they were grateful at least that he hadn't been drawn into the theft and sale of property that constituted the source of income for so many of their colleagues' children.

This suggested to me just how appropriate the term bespredel is to describe Russia today. The parameters of acceptable behavior have been stretched so far that they have become non-existent. In this respect, post-Soviet Russia is in worse shape than pre-Revolutionary Russia. In pre-Revolutionary Russia, there was certainly lawlessness in the countryside, and the legal culture that was developing from the Judicial Reforms of 1864 and later was still incomplete at the turn of the century. But one of the very obstacles blocking the establishment of a shared legal culture across the population of European Russia was the alternative set of community moral constraints and concepts of justice embedded in rural culture. In Russia today, it seems that there are no communities beyond those of organized crime, as described by Handelman, where a code of behavior of any kind prevails. In that vacuum of community norms, arson is merely one more manifestation of competition or an action of unrestrained personal revenge. In this sense, Russia today has further to go than it did in 1900 in reconstituting "widespread national definitions and redefinitions of ethical behavior." Furthermore, Russia today has further to go than it did in 1900 in rebuilding an effective system for enforcing those norms. The weaknesses of the police and judicial systems in 1900, as now, handicapped the efforts of the state to bring an end to rural crime and to rural arson in particular. Those weaknesses contributed to the practice of self-help, of citizens' taking the law into their own hands in a pre-legal culture. Today, Russia is a post-legal culture, where self-help seems to many members of the population to be the only method of self-protection. Arson and its offshoots in contemporary Russia thus remind us of the distance that post-Soviet Russia has to travel before it can begin to guarantee security of property and person through an effective and internalized rule of law, essential to bringing genuine stability to both society and state.
Endnotes


8. Statistics provided to the author by A. O. Bel’tiukov, Inspector at the St. Petersburg Fire Department, June 1995.


10. Interview with V. G. Erokhovets, Chief of the St. Petersburg City and Region Fire Department, June 6, 1995.


12. Interview with A. O. Bel’tiukov, Inspector, St. Petersburg Fire Department, June 13, 1995.

13. By 1989, the Ministry of the Interior had identified 1,310 organized crime groups; for a sense of the fantastic expansion of this activity since then, see Handelman, Comrade Criminal. 1989 figure comes from Joseph Serio, trans., USSR Crime Statistics and Summaries, 21.


17. Igor’ Baranovskii, "Bomba dlia kommersanta," Moskovskie Novosti, No. 21 (May 23, 1993), 2-3. For a report on several such incidents in one day in Moscow, see "Grigorii Sanin and Elizaveta Blinova, "Biznesman chudom utselel, kogda 'Mercedes' vzletel na vozdukh," Segodnya, No. 59 (March 31, 1995), 7.


19. Interview with A. O. Bel’tiukov.
20. See Cathy A. Frierson, "Of Red Roosters, Revenge, and the Search for Justice: Rural Arson in European Russia in the Late Imperial Era."


27. Handelman, Comrade Criminal, 3 and throughout the text.

28. Handelman, Comrade Criminal, 4.

29. Handelman, Comrade Criminal, Chapter 10, 161-179.


II. RED ROOSTERS, REVENGE, AND THE SEARCH FOR JUSTICE

RURAL ARSON IN EUROPEAN RUSSIA IN THE LATE IMPERIAL ERA

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Arson in the Russian countryside in the second half of the nineteenth century served as eloquent testimony to the difficulties of bringing statutory law to the majority of the population of the European provinces of the Empire and of developing within that population a respect for and trust in the law. On at least three levels, it served as a reminder of the failure of formal law to reach into village culture and of the richness of alternative conceptualizations of justice that countered official definitions and regulations. First, arson's prevalence throughout the provinces of European Russia made it one of the most obvious examples of pervasive criminality, according to official definitions of crime, in the countryside. Second, the many purposes of arson in the peasants' practice bespoke a moral code of right and wrong that departed from official definitions of crime. Third, the universally acknowledged failure of the police and judicial systems to capture and convict peasant arsonists pointed to the logistical and cultural obstacles the Imperial government faced when it tried to penetrate and control the rural population through statutory law and judicial procedure. Throughout the last half-century of Imperial rule, arson symbolized the frustration of outsiders -- be they police officials or would-be legal reformers -- to bring "legal consciousness" to the Russian countryside.

By the term "legal consciousness," I mean the attitude toward the law that educated members of society hoped the peasants would develop in the post-Emancipation period. That attitude included understanding of formal law, trust in statutory law's ability to achieve justice for citizens and to maintain order in society, and respect for the law as the best agent for mediating relationships among citizens and between state and society. Pravosoznanie among the peasants in this definition was a major goal of the Reform judicial institutions of the volost court, trial by jury, and the Justice of the Peace.

Early reformers envisioned these institutions as schools of legal consciousness where the most basic, but essential lessons would come through procedure. They believed that consistent judicial procedure would contrast with the caprice and arbitrariness (proizvol) of the pre-Reform judicial system, as well as of the personal whim of powerful, unconstrained serfowners. Russian reformers shared the faith in proper procedure that Roberto Unger has described as central to the modernist confidence that "formality as rules and formality as ceremony" would serve as "the legal antidote to the subjectivity of values." There is
evidence in recent scholarship that these goals of the 1860s were being realized by the turn of
the century. Arson in the countryside, however, served as a reminder of the partial nature of
that success, for when peasants resorted to arson to settle disputes, they rejected legal
procedure. In the reality of daily life in the countryside as well as in the public debates about
the need to develop legal consciousness among the peasantry, arson represented an alternative
to a day in court or before the Justice of the Peace.

Arson in the rural setting was doubly disturbing. When peasants practiced arson against
non-peasants, usually gentry landowners or lumber merchants, it signified a threat both to the
old social hierarchy and to property and profit as features of the emerging capitalist economy.
Arson in the countryside was much more frequently an exclusively peasant affair, however.
And for those who reported on it, debated its causes, and sought its remedies, this peasant
against peasant arson signified rural lawlessness. Evidence accumulated in the reports that
came in to zemstvo insurance bureaus, governors’ chancelleries, local newspapers,
ethnographic bureaus, and government commissions on the various purposes arson served
within the peasant milieu and on the difficulty of making legal solutions an attractive,
dependable alternative. It became clear that arson was deeply embedded in rural custom and
often played an important role in order and justice as conceptualized by the peasants.

This divergence in definitions of right and wrong, and more importantly, the ends that
arson accomplished for the peasant population constituted one of the obstacles blocking the full
development of legal consciousness as it was envisioned by modernist reformers in late
Imperial Russia. Modernist critics within Russian culture were acutely aware of this obstacle.
Laura Engelstein has recently identified the formal legal visions of these critics as "three
competing yet mutually implicated paradigms: rule of law, police or administration, and
disciplinary authority." To understand fully the challenges these critics faced and the
elements of their worldview, we should add to Engelstein's list the survival of customary law.
They recognized that political solutions at the top would only go part of the way toward
realizing the liberal, rule-of-law society they envisioned. It was not only "the failure of
constitutionalism" that they feared, but also the failure to bring public and positive law into the
countryside and into the consciousness of the majority population of the Empire.

The experience of arson in the countryside provides an additional explanation for the
difficulties of bringing a genuine rule of law to Russia at the end of the nineteenth century.
Not only peasant conceptualizations of justice and willingness to use arson as a form of dispute
resolution stymied would-be reformers. The failure of the judicial and police systems to
protect the peasants -- the absence of "law and order" -- also encouraged the peasants to seek
alternative forms of self-protection. Sometimes peasants resorted to arson for no other reason than that they had little faith in the ability of the police or the courts to ensure their safety or because they saw legal due process as unnecessarily time-consuming. Practical considerations were thus sometimes as compelling as concepts of justice in determining the reach of formal law into the villages of late Imperial Russia.

Arson as Evidence of Pervasive Criminality in the Russian Countryside

One has only to pick up an issue of the Kursk Provincial News from 1870 to get a quick sense of how pervasive arson was in the Imperial countryside. Beginning in April and extending through September, Kursk entered a veritable arson season, with arson fires breaking out daily in peasant courtyards and on gentry estates alike. On May 8, for example, 25 peasant homesteads burned down in the village of Samodurovka (4,275 rubles losses); on May 17 in the village of Mikhail’pol’e, arson took a threshing barn and thresher (3,000 rubles losses) on a gentry estate; four peasant houses burned in Shchetinkino on May 23 (1550 rubles losses); on July 6 in the village of Khokhlovo, eleven peasant homesteads, including their grain barns, burned (5,870 rubles losses); 16 peasant homesteads went up in flames in the village of Afanas’evskoe on July 13 (3,305 rubles losses). These were just a few of the many arson fires reported to the provincial governor, who turned the information over both to the Ministry of the Interior and to the editors of the provincial newspaper.

From 1860 to 1910, the Central Statistical Committee of the Ministry of the Interior received statistics on the incidence, causes, and impact of fires in the provinces of European Russia. Those statistics demonstrated the ubiquitous nature of conflagrations across European Russia, and conveyed the prominence of arson in rural daily life. Of the 2,121,839 reported fires between 1860 and 1909, approximately 12% were identified conclusively as arson fires. The figure of 12% obscures more than it conveys, however. First of all, all observers across the fifty-year period agreed that the number of fires conclusively identified as arson was only a very small percentage of actual arson fires. For reasons that will become clearer below, peasants never reported the majority of arson fires to officials, who were able to investigate and record only those which came to their attention. Second, there was great regional variation in the incidence of reported arson fires, with the Baltic provinces and provinces of the Central Black Earth region having the highest incidence. Some provinces, such as Kursk and Vladimir, regularly reported over 20% of their fires as arson fires.

Behind these figures was the reality of burning houses, threshing and storage barns, grain, forest, mills, smithies, and bathhouses. With losses running in the millions of rubles
every year, arson became a concern not only in the legal experience, but also the economic existence of the Russian Empire. Often, arson fires were the result of simple rural lawlessness. A typical case of this kind took place in a village of the Porech’e District, Smolensk Province. A fire broke out on September 8, 1879 for the following reason: Following market day and a church festival, the pot house opened and a large number of peasants got drunk. Two in particular, Sergei Fedorov and Semen Semenov got into a brawl, were arrested and put in the storeroom of the volost administration offices to sober up. They continued to fight there and shouted threats to burn the place down if they weren’t let out. The elder and local policeman didn’t pay any attention to them because they had searched them and taken their matches away. Even so, the storeroom burst into flames fifteen minutes later, the volost offices burned to the ground, as did the village school attached to them.  

Similarly, a case brought to trial in 1867 linked drunkenness, hatred, and arson in an episode of lawless behavior. The December 21, 1867 issue of Sudebnyi vestnik published the transcript of a jury trial against Anna Ivanovna Belonovskaia, a forty-two-year-old peasant woman. In May 1867, Belonovskaia had made it known to her neighbors that she was about to commit a crime shortly before her hay barn went up in smoke, taking the izba and the rest of the outbuildings in her homestead with it. Her neighbors took her directly to the volost offices where, drunk as a skunk, she boasted loudly that she had started the fire because she hated her husband. The jurors convicted her following testimony from several witnesses who described her as a bad wife and mother and a dissolute troublemaker.

These were the kinds of actions that convinced many educated observers that the Russian village was mired in ignorance, alcoholism, and stubborn resistance to the penetration of law. They were incidents of arson that fully fit the definition of the crime in the formal codes of law. The primary criterion of criminality assigned in the criminal code was intentional damage to or destruction of property. Who set the blaze or why was less important than the fact that property burned. The universal principle governing justice through statutory law was harm done to property. Furthermore, according to a late nineteenth-century legal historian, it was a mark of the maturity of Russian statutory law that it had shifted away from clan or personal vengeance in favor of a criminal code that centered on property.  

When observers read the constant accounts of arson in the countryside, or considered the statistics published by the Central Statistical Committee, they could only conclude that rural Russia had somehow missed out on the evolution of Russian statutory law. There was ample evidence that not the rule of law, but lawlessness prevailed in village life. Furthermore, the very vestigial forces characterizing immature Russian law in Esipov’s vision -- personal or clan
vengeance -- seemed to be especially prominent in acts of arson as understood by those who reported on them.

Mad Babas, Red Roosters, Fried Geese, and Self-Help

The case of Anna Ivanovna Belonovskaia described above confirmed the formulaic explanation that arson in the countryside was the product of "mesti i zloby," vengeance and spite. Observers believed that as long as arson for revenge had a prominent place in village culture, law and legal consciousness would not. In a culture where legal consciousness prevailed, reformers believed, law must mediate relations between members of the society. Remedies and restitutions for injury and loss must come through judicial decisions governed by accepted laws. In the understanding of educated observers, the disputes settled by arson in the countryside fell under the wide umbrella of "vengeance and spite." Finally, vengeance and spite either obscured or blocked the faculty of reason.

Arson for revenge was most frequently described as a female crime. This pattern of discussion was consistent with the general depiction of peasant women as the most egregiously backward elements of the dark village. In the reporting on and discussion of arson as an indication of the lack of legal consciousness in the village, observers often identified peasant women as the least rational, the most likely to act out of vengeful emotion. Some observers argued that young women were the most frequent arsonists in the village because they were the most helpless. As D. M. Pogodin explained, "Thus it is the young baba, most often a young woman, who has not yet been tempered by every kind of hardship and sorrow, completely exhausted by the demands in her family and having consequently lost all reason, who takes vengeance; she sets fire to the house of her father-in-law or husband in a fit of meaningless despair and impotent spite...."

In Anna Belonovskaia's case, arson was the product of hatred and drunkenness -- the emotional and physical antonyms of reason and law as solutions to family conflict. More spectacular cases of female arsonists driven by the urge for revenge were current. In a case reported in 1898 to the Tenishev Ethnographic Bureau by a correspondent from Penza Province, a peasant woman in the village of Stepanovka stole one of her neighbor's chickens and sold it for 15 kopeks to a widow in the village. By chance, the chicken's owner happened by the widow's house and recognized her chicken. The widow identified the seller as a neighbor of the victim, who accused the neighbor of the theft. A fight broke out between the two women, during which the thief threatened, "You just wait, I'll get you with your chicken! I'll remember your chicken with a red rooster!" Three days later, all of the adults in the
village left their children behind when they went to a spring five versts away to pray for rain, because of a three-week drought. The chicken thief stayed in the village, fired up her stove, gathered hot coals in a basket, swaddled her two young children and went out into her yard. There, she placed the hot coals in the corner closest to the yard of the neighbor from whom she had stolen the chicken. She then dragged her two swaddled children over to the chimney of her neighbor's house, where she left them. The hot coals quickly ignited the litter in her yard, and the fire spread immediately across the street. Within 30 minutes, the whole village was on fire. By the time it died down, six children, including the arsonist's own, had died, and 120 homesteads had gone up in flames. 14

It was precisely this kind of arson for revenge, issuing from a petty dispute, so maddeningly disproportionate in its damages, that made the need to replace vengeance with legal consciousness seem desperately urgent. And it was reports such as this that made arson for revenge seem to be a peculiar product of peasant women's short-sightedness, blind passion, and unwillingness to take disputes to any institution of formal justice.

Beatrice Brodsky Farnsworth's article about "litigious" daughters-in-law suggests that this characterization was not entirely accurate, given the frequency with which women took their complaints about family problems to the volost courts. 15 Indeed, women's complaints before volost courts showed that they recognized them as one possible remedy for family tension. We have debated the meaning of peasant participation in the volost courts as evidence of emerging legal consciousness in the sense that reformers used the term. 16 In view of those debates, it seems to me that peasant women's extreme choice of practicing arson for revenge or filing a complaint before the volost court underscores the role that the volost courts could serve in drawing peasants into the realm of formal law. As Brodsky Farnsworth points out, a dispute over a chicken or a goose was just the kind of case women brought to the volost court even in its first decade of existence. 17

Contemporaries were less impressed by peasant women's use of the volost courts than they were by their use of arson. This was undoubtedly true partly because arson fires were spectacular and newsworthy while appearances before volost judges were not. In the mind of peasants and local officials alike, the face of the arsonist was often imagined to be female, and the search for culprits following mysterious fires was likely to lead to an unhappy woman in the village. This tendency was striking in the transcripts of a trial published in Sudebnyi vestnik (Judicial Herald or Court Herald) in 1867. In this case, Fekla Antonovna Sergeeva, a resident of the village of Zmievka, Riazan Province, came before the Riazan District Court where she was accused of setting seven fires in her village from August 21 to September 8.
1864. Sudebnyi vestnik devoted the "Court Chronicle" section of three issues to the transcripts of this case, which serves as an indication of the interest they thought such a case might hold and the messages about juridical practice in the reformed system it could offer.

At the time of the fires, Fekla Antonovna was eighteen years old and in a marriage whose unhappiness was common knowledge in the village. Several witnesses stated that her relations with both her husband and his family were quite bad. Beginning on August 21, fires broke out in various outbuildings belonging to members of her husband's family. In each case, the fires had broken out in structures where there was no reason to have any fire.

The fires all originated in structures belonging to Sergeeva's in-laws, and several of them had spread. The fire on September 8, for example, had consumed 18 peasant homesteads, including houses and outbuildings. This generalized damage meant that members of the community beyond Sergeeva's in-laws wanted to identify and punish the culprit.

Their decision to accuse Fekla Antonovna was the result of their perception of her family situation as well as of the fact that several of them had observed her in the vicinity of the fires when they broke out. During the trial, the defense added another reason for their accusation precisely against Fekla: that she was a woman, that they expected the guilty party of such a crime to be female, "and so she committed arson out of female stupidity and impotent spite" in the words of her accusers. Finally, Fekla Antonovna was an outsider in this community, having only recently been married to a young boy in Zmievka for financial reasons. Before that marriage, she had been a stranger. She had remained a stranger for two reasons. First, she was extremely reserved, "rather severe" in her own estimation, "sullen" according to her in-laws. Worse still, having kept entirely to herself while she was with her husband's family, she also took off frequently to return to her mother's home in another village, complaining of leg pain, and seeking treatment there. Immediately before the first of the series of arson fires, her father-in-law had gone twice to retrieve her to do her share of the fieldwork during the harvest. She refused to return the first time, and came the second time only when he brought a horse. Witnesses disagreed about the level of force her father-in-law used.

The prosecution's case rested almost entirely on his definition of Fekla Antonovna's motive, which in turn rested on the most negative portrayal possible of her position in her husband's family. His witnesses stressed the lack of love on all sides, the harsh demands of the father-in-law for his daughter-in-law's labor, and the weakness of the young husband, who never spoke out to protect his wife. The prosecutor contrasted the prosperity of the young girl's natal home with the poverty and constraint of her marital home. He suggested that it was almost inevitable for a young peasant bride in such bad straits to strike back, especially
one as sullen and reserved as Fekla Antonovna. "I already said that she is very reserved. With such people, feelings rarely break through, but when they do, they do so strongly." Clearly, the prosecutor was confident that the jurors would draw associations between women and revenge, arson as their preferred method, and the brutalizing effects of peasant family life in coming up with their verdict.

The defense lawyer took the opposite tack. He downplayed the troubles of Fekla Antonovna's marriage, calling them typical of any peasant household. Their very typicality undermined the presumption that they would provoke resentment in a peasant girl, familiar with conditions of village life, sufficient to prompt her to practice arson for revenge not once, but several times. He stressed, further, that her very reserved and undisturbed nature throughout the investigation and trial made it difficult to cast her as one likely to take desperate measures. He recast her visits home as genuine efforts to find medical treatment for a sore on her leg, diagnosed as a "scrofulous ulcer" by the state's doctor after her arrest. The defense lawyer placed most of his weight on bad investigative procedure, calling into question preliminary interrogation of witnesses, examination of the fire sites, and the very objectivity of the chief investigator himself.

When the case was presented to them, the jurors acquitted Fekla Antonovna of all charges of arson, although they agreed that several of the fires had indeed been set. When they read out their decision, the crowd in the courtroom burst into loud applause. Reading the court's transcript, I could not have predicted the jurors' decision, nor would I have predicted that the public would have approved so whole-heartedly of their decision. Fekla Antonovna seems to have been saved by at least three things. The image of the female arsonist was of a desperate, passion-driven, irrational individual. Neither at the time of the fires nor during the investigation and trial did Fekla Antonovna display these traits. Instead, she was strikingly self-contained and calm. Second, the nature of the fires themselves made it difficult to characterize them as the act of a desperate individual striking out irrationally and in distress. Their timing and location betrayed careful preparation and persistence. Third, Fekla Antonovna may have enjoyed the sympathy of the jurors, who agreed that arson had occurred, but refused to issue a guilty verdict against her. In this, the outcome of Fekla Antonovna's case was typical of cases of arson brought to trial by jury, which as often as not, ended in acquittal for reasons I will discuss below. Three communities of justice came into conflict in this case: the community of Sergeeva's in-laws and the prosecutor who relied on the association of women, vengeance, and arson to accuse Fekla Antonovna; the community of the jurors who acknowledged arson, but refused to convict the accused arsonist; and the defense lawyer who used the tactics of formal
law to protect Fekla Antonovna from the urge for vengeance in her community. We should note here that this case did come to court. Fekla Antonovna was fortunate in that fact alone, as another case of arson from Orel Province twenty years later makes clear.

A horse thief, Ivan Tereshin, showed up in the village of Brednikha. When he began to steal from the local peasants, they turned him in to the authorities; he was found guilty and spent time in jail. The community began their struggle with Tereshin, thus, by appealing to formal law and the judicial system to protect them. But Tereshin stole from them again, and their reaction was to beat him nearly to death. During the beating, he warned them, "You’ll remember me, yep, you won’t forget me! Van’ka knows how to pay people back!" One night soon thereafter, Ivan and his brother set fire to two houses and made off toward another community. The entire village burned to the ground, but the peasants caught the Tereshin brothers. They beat them, tied them up, and threw them into the flames of a bonfire of the brothers’ property. When a local official urged them to pull the arsonists out of the flame and leave the case to the local authorities, the peasants replied, "They’re headed down that road anyway!"20

Here we have fire being used as revenge by both sides in a conflict between outsiders and a community. The Tereshin brothers had violated the community code by stealing within the community, earning reprisals from the local peasants. In vengeance, they then burned the entire village down. But, in response, the community members joined together to fight fire with fire, to exact vengeance in the form they had received it, even to the point of being willing to burn the arsonists alive. This was not the only report of such punishment.21 Burning alive arsonists who were caught red-handed was one of the most spectacular forms of samosud. It conformed to the peasants’ usual explanation for preferring self-help to legal procedure: self-help was a more certain way to prevent the arsonist from harming them again. In this instance, the local officials’ pleas to leave the arsonists’ fate to the authorities and the courts fell on deaf ears. Convinced of the justice of a fiery death as the physical equivalent of moral damnation in hell, the peasants of Brednikha had no inclination to leave this matter to be resolved by the law of the state.

Fighting fire with fire here also reflected the general tendency to adjust the punishment to fit the level of harm done.22 Because the Tereshin brothers had caused so much evident harm to the residents of Brednikha, the victims were comfortable imposing the maximum penalties on them: burning their property and consigning them to fire themselves. As they reportedly shouted into the Tereshin brothers’ faces after they piled up their belongings in front of them to burn, “So whose goods are these? You begged us to pull them out. No. 23
sweethearts, it's not going to turn out the way you want, but the way we want: you burned our goods, and so let your goods burn!" The same sense of evening the score by forcing the arsonists to experience the loss they had caused inspired some of the villagers' reaction to the death of their poultry and livestock in the fire. Running around their devastated yards, the peasants grabbed the charred carcasses of geese, piglets, and chickens. Shouting, "So it was you who fried this goose! Then you eat it!" they shoved the animals into the arsonists' mouths or swung them against their mouths, faces, and necks. Taking a cue from their elders, the children of the village surrounded the arsonists and cast burned pieces of wood at them.

In this incident, the question of membership in the community also arises. It seems that peasants were most likely to practice vengeful arson against outsiders, or to use the most violent forms of samosud against those captured arsonists who were themselves outsiders.

Insiders, Outsiders, and Arson

Two cases reported from Novgorod Province to the Tenishev Bureau hinged on the combination of the arson victims' status as outsiders and the community's determination to protect their economic well-being against the profiteering of those outsiders. In the first, a local peasant sold his father's mill to a peasant from another village. The mill had always caused periodic flooding of the village's fields when it was in operation, but as long as a peasant from the village owned it, the community was willing to tolerate this hardship. As soon as an outsider began to operate the mill, however, and the usual flooding resulted, the local peasants demanded that he close the mill down. When he refused, the community got together and torched it.

In a second village in Cherepovets District, a new young priest replaced a familiar old one. The former priest had enjoyed the reputation of being generous to members of the community. The new priest, by contrast, exacted fees for his services that the villagers considered excessive. When they urged him to lower the fees, he replied, "No, fellows, it's not up to you to teach me, but me to teach you, and quickly." The peasants' anger and vengeance escalated from threats, which he ignored, to setting fire to some of his outbuildings, finally to setting fire to his entire homestead, killing his wife, his two children, and an old nurse. The authorities suspected that the peasants had poured kerosene over the house, because it burst into flames from all sides at once. In both of these cases, we see that the old "kto-kogo" (who did what to whom?) question looked different from the perspective of the peasants and those who would impose legal definitions of arson. For in both of these cases, the peasants saw themselves as the primary victims, with the miller and the priest being clear

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wrongdoers. In this worldview, burning someone else’s property did not constitute wrongdoing. On the contrary, for the peasants, fire in these cases equalled justice, all the more easily imposed on the wrongdoers because they were not members of the community.

In the case of multi-ethnic regions, the issue of outsider status and frequency of arson may have been especially acute. Over the three decades for which I have been able to map the reported incidence of arson, the highest percentages of fires attributed to arson were in districts with a large percentage of non-Russians. Narrative accounts of fire and arson also pointed to the role of ethnic outsiders in the practice of arson in the countryside. In his reminiscences of fires in Riazan Province in the late 1840s, D. M. Pogodin recalled that the local people were convinced that the exceptional number of fires in 1847 and 1848 were the handiwork of “nerusskie liudi,” non-Russians, especially along the Astrakhan highway. It may also be the case that villages near major highways or riverways were more susceptible to all forms of crime as transient laborers moved through the area, free of any community constraints or sense of identification with their victims.

Arson and Exploitation

For students of Russian history, scenes of peasants moving across the southern provinces of European Russia setting gentry estates ablaze have become icons of peasant resistance and class consciousness during the rebellions of 1905-1907. Within the discourse about fire and arson among contemporaries, this form of arson appeared also, and became especially acute after 1907. During the fifty years beforehand, however, such peasant actions against gentry and merchant neighbors were reported as simply one more manifestation of the peasants’ reprisal—levelled against peasants, merchants, and gentry landowners alike—for perceived exploitation and unacceptable profiteering.

The case of the greedy priest in Novgorod Province described above fit into this category of arson. So did an incident in the Saransk District of Penza Province when a poor peasant set fire to a rich peasant’s storehouse after the latter refused to give him some grain. In April 1875, Sudebnyi vestnik reported a case in which a female arsonist was convicted largely because of her well-known resentment against the victim, who had refused to let her use his barn to store some of her crops. Tavern-keepers and traders were also frequent targets of arson by peasants for the same reason. Forest fires were often ascribed to arson caused by peasants’ resentment of the gentry for restricting their access to firewood. Peasants also protested the sale of the forest for profit by attacking felled and stacked timber, sometimes after having received payment for cutting and hauling. Such was a case in the Dorogobuzh
District of Smolensk Province when local peasants set fire to 400 sazhens (around 850 meters) of birch in 1887. Similarly, in Sapozhsk District, Riazan Province, over the course of 1901, there were ten major arson fires in the large private forests of one Shuvalov. Despite the fact that he had doubled the mounted and foot patrols. Laconic fire reports in local newspapers often suggested that this kind of arson was the cause of major forest blazes. These cases appear time and again throughout local sources, attesting to arson’s use in this way to protest the redefinition and delimitation of forests and wood in the post-Emancipation countryside.

When peasants used arson against local landowners, they almost never set fire to the manor house or any other residential structure on the landowner’s estate. Instead, they set fire to the source of their resentment: stores of grain harvested by their hands and held by the gentry for sale at a high price when the market was ripe. These were the most frequent types of fires between peasants and lords. In one two-week period in 1882 in Smolensk Province, for example, out of 13 reported fires, 4 involved gentry property. In the village of Pridishche in Gzhatsk District, a fire of “unknown causes” on a gentry estate burned a full grain storehouse, with losses of 4,000 rubles. In the village of Lozitskakh in Roslavl District, an arson fire burned a grain merchant’s grain storehouse with losses of 5,000 rubles. Near the village of Andreikova in Viaz’ma District, a fire of “unknown cause” on a merchant’s estate consumed two storehouses containing grain, hay, and farming implements for losses of 6,500 rubles. “Carelessness” on a noble estate in the outskirts of the town of Roslavl led to a fire which consumed 6,000 rubles of property. While only one of these fires was conclusively identified as an arson fire, “unknown causes” and “carelessness” were often the best that local investigators could come up with, and readers understood that the real cause was probably arson. The local correspondent from Porech’e District reported to Smolenskii vestnik in October, 1882, that there had recently been a series of suspicious fires on gentry estates. The usual targets were full grain barns in the meadows, far from other structures. There was no doubt among the local gentry that these fires were resulted from arson, striking at their wealth following the harvest. Reports from Kursk Province suggest that gentry landowners there had much the same to fear, with the added anxiety that peasants also often set fire to buildings housing agricultural machinery.

None of these reports provide a motive; they do not identify any specific complaint by the peasants against the lord. In other sources, we find that such acts of arson often resulted from land disputes between lords and peasants, or labor disputes between peasant laborers and their gentry bosses. One such case from 1871 in Nizhni Novgorod Province, Vasiliy
District resulted in the destruction of a gentrywoman's livestock barn and losses of 3,500 rubles. The accused arsonist was a peasant from a nearby village who was angry that the owner had leased a piece of her land not to him, but to another peasant. A case record from 1884 in the Smolensk Archive explained that a local peasant, Koz'min, was suspected of arson against the landowner Vonlialiarskii because Koz'min resented him for something that had happened between them while he was working on Vonlialiarskii's estate. Koz'min was so offended that he left the job without receiving his pay. Shortly before the fire, furthermore, Koz'min had been seen near the scene of the blaze, after having publicly declared his hatred of Vonlialiarskii. The consistent pattern of arson fires being set in non-residential structures, and most often in structures where grain was being held for the market, invites the inference that peasants struck precisely these targets because their contents symbolized the exploitation they felt. To peasants arson in this form qualified not as wrongdoing, but as justice served upon those who had wronged them.

Wealthy peasants in the village also feared this form of arson. Anticipating that their homesteads would be targets for arson, kulaks preferred to build them smack in the middle of the village rather than on the end of the street or the village periphery. As long as their residences were in close proximity with other homesteads, they could count on their neighbors' fear of a generalized conflagration to counteract their desire to attack kulak wealth. This strategy did not always save them. In the September, 1882, report from Smolenskii vestnik cited above, there was also one reported arson fire in Roslavl District directed against peasant houses. In this case four peasant houses valued at 2,400 rubles burned. By contrast, a fire due to "unknown causes" in Sycheva District consumed three peasant houses valued only at 400 rubles. It seems fair to assume that the houses targeted in the arson fire belonged to prosperous peasants.

For those members of educated Russian society who hoped to replace arbitrariness and self-help in peasant culture with respect for and confidence in the law, these various uses of arson to settle differences within the community represented an obstacle and sign of the failure of the law to penetrate the countryside. From the perspective of statutory law, all of these acts of arson were crimes because they met the criteria of criminality assigned in the criminal code. The arsonist had intentionally damaged or destroyed property. For the peasants who practiced arson in these ways, however, there were sometimes other compelling principles that were captured more fully in the notions of justice as pravda or fairness, spravedlivost'. These principles remind us of the primacy of moral concerns in peasant concepts of justice. These
moral concerns rise to the surface in the prohibitions against arson that existed within the peasant community.

When was Arson Unacceptable in the Russian Village?

Arson was not always perceived by the peasants of European Russia as a legitimate form of dispute resolution. There were certain community constraints on the use of arson. Once a member of the community violated those constraints, he or she became a wrongdoer in the community’s eyes, as well as a sinner. In such cases, peasants were more likely to agree that the action warranted reprisal, either through formal justice or through self-help. In evaluating the acceptability of arson as a means to settle a score, peasants imposed norms consistent with those they imposed on all acts of serious wrongdoing.

As with other actions that were defined universally as criminal in statutory law, but which were susceptible to varying definitions in the peasant milieu, arson varied in its definitions primarily according to three main criteria: the harm it caused to the community, the membership of the victim in the community, and the type of dispute it was being used to settle. The greater identifiable harm arson caused to individuals or to the community, the more likely it was to be declared sinful. Once identified as sinful, it was more likely to be identified as an act requiring a community response.

In that light, an individual act of arson committed against one outbuilding, which consumed only that outbuilding and brought economic loss only to the victim was considered fully legitimate if the community also acknowledged the legitimacy of the arsonist’s offense. This type of deliberately set fire was least likely to be identified as such in official reports, because the community shielded the arsonist, considering it the arsonist’s private retaliation against his victim for the offense he perceived. Obviously the arsonist recognized that he had destroyed his victim’s property -- that was the goal of his action in bringing his victim back onto his level of economic play -- but property damage in and of itself did not constitute a violation of community morality in the villages of European Russia. Arson became punishable wrongdoing when it was simultaneously sinful. And to be sinful, it had to cause debilitating hardship and suffering, or to take the life of some of God’s creatures.

For that reason, the worst kind of arson fire was one that became a runaway conflagration that consumed many homesteads, including residential structures, livestock barns, and grain storage barns. Even if the arsonist had intended to set only a limited fire in one outbuilding that subsequently spread, he or she was considered guilty of unacceptable, sinful wrongdoing. Despite membership in the community and the intention to commit an act that
was implicitly sanctioned by the community, a peasant who was reckless in setting a fire to settle a score was vulnerable to the maximum penalty of death through samosud if caught red-handed. "There's no way for him to be excused, because his enemy's innocent neighbor suffered," the peasants of Novoladozhsk District in St. Petersburg Province explained to a correspondent of the Tenishev Ethnographic Bureau.50

Intentionally setting fire to a residential structure, setting an arson fire that led to loss of human life, the death of livestock or poultry, or the burning of an icon were all acts that violated community morality and exceeded the use of arson as an acceptable weapon directed toward positive or sanctioned ends. In some areas, it was also considered a sin and thus a crime to set fire to stored grain if doing so deprived the victim of sustenance.

These prohibitions suggest that peasants distinguished between property as shelter and sustenance and property as commodity. If we look only at the peasants' assault on property as commodity, held by either noble landowners, lumber merchants, or kulaks, we would quickly conclude that they were displaying the kind of "sub-political" consciousness characteristic of the nascent working class in industrializing Britain described by E. P. Thompson.51 These incidents of arson in rural European Russia share the reflection of "an older moral economy, which taught the immorality of any unfair method of forcing up the price of provisions by profiteering upon the necessities of the people" that Thompson identified.52

My emphasis here is on morality. Within the context of our discussion of the search for a law-based society and efforts by reform-minded elements in the state and community of jurists to draw the peasants of European Russia into a modern legal system, we should pause to recognize the power of the moral code of arson in the village. It was this moral code that defined burning the hoarded grain or stacked timber of gentry, merchants, and kulaks as sanctioned justice. Simultaneously, however, it constrained the urge toward vengeance by setting clear limits on the objects of arson as a sanctioned weapon of justice. The prohibitions against setting fire to residential structures and livestock or poultry barns, with the burning of an icon an additional taboo, point to fundamental notions of sanctity attached to physical objects and the degree of harm the community would tolerate. Governed by these taboos, peasants often committed arson not out of irrational vengeance or "blind spite," but according to a code of behaviors that was understood and enforced widely in their communities.53

Within the context of the discussion of Russia's search for a rule of law in society, my point is that the force of moral norms in the use of arson points to the diverging concepts of justice and law in custom and statutes, and among peasants and educated Russians searching for paths to a common rule of law.
As Jane Burbank argued in her contribution to a recent conference on the rule of law in Russia, one mark of a legal culture is that it "rests upon the citizenry's recognition of the legal system as a preferred means of solving conflicts and punishing evil..." and that "effective legal systems permit and contribute to widespread national definitions and redefinitions of ethical behavior." Both of these goals required a degree of internalization of the ethical and legal norms expressed in statutory law that arson in the countryside belied. Arson practiced within the peasant community and against neighboring gentry and merchants indicated that local norms held firm and were not yet susceptible to replacement by genuine internalization of "widespread definitions and redefinitions of ethical behavior."

A legal culture might also develop if the state were able to nurture respect through effective external enforcement of those definitions and redefinitions. Viewed in the light of arson fires, however, the Russian judicial system had not succeeded in this area either. For the experience of peasants with the courts in arson cases revealed both divergent definitions of ethical behavior and the frequent failure of the courts to provide peasant plaintiffs the protection they sought through the law.

Arson and the Failure of Legal Procedure

Several of the cases of arson I have described point to the peasants' willingness to give the formal judicial system a try. Fekla Antonovna's fellow villagers took her to court, after all, rather than subjecting her to samosud. The peasants of Brednikha had turned Ivan Tereshin in to the local authorities when he first began to steal from them. The woman who burned down her neighbor's barn when he refused to let her store grain in it was also convicted in a court of law after her community turned her in. Similarly, Brodsky Farnsworth's "Litigious Daughters-in-Law" were plaintiffs, not incendiaries. They were part of the process of developing a legal culture that Burbank and Neuberger have emphasized in their recent work on the Justice of the Peace and the volost courts. But the very persistence of arson as both sanctioned justice and serious wrongdoing in the countryside calls into question the maturity of that legal culture by the end of the century.

Divergent concepts of justice among the peasants and in statutory law rose to the surface when arson cases came to trial before peasant jurors. As in the case of Fekla Antonovna described above, jurors often failed to convict accused arsonists, even in the face of compelling evidence. They did so primarily for three reasons. The first was that they refused to sanction the severity of official justice embodied in sentences for arsonists. For all forms of arson, against forest, residential and non-residential structures alike, punishment involved exile
or resettlement in Siberia. For the majority of arson cases in the peasant community or against the property of landowners and timber merchants, such a sentence would seem excessive to peasants. The very goal of most sanctioned acts of arson was to reestablish an equilibrium of sorts in the community, not to excise a member of the community from its body. The second reason was that peasant jurors who viewed some acts of arson as legitimate means of achieving immediate justice might sympathize with the accused.

The third reason was sheer fear of revenge from the arsonist or his or her family. Even in cases of arsonists who had harmed or systematically terrorized a community, this fear often prevented peasant jurors from convicting them or peasant witnesses from testifying against them. The conviction rate of arsonists hovered at around 50%, so there was an even chance that the arsonist would return to the community. Arsonists and their victims seemed to be fully aware of this, leading to a phenomenon of arson bullies who often kept whole villages in fear, extorting from the peasants with the threat of the red rooster. Such was the peasant Golubev who tyrannized the village of Kliment'ev generally, and in September 1874, turned to arson as his weapon. On the night of September 8, on the afternoon of September 11, and again on the night of September 12, he set fire to his neighbors’ property, causing 10,000 rubles losses before they turned him in to the authorities. When the case came to trial, it turned out that he had decided to set fire to one of his victims’ houses after he demanded money from her and found the amount she gave him too small.

Peasants had little confidence in the state’s ability to protect them from such arsonists or their relatives, in the event that the court convicted the arsonists themselves. There was little reason to turn to the law or its agents when it did so little to protect them. Furthermore, there was little reason to serve the law by participating in legal proceedings at court when the costs for doing so could be so high. Peasants were not interested in serving the abstract principles of justice embodied in legal procedure; they were interested in the stability and safety of their individual communities and households. They were intimate with arson fires; they knew how little evidence an arsonist left behind and how difficult it could be to build a formal case. Burning an arson bully alive, if he or she were caught red-handed, was a far more effective deterrent against future threat than a day in court. For cases of arson when the arsonist succeeded in setting a fire that remained within the norms of acceptable reprisal in the community, his or her fellow villagers, and even the victims themselves, were unlikely to seek legal redress. The community at large had nothing to gain from formal procedure and much to lose if they were called as witnesses. The victims could choose simply to take note of the message sent by the arsonist or continue a "dialogue" of sorts by striking back through another
act of reprisal sanctioned within the community. Practical concerns thus joined divergent conceptions of justice to keep peasants of European Russia distant from faith in legal procedure and the ethical norms it defended.

Conclusion

If we share Jane Burbank’s redefinition of legal culture by turning our emphasis “away from knowledge to process, away from knowing the law to accepting, using, and respecting legal opportunities,” arson in rural Russia in the late Imperial Russia should cause us to pause in our optimistic appraisal of the gains made in developing such a legal culture. We have ample evidence by now that peasants accepted and used legal opportunities on hundreds of thousands of occasions to resolve disputes by the turn of the century. My own work on the volost court during these years convinces me that judicial reform had made strides in the countryside. But peasants also practiced arson as a form of dispute resolution on hundreds of thousands of occasions by the turn of the century. Furthermore, these acts of arson were usually not manifestations of exceptional group discontent in the form that Russian historians have usually envisioned them. Rather, they were part of rural daily life, they constituted a language of their own, and they often expressed community ethical norms. The very mundane nature of much of rural arson pointed to one of the obstacles to developing fully the legal culture that Burbank has defined.

Many acts of arson within the village community and outside it against merchants and landowners constituted justice for peasants in the most immediate sense of the term. The moral code of the community defined both the legitimacy of arson as a form of dispute resolution and delimited the extent of acceptable attack. This was a sure frustration of the modernist “intention to find the legal antidote to the subjectivity of values.” The variability of the peasants’ definition of arson as justice or evil, depending upon whether it conformed to the restrictions of the village code, also defied official, Imperial law’s focus on property damage as the defining and criminal feature of arson.

Arson as self-help also continued to be preferable to legal procedure for peasants. Whereas judicial reformers placed great faith in proper procedure as insurance against arbitrariness and tyranny, peasants viewed jury trials of arsonists as costly in time, risky, and most uncertain as the means to eliminate arson bullies from their midst. Finally, the law patently had not and could not reach into village communities to protect them from vengeful arsonists. Arson reminds us of the constraints binding legal reformers in late Imperial Russia. They confronted tenacious community concepts of right and fairness in their effort to bring
about the internalization of shared ethical norms, while battling simultaneously against the chronic weaknesses of the systems of policing and advocacy that were essential to effective prosecution of arson cases. A genuine legal culture for the peasant majority population of the Russian Empire required a judicial system that broke free of those constraints. Only then could Russia enjoy a law-based society, which was essential to the emergence of a rule of law state.

Endnotes

1. I received support for the research for this paper from the International Research and Exchanges Board, the Kennan Institute for Advanced Russian Studies, the Russian Research Center at Harvard University, the National Council for Soviet and East European Research, and the University of New Hampshire. Lucy Salyer, J. William Harris, Lynne Viola, and Richard Stites offered comments on earlier drafts of the paper.

2. Cathy A. Frierson, "Rural Justice in Public Opinion: The Volost' Court Debate, 1861-1912," The Slavonic and East European Review 64 (October 1986), 526-45; Cathy A. Frierson, Peasant Icons: Representations of Rural People in Late Nineteenth Century Russia (New York, 1993), 54-75; Jane Burbank, "Law without the State? Peasant Ideas of Justice in Revolutionary Russia," Paper presented at the Twentieth National Convention of the AAASS, Honolulu, November 1988; Joan Neuberger, "Popular Legal Cultures," in Ben Eklof, John Bushnell, and Larissa Zakharova, Russia's Great Reforms, 1855-1881 (Bloomington and Indianapolis, 1994), 231-46; in the same volume, Alexander K. Afanas'ev, "Jurors and Jury Trials in Imperial Russia, 1866-1885," 214-230. The volost court was a court made up of peasant judges who were to handle the vast majority civil cases at the local level and to make their decisions according to "their conscience," which came to be understood as customary law. The volost was the lowest administrative unit in the Imperial bureaucracy, and included several peasant communes and villages. It was a territorial unit. Introduced in the Emancipation Legislation of 1861, the volost court was reformed in 1889. Reformers consistently intended the volost court to introduce peasants to formal procedure and to formal law through the agency of a volost clerk or scribe who read out the relevant articles from the Code of Laws on each case, despite the fact that judges were free to decide according to "their conscience."

3. Roberto Mangabeira Unger, Law in Modern Society. Toward a Criticism of Social Theory (New York, 1976), 204-205.

4. Papers delivered at the conference "Judicial Reform in Russia, 1864-1994", University of Toronto, March/April 1995 argued this position. Relevant papers were by Girish Bhat, Jane Burbank, and Joan Neuberger. I have also described advances made in the volost court in my "I must always answer to the law..." "The Volost Court as a School of Legal Consciousness," submitted for review July 1995.

5. Arson as an element of customary law among the Russian peasantry thus illustrated the gap between visions of order and justice between educated, propertied citizens of the empire and peasants. This gap is similar to that described for the English in Keith Wrightson, "Two concepts of order: justices, constables and jurymen in seventeenth-century England," in John Brewer and John Styles, eds., An Ungovernable People. The English and their law in the seventeenth and eighteenth centuries (New Brunswick, NJ, 1980), 21-46.


8. Gosudarstvenniy arkhiv Smolenskoi oblasti (GASO), Fond 1, opis' 5, delo 217 (1879), l. 2.
11. For a discussion of this tendency, see my "Baba: The Peasant Woman - Virago, Eve, or Victim?" in Peasant Icons: Representations of Rural People in Late Nineteenth-Century Russia (New York, 1993), pp. 161-180.
13. To threaten someone with the red rooster was to threaten to set fire to their property.
14. Tenishev Fund, delo 1292 (Gorodoshchensk District, Penza Province), ll. 77-79.
20. Archive of State Museum of Ethnography of the Peoples of the USSR, Fond 7 (Tenishev Fund), opis' 1, delo 1115, lI. 3 - 7.
21. See also Tenishev Fund, delo 1490 (Khvalinsk District, Saratov Province), l. 8; Tenishev Fund, delo 656 (Vasil'-Sursk District, Nizhnii Novgorod Province), l. 8.
23. Tenishev Fund, delo 1115 (Orel District, Orel Province), l. 6.
24. Tenishev Fund, delo 1115 (Orel District, Orel Province), ll. 6-7.
25. Tenishev Fund, delo 805 (Cherepovets District, Novgorod Province), l. 12.
26. Tenishev Fund, delo 805 (Cherepovets District, Novgorod Province), l.1. 16.
29. In this paper, I am not treating the question of arson for profit, a practice that appeared in the villages of European Russia after the introduction of zemstvo insurance programs.


31. For two examples of this, see A. S. Ermolov, *Sovremennaya pozharnaya epidemicia v Rossii* (St. Petersburg, 1910) and V. Purishkevich, *Natsional'noe bedstvie Rossii* (St. Petersburg, 1909).

32. Tenishev Fund, delo 1393 (Saransk District, Penza Province), l. 32.


34. Tenishev Fund, opis' 1, delo 977 (Briansk District, Orel Province), l. 27.

35. Tenishev Fund, delo 1711 (Iukhnov District, Smolensk Province), l. 40; also delo 857 (Cherepovets District, Novgorod Province), l. 1.

36. Tenishev Fund, delo 1589 (Dorogobuzh District, Smolensk Province), l. 33.


40. *Smolenskii vestnik*, No. 115 (September 29, 1882), 2. For reports of similar fires, see *Smolenskii vestnik*: no. 24 (August 20, 1878), 2; No. 36 (October 1, 1878), p. 2; No. 41 (October 19, 1878), 2; No. 44 (October 29, 1878), 2; no. 97 (August 18, 1882), 1-2.


42. See, in particular, "Proisshestviia," *Kurskie gubernskie vedomosti*, No. 55 (July 17, 1870), 3; No. 58 (July 28, 1870), p. 3; No. 64 (August 18, 1870), 3; No. 92 (Nov. 24, 1870), 3.

43. *Trudy mesnykh komitetov o nuzhdakh sel'skokhoziaistvennoi promyshlennosti*. Volume XXXIV. *Riazanskaia guberniia* (St. Petersburg, 1903), 319; also XV. *Kievskaia guberniia* (St. Petersburg, 1903), 213.


45. Gosudarstvenii arkhiv Smolenskoi oblasti, Fond 1, opis' 5, delo 82 (1884), II. 1-2.

46. P. N. Miasoedov reported to the Roslavl District Committee in Smolensk Province in 1902 that this concern acted as a brake on programs for breaking up crowded village housing as a fire prevention measure because peasants were afraid to build homesteads isolated out in the fields where they would be more vulnerable to arsonists. *Zhurnal imeni vysshikh komitetov Smolenskoi gubernii o nuzhdakh sel'sko-khoziaistvennoi promyshlennosti*, 1903 god (Smolensk, 1903), 227.
47. See also A. V. Shapkarin, ed., Krest'ianskoe dvizhenie v Rossii v 1890-1900 gg. Sbornik dokumentov (Moscow, 1959), 641, where an incident in Poltava Province involving arson against the grain and outbuildings of a kulak is listed.

48. For a discussion of the importance of these consequences in the peasants’ appraisal of deeds in the community, see Frierson, “Crime and Punishment in the Russian Village.”

49. Several local respondents to the Tenishev Ethnographic Survey in 1897-1898 reported this pattern of evaluating the seriousness of arson among the peasants in their area. See the following: Tenishev Fund, opis’ 1: delo 1466 (Skopinsk District, Riazan Province), 1. 36; delo 1475 (Novoladozhsk District, St. Petersburg Province), 1. 11; delo 656 (Vasil’-Sursk District, Nizhnii Novgorod Province), 1. 7; delo 1115 (Orel District, Orel Province), II. 2-3.

50. Tenishev Fund, opis’ 1. Delo 1475 (Novoladozhsk District, St. Petersburg Province), 1. 11.


53. The fact that so many fires identified as arson consumed only one outbuilding, usually a shed or barn, testified to the careful handling of fire by the arsonists. The Russian village was incredibly flammable and capable of going up in flames in under thirty minutes. Most arson fires did not spread, most did not lead to huge conflagrations. This indicates that the typical peasant arsonist was not acting rashly, blinded by passion into careless vengeance, but was acting within an internalized code of community constraint that governed how and where he or she would set a punitive fire.


55. Trials of accused arsonists in the countryside would have come before district court juries made up primarily of peasants, most of whom were from the less prosperous layers of village culture. See Alexander K. Afanas’ev, “Jurors and Jury Trials in Imperial Russia, 1866-1885.” in Ben Eklof, John Bushnell, and Larissa Zakharova, Russia’s Great Reforms, 1855-1881 (Bloomington and Indianapolis, 1994), 214-230.


57. Trudy mestnykh komitetov o nuzhdakh sel’skohoziaistvennoi promyslennosti, Volume XXVIII. Orlowskaya gubernia (St. Petersburg, 1903), 760-64; Trudy mestnykh komitetov o nuzhdakh sel’skohoziaistvennoi promyslennosti, XXI. Minskaya gubernia (St. Petersburg, 1903), 60.

58. Trudy mestnykh komitetov o nuzhdakh sel’skohoziaistvennoi promyslennosti, Volume XVI. Kовенская gubernia (St. Petersburg, 1903), 54; Trudy mestnykh komitetov o nuzhdakh sel’skohoziaistvennoi promyslennosti, Volume IX. Voronezhskaya gubernia (St. Petersburg, 1903), 142.


60. This is my argument in "Official Culture and Peasant Counter-Culture within the Village...." which I have just submitted for publication as "I must always answer to the law." The Volost Court as a School for Legal Consciousness in Late Imperial Russia.”

61. Robert Mangabeira Unger, Law in Modern Society, 205.