The impact of the revolutionary movement on the judicial reform of Russian Tsar Alexander II

Abstract

The article deals with the impact of revolutionary movement of 1860–1881 on the judicial reform introduced by Russian Tsar Alexander II. The reform comprising the Law on Establishment of Courts, the Criminal Trial Act, the Civil Trial Act and the Law on Penalties Imposed by the Conciliation Courts, was designed to eliminate the shortcomings of the disfunctional judicial system of the pre-reform period and allowed for the public control of the judicial decisions. By doing this, the reform opened the door to the needed changes in the Russian society that significantly lagged behind Western Europe. The measures taken against the revolutionary movement of the 1880s and the 1890s negatively affected the reform legislation and distorted many democratic institutions introduced by the judicial reform.

Key words: judicial reform, revolutionary movement, Zemlja i volja, samoderzhavie

1. Introduction

After the humiliating defeat of Russia in the Crimean War, Tsar Alexander II. begun with the remodeling of the society through several reforms, among which the reform of the archaic judicial system was fundamental, on the basis of the Law of the establishment of courts, the Criminal Process Act, the Civil Process Act and the Law establishing penalties, imposed by the conciliation courts issued on 20th November 1864. A lengthy written and non-public process of a pre-reform period has been replaced by a flexible public and oral procedure. Unprecedented elements were incorporated into the law in Russia, as guarantees of the rights of the defendants, institutes of advocacy, conciliation

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1 Primarily the emancipation of serfs in the Emancipation Manifesto of 19 February 1861, which aroused the need to solve many legal disputes between landlords and peasants concerning the allocation of land and the police reform of 1862, which excluded the arbitration of infringements from the scope of the police.
courts, and institute of the jury courts. The jury courts, at the time of the reform imposition also indicated as the cornerstone of judicial reform should had become a symbol of equal participation of all segments of society\textsuperscript{3} on the judicial power execution and its independence from the state apparatus. Reforms led to moderate modernization of Russia through growth of capitalism and evolution of the peasantry. On the other hand, they have also evoked the pressure for further reforms, which led to weakening the absolutistic character of the Tsar’s power. Alexander II. had to answer himself the question known to all big reform creators – where does he want and can end his reform effort? His unwillingness to walk the way of the constitutional monarchy, fragmentary and slow implementation of the reform institutes into the praxis, and also the reluctance of the bigger part of the administrative apparatus for any changes in the detriment to its comfort of existence led to massive sway of revolutionary movement.

2. Russian revolutionaries in 1860–1881

The revolutionary effort at the beginning of the sixties of the 19th century was concentrated mostly in the organization Zemlja i volja (Land and Freedom), main goals of which were passing the land to the peasants, enabling elections of the local government, cuts in expenses of government and palace. Within this organization there was a radical group led by N.A. Ishutin, goal of which was to unleash the peasant revolution. One of its members – D.V. Karakozov has (not successfully) attempted the assassination of the Tsar Alexander II. Together with some members of the circle Karakozov became a supporter of the tactics of individual terrorism and believed that killing the Tsar could serve as an impetus to awaken people to the social revolution.

In the year 1869 a group called Narodnaja razprava (National dispute) was established. Its leader C.G. Nechayev was author of the radical Catechism of the revolutionary,\textsuperscript{4} in which has formulated a program of large-scale terror with massive loss of life for the sake of “the bright future of all mankind”. Nechayev became ‘famous’\textsuperscript{5} by the murder of the student I.I. Ivanov. In November 1869 Nechaev in a cave of Peter’s Academy

\textsuperscript{2} For example, a major Russian lawyer of this period, A.F. Koni indicated the jury as “the best part of judicial reform, based on the confidence in the national spirit”. A.F. Koni, Sobranie cocinenij v vosmi tomach, Tom 4. Moscow: Juridiceskaja literatura, 1966, p. 43.
\textsuperscript{3} Participation of all segments of society on the judicial power execution as one of the main ideas behind the incorporation of jury courts in judicial reform of 1864 should be viewed in the context of other significant reform of Alexander II., the emancipation of serfs in the Emancipation Manifesto of 19\textsuperscript{th} February 1861. In the process of preparation of the judicial reform the competent concluded that the introduction of jury courts in Russia is “much more urgent than in other countries because in no other country has a historical life of the nation put such harsh boundaries between segments of society, for which there are so many differences between the traditions and way of life of our judges from higher and the accused from lower layers of society.” V.V. Frolov, Sudebnaja reforma 1864 goda v Rossii i ee otrazenie v pravosoznanii rossijskogo obscestva serediny XIX veka, Sankt Peterburg: SPGU, 2003, p. 69.
\textsuperscript{4} Catechism of the revolutionary consists of four sections – The attitude of the revolutionary self, the attitude of revolutionaries in the revolution, the attitude of the revolutionary to the public and the ratio of the partnership to the people.
\textsuperscript{5} The case of C.G. Nechayev inspired F.M. Dostojevsky to write the novel “Besi”.