

POPULAR DEVELOPMENT OF PROCEDURE IN A DUAL LEGAL SYSTEM

‘PROTECTIVE LITIGATION’ IN RUSSIA’S PEASANT COURTS, 1889-1912

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This article presents the results of research into the process of the confirmation of inheritance claims in Russia’s courts of the *volost’* (or ‘rural administration’) between 1889 and 1917.¹ The rural population, unbidden by the state, transferred a procedure from the general courts across the barrier created by the country’s dual court system and into the peasant-run *volost’* court. By the end of the period there were about ten thousand *volost’* courts in European Russia. They were the most accessible forum of state-backed justice for the vast majority of Russians and estimates suggest that members of as many as one third of households a year appeared before them, as either parties or witnesses. The study begins with a brief description of the institution, its place in the wider late-tsarist legal order, and confirmation procedure. Hitherto unpublished statistics then help to establish the scale of the court’s confirmation of inheritance rights. Illustrative case-studies drawn from the court records of several provinces, especially St. Petersburg (north west) and Tambov (central agricultural region) form the core of the investigation. They

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provide insights into the types of situation and litigant that drove on the procedural transfer.

Court Jurisdiction and the Bases of Law

Until 1917, Russia remained a society organised on the basis of legal estates. The emancipation legislation of 1861 created a two-tier system of self-government for the former private serfs, who were declared members of the new estate of ‘rural residents’ (*sel’skie obyvatel’i*). Acts of 1863 and 1866 brought tillers who lived on appanage lands (*udelnye krest’iane*) and on state property (*gosudarstvennye krest’iane*) respectively under the new system alongside the former private serfs (all three groups together comprised a little over eighty per cent of the population). The lower of two layers of the rural self-government was the village (*sel’skoe obshchestvo*), with its assembly and elected officials. The volost’ was the upper tier and had an assembly, a small permanent administration and court of law. Together the village society and the volost’ had a wide range of responsibilities in matters of importance to the state and local interests such as taxation, fulfilling the annual conscription quota, and maintaining emergency grain stores and roads. For almost the first thirty years of their operation, the new institutions had little effective supervision from above. In 1889, however, the office of land captain (*zemskii nachal’nik*) was created. The captain was usually of gentry stock and exercised wide supervisory and disciplinary powers over the rural inhabitants and their organs of self-government.

Like the rest of peasant self-government, the court was initially financed by the villagers alone. It was staffed by untrained and often illiterate judges who were elected from among their midst. A volost’ scribe assisted the judges. The law stipulated that sittings take place at least once a fortnight. After the 1889 reforms the villages lost the right themselves to elect the judges. Under the new rules each village elected at least one man to a list of candidate judges, and the local land captain selected and confirmed the appointment of four judges from that list. The 1889 reform raised the age threshold for volost’ judges by ten years to thirty-five years and required them to serve for terms of three years (instead of one). They henceforth received compulsory (rather than the previous discretionary) remuneration from volost’ funds (OPK arts 93, 114; Vr. Pr. (1889) arts 2, 3, 7). The judges were first to attempt to reconcile the parties, and, failing that, to resolve cases according to an ill-defined mixture of statute, unwritten local customs, any agreements recorded in the records of the volost’ administration and judicial ‘conscience’ (*sovest*) (OPK art. 107; Vr. Pr. (1889) art. 25).

The 1861 law had limited the court’s compulsory jurisdiction in civil cases to suits

between 'rural residents' valued at up to one-hundred roubles. The court also tried 'minor' crimes and could sentence persons found guilty to communal labour for up to six days, arrest for up to seven days, or, most controversially, up to twenty blows of the birch (women were exempt after 17 April 1863, but the court retained the power to birch men until 1904). It could also impose fines of up to thirty roubles (OPK arts 93-100).²

The 1889 reform substantially widened the institution's sphere of authority in thirty-six 'inner provinces' of European Russia to encompass not just members of the peasant estate, but all non-privileged permanent residents of the countryside. The main group that fell within the court's purview as a result were members of the estate of small-traders (*meshchane*) who lived outside the towns. Henceforth, the court heard all civil cases without limit of value concerning property that had been acquired as part of the emancipation settlement. A very substantial change was the compulsory jurisdiction that the court gained over other property worth up to three hundred roubles (five hundred roubles in the case of inheritance and family property disputes) (Vr. Pr. (1889) arts 14-21). The reform of 1889 also created two appeal instances above the volost' court (appeals to the district level administration of the peasantry had been permitted on points of law since 1866).³ The first was the district congress of land captains (*uezdnyi s"ezd zemskikh nachal'nikov*), which dealt with points of fact and law. The second was the provincial board (*gubernskoe prisutstvie*), which considered points of law only (*kassatsiia*) (PoZN; PPSD).

A final volost' court reform, in 1912, made provision for various changes in the body's organisation and procedure, including reducing its jurisdiction once again and creating a new upper rural (appeal) court (*verkhni sel'skii sud*) under the chairmanship of the revived justice of the peace (Vr. Pr. (1912)). The 1912 reform was introduced in ten provinces on 1 January 1914. However, the First World War delayed its introduction in another seven until the beginning of 1917. The Provisional Government abolished the court on 4 May that year.

For many years Peter Czap's pioneering work held the field as the only detailed study (in any language) of the volost' court (Czap, 1959, 1967). The subject attracted little interest among Soviet researchers (but see Aleksandrov 1984; Zyrianov 1976 on peasant customary law). Czap concentrated on the period 1861-

² The 1889 act defined the court's jurisdiction in criminal matters more precisely, see Vr. Pr. (1889) art. 17.

³ The district (*uezd*) was lowest level of all-estate administration. Several districts made up a province (*guberniia*).

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1889 and one of his main sources was the published volumes of the official commission under Senator Liuboshchinskii that investigated the operation of the volost’ courts in the early 1870s (*Trudy* 1873-4). Tarabanova has worked with this source in a recent thesis that is part of a broader renewal of interest in the pre-revolutionary legal heritage in post-Soviet Russia (Tarabanova 1993, 1998).

The effects of the reform of 1889 on court practice and the development of the institution in subsequent decades are now becoming evident thanks to recent research by a new generation of Western historians who have worked in the newly accessible Russian archives, especially the provincial collections. Villagers, it is becoming clear, made much wider and more willing use of the court than might be concluded from the relentless criticism that was levelled against it by ideologically hostile liberal publicists at the time. The post-1889 court was still recognisably of the Russian countryside, but thanks to a more detailed legislative basis and greater external supervision, and to the aspirations of officials and litigants, the institution increasingly came to resemble the modernist ideal of a court of law (Burbank 1995, 1997; Gaudin 1997; Frank 1999; Frierson 1997; Popkins 1995). Research attention has focused mainly on court procedure and ceremonial. The substantive legal bases of decisions remain little considered. The latest work draws to some extent on insights from legal anthropology. We historians are becoming aware of the pluralist critique of the claims about the social role of law made by the ideology of legal centralism; the Russian case deserves to be better known among legal anthropologists so that the cross-fertilisation may strengthen.

Protective Civil Procedure in Imperial Law and the Volost’ Court Regulations

Under Imperial Russian law ‘protective procedure’ (*okhranitel’noe sudoproizvodstvo*, cf. L., *jurisdictio voluntaria*, Germ. *freiwillige Gerichtsbarkeit*) was defined by one specialist as “a system of legal defence consisting of certification, consolidation and the preservation of the civil law rights of a person with a view to the *prevention* of a dispute” (Verblovskii 1897: 511). Much protective procedure related to various aspects of inheritance law, including the process of renouncing an inheritance (*otrechenie ot nasledstva*), the confirmation by the courts of the form of testaments (*utverzhdanie zaveshchaniï*) and, of central concern in the present context, the confirmation of inheritance rights (*utverzhdanie v pravakh nasledstva*). The details were set out in the new Statute of Civil Procedure of 1864 that was introduced for the new justices of the peace (*mirovie sud’i*), circuit courts (*orkyzhnye suda*) and their respective appeal instances (SZ 10, pt. 2, arts 1060-6, 1222-68; UGS arts 1401-60).

Before 1889, people in the villages could turn to the justice of the peace to take the prescribed steps to protect their inheritance. However, the office of justice was abolished in the countryside in 1889 to make way for the land captains. Responsibility for carrying out the procedure (described below) was then divided between the land captain and another new official, the district member of the circuit court (*uezdnyi chlen okruzhnogo suda*) (UGS po prodolzheniiu 1870 art. 29, primechanie; USU arts 29-30). In inheritance cases the land captain (through the local police) took the initial measures to secure the property (making an inventory, sealing any building, securing the property). He informed the district member of the circuit court of his actions. It was then up to the district member to complete the protective inheritance procedure by following the prescribed procedures for informing any absent heirs. According to written procedure the actual confirmation of inheritance rights by the court (i.e., the district member of the circuit court or that court itself, according to the property involved) was optional. This was the final step in the whole procedure and is of central concern below. Only if the heirs “considered it essential” did the law foresee their turning to a court to obtain a formal decision (*opredelenie*) confirming their rights. The post-1864 confirmation procedure was very different from the rules that it replaced. The pre-1864 courts had automatically taken over the management of an inheritance following a death. The heirs were obliged to apply to the court with a request of confirmation, providing proof of their identity. The courts used only to approve their application if nobody else challenged it (PPSD art.161; PUSCh art. 24; SZ vol. X part 1, arts 1222-1253, UGS 1401-1408, quotation at art. 1408; Pobedonotsev 1896: 379-380).

Such was the situation in the general courts. Before 1912 there was no firm and general legal grounding for the role of protective procedure in the volost’ court. Neither in the 1861 nor the 1889 legislation was there any reference to protective procedure of any type. In civil matters, the 1861 legislation conceived of the court as a forum for “*sbory i tiazhby*” (disputes and lawsuits) (OPK arts 95, 96, 98, 103, 107). There was a rather obscure reference in a decree (*ukaz*) dated 16 March 1882 (no. 2, 331) issued by the Second (Peasant) Department of the Ruling Senate (Russia’s high court) that “the confirmation of inheritance rights on the basis of local customs, the fixing of the shares of co-heirs and the division of the inheritance between them falls within the purview of a court” (quoted by Abramovich n.d.: 165). Yet this decision, as quoted by Abramovich, made no direct reference to the volost’ court. The words “disputes and lawsuits” appeared again in the 1889 act (Vr. Pr. (1889) arts 14, 15 (1-3)). The sub-article of the 1889 act that defined the court’s jurisdiction in inheritance and family property actions referred to “*cases (dela) between the heirs to peasant property*” (Vr. Pr. (1889) art. 15 (4), emphasis added). This phrasing suggests that the legislation envisaged a legal contest.

In 1905 the General Assembly of the First, Second and Civil Cassation Departments of the Senate did state in a ruling that peasants should seek confirmation of inheritance rights to deposits held in the State Bank either in the general courts, or the volost’ courts (Decision no. 10, quoted by Tiutriumov at 520). In a submission on file in the Ministry of Justice from the time of the preparation of the final reforms to the volost’ court of 1912 an official of the State Savings Bank (*Gosudarstvennye Sberogatel’nye Kassy*) confirms that this is what happened in practice. The heirs were usually in possession of the deceased’s bank book and needed official confirmation of their status to withdraw the money. The Bank strove to accommodate itself to the reality that the volost’ court represented, due to its proximity and relative informality, by far the cheapest and quickest way for villagers to seek their rights. The Bank’s practice was to recognise the court’s decisions in this field, despite their lack of a firm legislative basis (RGIA f. 1405, op. 543, d. 955, ll. 419-421).⁴ The Senate and officials attempted, then, to recognise the situation that had developed on the ground. There was, nevertheless, no grounding in legislation for the confirmation of inheritance in general by the volost’ courts.

The Scale of Volost’ Court Confirmation Activity

The uncertainty surrounding the volost’ court’s authority in law to confirm claims to inheritance was no barrier to the institution’s adoption of the procedure in practice. This development comes to light from the records of volost’ courts themselves, statistical material and the observations of a small number of outsiders.

An inspection of Fetin’inskii⁵ volost’ court in Volodga province and district in 1897, for example, found that the court refused to accept applications for the confirmation of inheritance as not under the jurisdiction of the volost’ court (RGIA f 1291, op. 54 (1904) d 4, l. 59). The inspector, from the provincial board, noted this as a criticism. A file surviving from the records of the notary archive of Vologda Circuit Court contains numerous copies of local volost’ court judgments that show that the

⁴ This article follows the archival citation conventions of Russian historiography: *f* for *fond* (collection), *op.* for *opis’* (inventory), *d.* for *delo* (file), *l.* for *list* (sheet). *Verso* is indicated by *ob.* (*obratnaia storona*).

⁵ Place names usually appear in the sources with an adjectival ending which, in Russian, cannot always be simply stripped away to leave the name of the village. Where it was not possible to find the place on a map, the masculine adjectival ending is retained as a marker (femine before the word *volost’*).

courts in northern Russia also confirmed wills both before and during the period of the Stolypin land reforms. Vas'ianovskii volost' court, for example, dealt with cases in 1903, Troitko-Elameskii volost' court heard at least one case in 1909, as did Vasokovskii court in 1911. (GAVO f. 179, op. 7, d. 26, ll. 43-44ob, 57-58ob).

The details of appeals against volost' court verdicts also brought confirmation by the volost' courts to the attention of the authorities outside the village. Dmitrii Maksimov Kochetov turned to Kalikina volost' court with an inheritance claim to a plot of land left by his cousin Roman Timofeev Kochetov. The court refused to confirm him as heir and so he appealed to Lebedian District Congress. The congress upheld the volost' court decision on the grounds that Kochetov had been incorrect to bring the case under the rules of protective procedure (*v okhranitel'nom poriadke sudoproizvodstva*) because, according to the witness Obchinnikov, the plot was currently in the possession of Kochetov's sister. He should have initiated a civil contest (*isk*). In May 1912 Tambov Provincial Board overturned this decision, however. Since nobody had disputed Kochetov's claim, he had been right to apply for confirmation; the congress should have limited itself to checking that Kochetov's family relationship to his cousin made him the heir (GATO f. 26, op. 4, d. 1253, ll. 52-53).⁶ Although the congress ruled that Kochetov's case should be heard as a contest, it did not appear to object to confirmation by the volost' court in principle. With its decision, Tambov Provincial Board positively encouraged it. Despite the legislative silence on the authority of the volost' court to confirm inheritance, some officials based at provincial level and below obviously observed the development on the ground and regarded it as acceptable.

The records of the Ministry of Justice include data that reveal the scale of confirmation activity at the volost' courts between 1910 and 1915. The central government did not, unfortunately, regularly and consistently collect, let alone publish, statistics on volost' court activity. Table 1 (at end of text) shows the number of cases that reached the volost' courts of six administrative districts (*uezdy*) during these years. The districts lay in three provinces: Orel (central agricultural region), Khar'kov (southern black earth/left bank Ukraine) and Saratov (lower mid Volga). District population figures (see left hand column) provide a sense of the scale of the total number of cases that were brought to the courts. In all districts well over half of the cases that came to the volost' courts concerned civil litigation. A small but

⁶ Other example of cases on appeal in which confirmation played a role are GATO f. 26, op. 4, d. 2470, ll. 4-5; TsGIA St. P. f. 258, op. 29, d 290 and op. 53, d. 98.

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stable and significant number of protective cases were among them. During the last full years of peacetime the range is from three hundred and thirty-nine cases in Tsaristyn district (Saratov) in 1913 to one thousand three hundred and five in Atkarsk district in the same province, also in 1913. When expressed as a percentage of the total number of civil cases, the level of litigation under protective procedure in these districts was highest in Orel district, where it reached 9.8 per cent in 1911. In Briansk, Starobel'sk, Khar'kov districts, on average, a little over seven per cent of civil cases fell into this category. Tsaritsyn district stands out as having a noticeably lower percentage of cases, and the greatest variation over four years (between 1.7 and 3.7 per cent).

Hidden beneath these district-wide figures, however, is great variation from *volost'* to *volost'*. Table 2 provides a glimpse of the activity in four individual *volosts* in Tsaritsyn district and four in Starobel'sk. Sareptskii *volost'* court (Tsaritsyn district) is the only one in the sample that heard no cases classified under the protective procedure rubric between 1912 and 1915. None of the four Starobel'sk *volosts* failed to hear cases during 1910-1911 (this is also true of the remaining thirty-seven *volosts* in the district for which data are available).⁷ The number of cases arriving at each court could fluctuate quite widely from year to year. In Belovodsk *volost'* confirmation cases comprised almost twenty per cent of the civil cases at the court in 1910, but this dropped to less than seven per cent the following year. At Novo-Aidarskaii court there was a higher underlying proportion of confirmation cases. Lipovka was another court where there was a large percentage of cases in the last two full years of peace, followed by a sudden drop in 1914 and 1915.

The Source of Legal Transfer: Popular Experience of the General Legal System

An examination of some individual cases will provide a qualitative context within which to view the confirmation activity of the courts. First the question arises of how *volost'* judges and villagers in general came to know about confirmation procedure. Unless it was for them a spontaneous innovation, some *volost'* courts must have begun to confirm heirs in imitation of the action of the general legal system. The practice could then have spread horizontally from *volost'* to *volost'* (cf. Galanter 1989: 16).

⁷ RGIA f. 1405, op. 543, d. 959, ll. 191-200. The records for the forty-second court, Alekseevskaia for 1910 were destroyed by fire. That court too confirmed inheritance cases in 1911.

Even in the period before the emancipation, to say nothing of subsequent decades, villagers were quite capable of finding out about laws when they needed to, despite the widespread image of them among outsiders as childlike and ignorant (Frierson 1992; Moon 1992). In comparison with the private serfs, state peasants had a relatively wide pre-emancipation experience of state courts. Legislation of 1838 had set up separate courts for the state peasants on which the later volost' courts were to some extent based. The legislation on the state-peasants' courts did not, however, provide for them to apply confirmation procedure. Their day-to-day operation remains largely unstudied. However, pre-emancipation state peasants had quite extensive experience of the general legal system (Kamkin 1987, provides a way into the literature).

The pre-1864 Imperial laws on civil procedure, as mentioned above, had placed much more emphasis on the confirmation of inheritance rights in court than was the case in the new Statute on Civil Procedure after 1864. It could be that memories (among the state peasants in particular) of the activity of the pre-reform all-estate Imperial courts provide a model for the development in volost' court practice. If a retrospective imitation of previously common Imperial court practices was the model for the volost' courts, they could already have been confirming heirs in the earliest post-emancipation years. Indeed the courts of the state peasants might have done so before they were merged with the new volost' courts in 1866.

As yet, though, there are no indications that confirmation was a common practice either among state peasants before 1866 or in the post-emancipation volost' court in the first decades after its creation. There is, however, a little evidence to the contrary. Pitserskoe volost' (Morshansk district, Tambov) was made up only of ex-state peasants villages. The Liuboshchinskii committee that investigated the work of the volost' courts in 1872-3 included in its report the records of thirty-two cases heard at the court during the year 1871. It is not clear whether these were all the cases heard in that year but they do appear to constitute a sizeable representative sample. There is no record of any case of the confirmation of inheritance (*Trudy* 1873-4 vol. 1: 86). Pitserskoe is, however, one of the volosts for which the most evidence has survived in the Tambov archive of confirmation activity at the beginning of the second decade of the new century. Such evidence from one volost' is clearly insufficient to rule out the presence of confirmation in the volost' courts in general until the middle of the 1870s, but it does suggest that if the imitation of the practices of the pre-reform Imperial legal system was the major source of the confirmation model, popular memory only became relevant in later decades as the reputation of the volost' courts grew, changing circumstances created a need for legal protection, or both developments occurred. It could be that the village assembly confirmed heirs in the early years and that the volost' court gradually took over the role at the assembly's expense (cf. Galanter 1989: 20-1, 26, 50; Prince

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1992).

The other potential source of popular knowledge about the practice of confirmation of inheritance rights by a court was direct experience of practice in the reformed general court system. During the first twenty years of the post-emancipation period, access to the justice of the peace must have had some educative effect, even if villagers did not always appreciate adherence to formal procedures and substantive, written law (Pearson 1984). Even after the reform of 1889 set up higher barriers to access, peasants were still extensively involved in civil litigation in the circuit courts. Their participation in the circuit courts remains little researched (but see Afanas'ev 1884, Baht 1997). There are, however, indirect signs that it included turning to the circuit court to confirm inheritance rights and, probably more frequently, to confirm wills.

Circuit court confirmation of villagers' inheritance claims was, at least, sufficiently widespread to be a cause for scholarly and official concern at the turn of the century. Since confirmation procedure only required the court to establish the relationship between the would-be heir and the deceased and not to examine the property involved, it was possible for villagers to obtain an official endorsement of a claim to village property that was not subject to the general written inheritance law but to custom or legislation relating only to 'rural inhabitants' as a legal estate. After the confirmation of inheritance it was perfectly feasible for someone with a claim on the property based on these alternative sources of law to bring a civil suit in the appropriate court. However, the Ministry of Internal Affairs had evidence that, in practice, deference to a more prestigious institution made the volost' courts and even the district congresses of land captains unsure about their authority to rule in civil *contests* relating to property that had already been the subject of a circuit court decision under protective procedure. The problem was widespread enough on the ground to warrant a Ministry circular dated November 1904 which made clear once again that "the volost' court has the right to examine the circumstances of the case whatever the contents of the [confirmation] decision [of the circuit court], and to decide the disputed rights of the parties according to the evidence presented and in accordance with local customs" (Skvortsov 1901: at 51-2; Ministry of Internal Affairs, Land Section, circular no. 42, 17 November 1904, reprinted in *Izvestiia Zemskogo otdela* December 1904: 21).

The background to this circular draws attention to both popular experience of the final stage confirmation procedure in the general court system (confirmation by the district member or the circuit court) and the volost' court's deference towards this system in the pre-Stolypin decade. Both these elements could have worked to predispose the population and the volost' officials to the transfer of the procedure to the volost' courts themselves.

The Drive to Borrow Procedure: Situations and Litigants

Statistics show the scale of the application of confirmation procedure, and the emerging evidence of the involvement of villagers in the general legal system suggests the origins of the procedure. The available sources do not show to what extent volost' judges and the scribes themselves actively promoted the application of confirmation procedure by their courts, but a detailed reading of individual cases can reveal the situations and the social groups that created the pressure for its application.

The surviving court records in the archives for St. Petersburg, Samara and especially Tambov provinces suggest that three sets of circumstances provided the momentum. One group of cases were brought by householders over the property that the household acquired as part of the emancipation. The second group also involves emancipation property, but the cases were brought by women litigants rather than (male) heads of household. In the final group of cases various litigants, men and women, sought the confirmation in the context of their rights to property held over and above the terms of the emancipation. Following very brief overviews of the relevant legal, political, social and economic context, cases illustrating these three sets of circumstances are presented below. The examples are drawn from appeals submitted by villagers to the volost' courts and the court decision books. These can be frustrating sources to use, because the details that they record about the circumstances of a case, its outcome, the status of the property and litigant are frequently incomplete. Working with them is like trying to see a scene reflected in the shards of a broken mirror. Nevertheless, viewed as a whole, they provide a wealth of information about the day-to-day operation of the volost' court system from which to advance explanatory interpretations.

Village-household land relations

The terms of the emancipation did not generally provide for the transfer of former state or gentry lands to individual peasants. In most regions the fields (and other property such as woodlands, meadows and orchards) passed to the village (the famous commune or *mir*) as a whole. Under this system of 'communal tenure' (*obshchinoe vladenie*) the village allocated (and in some areas periodically redistributed) strips of farmland as scattered 'allotments' (*nadely*) to the households (not, usually, to individuals). The households (typically an extended or nuclear family unit) farmed them separately under the direction of the household head (usually the eldest male, the father). The head was entitled to take part in the village assembly which took important decisions collectively such as which crops to sow

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and when to begin the harvest. In other regions, broadly the Belorussian and Ukrainian western marches, the law granted the field strips to the household directly (a system known as 'household tenure', *podvornoe vladenie*), but even there the assembly made many of the important choices of farming life. Under both systems the domestic and farming buildings and yard (*dvor*) and garden/household plot (*usad'ba*) and inventory passed to the household collectively (for more detail see Zyrianov 1992; Bartlett 1990).

These arrangements were an attempt to generalise and fix existing customary patterns of communal land allocation and family property-holding. The legislative framework built on the fact that the difficult conditions of the Russian countryside meant that economic life was of necessity centred on the village and the household rather than the individual. The centrality of the household was reflected in customary practices of property devolution between the generations. In general, the death of the head of the household had no immediate effect on the household's share of the village's allotment land (in areas under communal tenure). This allocation was adjusted from time to time by the village assembly by means of periodic partial or total redistribution of land. In some villages, however, these repartitions became so infrequent that villagers came to regard the strips as the private property of their household collective.

Customs of pre- or post-mortem patrilineal partible inheritance characterised the devolution of the household property. Sons who wished to leave the extended family household used to exercise their customary right to request a division (*razdel*) of the household property (a practice which the state attempted to regulate in a law of 1886 (PSZ 2nd series, no. 3, 578, 18/3/1886)). On the occasion of a division the village might allocate additional land for a new house, yard and garden plot (see Frierson 1987). At the time of a division, the assembly might also grant new strips of allotment land to the new household, but sometimes the dividing family came to its own arrangements about how to reallocate the existing strips. A peasant household division often ended a son's claim on the original household's property, although sometimes a degree of co-operation (and thus potentially a further claim) continued. Normal village practice was rather different from the pre-mortem transmission provisions of Imperial law, which allowed for a further allocation of property up to the lawful prescribed share (SZ X, pt 2, arts 997-8).

The declaration in the emancipation acts that 'local customs' should apply in inheritance and family property cases (OPK 38, MPK 110), and the contradictory attempts to regulate particular details of property devolution practice created in Russia the classic 'customary law legal situation' identified by students of dual systems in a colonial and post-colonial context (Fallers 1969: 3; Chanock 1985: 31). Issues familiar to legal administrators in colonial societies surfaced in countless

cases throughout Russia: how and when 'prove' the existence of unwritten local customs, especially after the full appeals procedure was introduced in 1889 (Tiutriumov 1914: 510). Villagers, in turn, behaved in ways that are familiar from the work of legal anthropologists on colonial and post colonial jurisdictions with a dual system. They cited statute or custom and fabricated custom as it suited them (see Popkins n.d.).

Even before the 1905 revolution and the rural unrest of 1905-7, the government had been reconsidering the wisdom of its land policies. The opinion spread that the post-emancipation policy of shoring up the peasant commune was not securing rural stability as had been hoped in 1861. On the contrary, as well as holding back agricultural development, the commune weakened the peasantry's respect for private property. Following the jolt of the revolution, a decree of 9 November 1906 (PSZ 3rd series, no. 28, 528) announced the beginning of a push to place peasant agriculture on a new footing. The government's intentions were elaborated and refined by two subsequent laws of 14 June 1910 (PSZ 3rd series, no. 33, 745) and 29 May 1911 (PSZ 3rd series, no. 35, 370).

The reform had two aspects. The first was the reclassification and recertification of allotment strips held in communal tenure as private property. Formal deeds of ownership were issued, usually in the name of the head of the household. By 1 May 1915 the heads of twenty-two per cent of all the households formally under communal tenure had received confirmation of their new status as private owners. The second aspect of the reform, one that the government emphasised increasingly as the decade advanced, was the physical consolidation of strip land (whether or not it remained in communal tenure). By 1916 about one tenth of the households had experienced the physical reorganisation of the land.

The formal deeds granting the allotment land and the household property to the household head created anxiety among junior family members uncertain whether what had previously belonged to the whole household now became the head's private property (compare PSZ 3rd series, no. 28, 528, I, arts 1, 2 and *passim* with no. 33, 745, arts 9-10, 47-8). There was also widespread confusion on the ground in the Stolypin era about whether local customs were still applicable in inheritance cases.

This is the rather complicated context in which the cases studied below came to court. The first group of confirmation requests concern allotment property. In 1914 Stepan Ivanov Kriuchkov from the Pichaevo village wrote to Pichaevo volost' court to request confirmation as sole heir to movable and immovable property left by his father Ivan. Stepan had a brother, Petr Ivanov Kriuchkov. However, the witness Matvei Tiulenev explained in court that Stepan's claim should be respected because

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Petr had ‘divided out’ from his father’s household ten years earlier, and had received his share of the property at that time. The volost’ court accepted this argument, and confirmed Stepan as heir (GATO fond 232, opis’ 1, delo 101).

In this case Tiulenev and the volost’ judges worked within the usual village assumption that the property granted to a son at the time of a household division ended his claim on the assets of his original household. There is no indication that Petr Kriukhov failed to accept this. He did not appear in court to challenge Stepan’s claim. Why, then, did Stepan go to the trouble of obtaining a court decision? It could be that he indeed feared a future challenge from Petr and that the application for confirmation was an attempt to forestall it. Petr could easily have claimed that he had not had his fair share of property at the time of the division. He could have advanced this argument with, for example, a claim that he had continued to contribute to his father’s household economy.

A second example from 1914 concerns another Pichaevo villager, Vasilii Egorov Kurov, who applied to the court for confirmation of his inheritance of six souls⁸ worth of allotment land in the village and a stone house with iron roof and yard left by his father Egor to which he claimed to be the sole heir (GATO f. 232, op. 1, d. 96, list 6). In the record of this case there is no sight of any potential challenger whatsoever. Why, once again, did an heir go to court when there was no obvious challenger to his inheritance? The land reform encouraged villagers to place more of a premium than ever on the documentation of land-holding and introduced an element of uncertainty into relations between commune and household, and within households and families (Gaudin 1998). There was a large increase in the number of civil suits heard by the volost’ courts during this period. It must have seemed to many villagers like the last chance to revive old disputes. In this period of land-reorganisation ownership was being fixed irrevocably for the future. In the new climate Vasilii Kurov and Stepan Kriukhov had every reason to seek the court’s endorsement of their inheritance.

On 23 April 1913, following his written application, Piterskoe volost’ court confirmed Andrei Fedorov Kochegorov of Plosko-Dubrovskii village as heir to two souls’ worth of allotment land and a vegetable plot left by his late father, Fedor Iakovlev Kochegorov. Andrei’s claim was supported in court by Lebedev, the village headman (*sel’skii starosta*). Three days after the hearing, a letter stamped with the seal of the president of the court, Fedor Golikov, was sent to Lebedev.

⁸ Villages allocated land according to the number of ‘souls’ its fruits could support, see Zyrianov, 1992: 44-45. The definition of one ‘soul’ varied from village to village (usually males of working age or the number of ‘mouths’ in the household).

Golikov asked Lebedev to inform the village assembly of the court's decision. As requested, Lebedev announced the judgment at a gathering on 30 April. The fourteen literate heads of household who were present wrote their names on the bottom of a signed report (*podpiska*) that Lebedev then sent to the volost' administration. A further one hundred and fifty-one illiterate participants were listed: "We, the undersigned peasants of Plosko-Dubrovskii village, have drawn up this statement that Pitserskoe volost' court's notification dated 26 April 1913 (No. 198) concerning Andrei Fedorov Kochegorov's confirmation as heir was announced today..." (GATO f. 231, op. 1, d. 46, ll. 6-10ob, at 9).

A similar scene occurred in nearby Kriukovo village the following month. On 30 April Pitserskoe volost' court confirmed Nikita Markov Firsev as heir to allotment land and 'capital' left by his late father Mark. This was the second hearing on the matter. On 21 March Firsev had appeared in court, accompanied by the village headman, Korabel'shkov. In that hearing Korabel'shkov had explained to the judges that, besides Nikita, there were two further heirs: Mark's widow Anna Terit'eva and Nikita's brother, Stepan. The judges took this revelation seriously, postponing the case and summoning Anna and Stepan to the second hearing. In court, both "transferred their rights to Nikita, in his role as head of household", and Stepan signed the court record both for himself and his illiterate mother.

A little over one week later, on 9 May, one hundred and five of the three hundred and eighty householders who were entitled to attend the village assembly heard the announcement of the court's decision. Twelve of those present (and also the headman) signed their names to the statement, which ended with a full list of the remaining ninety-three (illiterate) householders (GATO f. 231, op. 1, d. 49, ll. 9-12). The villagers described themselves as 'property holders and peasants' (*krest'iane sobstvenniki*), Nikita's immediate family seem to have been supportive of his claim and unlikely to challenge it in court at a later date.

The striking history of the post-court progress of these two cases provokes questions about the relation between the volost' court and the village. There was no mention in the legislation of the practice of having volost' court decisions formally announced in the village assembly but the cases suggest that Pitserskoe volost' court had come to expect this. Was there any chance that a village assembly would have refused to accept the decision or was the announcement a formality? Was working through the assembly the only way that the court could make its decisions effective or did the court insist on an announcement to drive home its authority in village consciousness? Were Nikita Firsev and Andrei Kochegorov villagers of little influence who attempted to instrumentalise the volost' court to strengthen their position vis à vis the

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community? Were they, rather, village strong-men who had the court in their pocket and who wished to bolster their claims before the higher authorities in the light of pending official certification under the Stolypin reforms?

A final case focuses attention not only on the land reform but also on the increased personal geographical mobility in the Russian countryside on the eve of the First World War (an issue returned to at the end of this article). Iakov Alekseev Danilov was a villager from Barskaia Gora (Seredkinskaia volost', Gdovsk district), who was lodging in the city of Pskov while working away from home. The volost' court turned down his request to be confirmed as heir to his father Aleskei's household plot and allotment land, on the grounds that his claim was not proven. The Gdovsk district congress upheld this decision on appeal (June 1908). Danilov appealed to St. Petersburg's provincial board, claiming that witnesses had supported him at the volost' court and that "all fellow-villagers know that I am the late Danilov's direct heir, as is clear from the official list of family members..." In December 1910 the board overturned the congress' decision on the grounds that the congress had not questioned one of the witnesses (TsGIA St.P. f. 258, op. 45, d. 37, ll. 3-5ob at 3ob).

During the course of the Stolypin land reform there were many reports of peasants who had *de facto* left the village seeking to reassert their position as community members with a view to gaining a grant of allotment land as private property (and perhaps selling it on shortly afterwards). 'Rural residents' who left the village still remained formally registered there and were required, in law, to continue to contribute to the household's share of the state impositions. If Iakov Danilov had fulfilled his financial duties as a son and member of the village in good faith, his desire for a part in the land reform was understandable. However, from the viewpoint of some people in his community, he might already have come to appear as an outsider. Greedy and powerful elements within the village (perhaps with support in the volost' court) might have had their eye on the chance of moving in on his father's share of the allotment land in Iakov's absence (cf. Gaudin 1998).

Marginal women?

In the sources women litigants are overrepresented. They appear as daughters seeking to confirm claims to inherit parental property and as widows (often mothers defending the property interests for their children). Confirmation procedure might have strengthened a woman's hand in latent or potential conflicts over an inheritance.

Women were, in general, not heads of household and so did not gain control over

allocations of strip land. Neither were they the beneficiaries of the pre- or post-mortem division of household property. In many regions fathers (or, in due course, brothers) were, however, obliged to provide a dowry for their daughters (or sisters) when these young women left the household to marry. After she entered her husband's household, a woman usually retained control of the dowry, which was regarded as her inalienable private property. The dowry was usually modest: clothing, fabrics, bed linen, perhaps money, seed or a few animals (Worobec 1991: 63 cf. Hoch 1986: 95-106; Tiutriumov 1881: 53-59).

The position of widows varied (see, for example, Leontev 1914: 329-31; Mukhin 1888: 243-86; Tiutriumov 1881: 61-8; Worobec 1991: 22-3, 65-70). On the death of the head of a household which included grown-up sons one of them (usually the eldest) might become head. The death might, alternatively, trigger a household division as several brothers sought to become heads of their own households. In the eyes of the community, these sons were obliged to provide for their widowed mother in her old age. They either set her up in a small cottage on her own or accommodated her in their own households. A minority of senior widows assumed the headship of the original household in place of their husbands.

A woman who was widowed while childless or with young children often found herself in a subordinate position as a daughter-in-law in the in-laws' household (Farnsworth 1986). If it had consisted of a nuclear family, the young widow might seek to maintain the household as an economic unit (for example by renting out the strip allocation or hiring help to farm it). She might try to retain the household buildings, plot and inventory until her sons came of age. There was a potential risk that the village might try and claim the allotment land back (perhaps leaving the children shut out of the one-off Stolypin distribution). The household property might come under threat from the relatives of a young widow's late husband (perhaps his brothers or parents would seek to gain a share).

In 1914 Elena Klimolova Komarova of Pitserskoe village wrote to the volost' court requesting confirmation as heir to a half-share of the garden plot left by her late first husband Stepan Gavrilov Reshetnikov. She named Stepan Fedorov Ermakov and Ivan Fedorov Reshetnikov as witnesses. Pavel Safrolov Reshetnikov was renting the plot at the time. However neither Komarova nor the witnesses appeared at the court sitting on 3 May, with the result that the judges abandoned the case (GATO f. 231, op. 1, d. 164, ll. 1-1ob). Komarova must have foreseen the danger of losing control of her share of her first husband's garden plot. Her claim was weakened thrice over: she had remarried; Reshetnikov sounds like a relative of her late husband; he could have come to have a claim based on length of possession (*davnost' vladeniia*).

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Records about several revealing claims for confirmation survive from Pichaevo volost'. Anna Andreeva Zasuzhina from Pichaevo village, sought confirmation as heir to (unspecified) property left by her husband Ivan Ignatov Zasuzhin (GATO f. 232, op. 1, d. 95, cf. also d. 94). Her fellow villager, Zinonda Alekseeva Kiseleva, meanwhile, requested confirmation as heir to a garden plot (measuring 12 by 35 sazhen⁹) left by her husband Mikhail Alekseev Kiselev. The plot had been registered as his personal private property under the terms of the land reform (GATO f. 232, op. 1, d. 97).

In 1914 Akulina Savel'eva Savost'ianova Blokhina asked Pichaevo volost' court to confirm her as the heiress to a garden plot and allotment land left by her husband Petr Nikolaev Blokhin. As witnesses noted in court, the allotment land had still not been registered as personal private property (under the terms of the Stolypin land reform). Elena Vasil'eva Blokhina (Petr's mother) was in court. Students of the countryside observed that direct ascending relatives had a claim on their child's property (although often only if the child died without issue). In this case there was no family conflict: Elena explained that she did not want to inherit her son's property because her daughter-in-law, Akulina, had children. Seeking confirmation at court appears to have been an attempt to strengthen the prospects of a family with no adult male member retaining its share of village allotment land. The very fact that a witness mentioned in court that the land was as yet unregistered under the land reform rules underlines the immediate context: the land was likely soon to have been certified as private property. The volost' court approved Akulina's claim (GATO f. 232, op. 1, d. 93, ll. 6-6ob).

The Piterskoe judges had closed a similar case a couple of weeks earlier in their sitting on 29 April. Dar'ia Stepanova Piatova had written to the court as the proxy (*po doverennosti*) of her twenty year-old son, Nikita Nikolaev Piatov. She requested his confirmation as the heir to the property of his dead uncle Aleksei Ivanov Piatov. Like Elena Komarova, she failed to turn up for the hearing (GATO f. 231, op. 1, d. 168, ll. 1-1ob). Piatova litigated in order to defend the interests of a child who had not quite reached his majority, as did many other women. Since her son was only a lateral heir, she was perhaps worried that other relatives, or the village, would question his claim at some time in the future. The act of applying for the confirmation of inheritance rights at the volost' court might have been enough to strengthen the position of Piatova and Komarova (in two of the cases mentioned above) in the village so that when their case came up for discussion in court they no longer felt the need to appear. Or did powerful members of their local community put pressure on them to abandon their litigation, and their claims?

⁹ 1 sazhen' = 2.13 metres.

Anna Stepanov Kogranova explained in a written approach to Pichaevo court that her mother, Pelageia Semenova Zavimkova, had died on 20 November 1913. She had lived with Anna for the last twelve years; Anna had fed her, and paid for her funeral. One of the witnesses, Nikita Chuchekov, declared that there were no other heirs and that Kogranova should inherit Pelageia's one soul of allotment land. However, as the witness Anna Petrova Blokhina confirmed in court, "at the time of the assembly Pelageia Zavimkova had refused the plaintiff Kolranova the land". The third witness, V. M. Zovimov, supported the other two (GATO f. 232, op 1, d. 99, at 5ob). Pelageia was a member of the village assembly, and so must have been one of the minority of strong-willed peasant widows who became heads of household. Following the mother's rejection of the daughter's claim (on whatever grounds), Anna's prospects of retaining the land must have been weaker: mobilising her supporters as witnesses in a court action was probably a tactic to forestall the loss of the land to the village.

The context might not always have been defensive against the community: the use of confirmation procedure could have had the effect of consolidating popular attitudes that had already undergone change. In general, though, the subordination of women in the villages, most notably their exclusion from the village assembly, explains why they needed to turn to the court, an outside agency, in order to secure their inheritance. Women's turning to the court suggests that volost' judges might often have been more generous in their attitude towards their claims than were the dominant village cliques.

Gaining court confirmation only reduced the chance of a legal contest over an inheritance. A case from Samara province further shows that some people were quite ready to challenge a court decision that had been reached under protective procedure. In June 1911 Dar'ia Zemskova from Mordovskie Lipiagi in Voskresenskoe volost' (Samara district) applied to the volost' court for confirmation as heir to buildings, cattle and two souls' worth of allotment land left by her late father Barfolomei Nariadkin. The request was considered in October that year as a contested case against Akulina Nariadkina, Barfolomei's widow. The volost' judges rejected Zemskova's claim on the grounds that the court had already confirmed Akulina Nariadkina as heiress at the end of September (GASO f. 295, op. 1, d. 31, ll. 100ob-101; 111ob.-112, compare TsGIA St. P. f. 1807, op. 1, dd. 46, 48).

Different types of property

The final group of cases which has come to light involved property acquired independently of the emancipation. The post-emancipation decades were a period in which the range and extent of peasant property-holding increased substantially. In

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the emancipation legislation ‘rural residents’ were permitted to purchase additional lands (and other types of property) on the open market under Imperial property law, acting collectively as a village, as a household, or as individuals (OPK arts 32-36). The state set up the Peasant Land Bank (1883) to assist with purchases. As land acquisition increased, so did the number of potential confusions and disputes about its status.

The introduction of universal military service (1874) brought young men back to the villages with broader horizons and a greater self-confidence. Elementary education, which began to make substantial inroads into rural illiteracy during the period, had a similar effect. The young became more independent in attitude and aspiration. These trends were accelerated by the arrival of the railways, a development that also simulated the growth of the market economy and monetarisation. This was a period when the opportunities to undertake seasonal or long-term work away in the factories greatly increased. As a result women assumed a more prominent role in agricultural decision making in some villages where the men were routinely away for long periods of out-work. Such changes led to all manner of disputes about the personal and property relationships of household members, and relationships with the wider community. These issues were the stuff of volost’ court hearings (among recent studies on social change in the period see, for example, Engel 1996; Burds 1998).

(a) inheritances of privately held land

According to the letter of the law, property held under formal deeds was expressly excluded from the authority of the volost’ court, whatever the nature of the action (Vr. Pr. (1889) art. 15(2)). Nevertheless, in an application to Zaborov’e volost’ court (Tikhvin district, Novgorod province) dated 26 July 1911 a peasant from the village of Konuov in Pasharskaia volost’, Feodor Nikolaev, requested confirmation as heir to property left by his father, Nikolai. Feodor described the inheritance as “immovable estate comprising ninety-nine and a quarter desiatina¹⁰ of private land on the waste ground (*po pustoti*).... ‘Lut’ianova Gor’ka’ near the village of Loshevo in Zaborov’e volost’”. The plot was held under formal deeds of ownership under Imperial law (*po zakrepl’ianskomu nadpisu*). Nikolaev claimed that there were no other heirs, estimated the value of the property at four hundred roubles, and named Iakov Ivanov and Feodor Gudin, two Konuov villagers, as supporting witnesses (TsGIA St.P. f. 1807, op. 1, d 47, at 1ob).

¹⁰ 1 desiatina = 2400 square sazheny = 1.09 hectares.

In December 1913 a case was submitted to Popad'inskii volost' court (Vologda province) from Afanasii Vladimirov (Vakhrushevskii village, Blagoveshchenskaia volost'), Petr Nikolaev Davrentii, Pavel and Nikolaia Faddeev, and Vasili, Petr and Stepan Ivanov (all of Zinovka village, Popad'inskaia volost'). This case concerned property acquired apart from the emancipation process under the general civil law, just like Feodor Nikolaev's action at Zabarov'e court two years earlier. This time, however, professional notaries were also involved.

The Popad'inskii litigants requested confirmation as heirs to twenty-five desiatinas of land held under formal deeds (*krepost'naia zemlia*) on the waste ground (*pustota*) called Mikhalevo. In court, a witness said that the purchase of the land had been recorded at the office of the Vologda notary Belopol'skii in March 1881 and the deeds confirmed by the senior notary attached to Vologda Circuit Court at the end of that month (GAVO f. 179, op. 7, d. 26, ll. 76-76ob).

How and why did copies of volost' court confirmation decisions reach the senior notary? Perhaps the volost' courts submitted them when property held under formal deeds was involved. Perhaps peasants themselves sent the copies of the court decision to the notary. If the Popad'inskii litigants had clear experience of the formal procedures for registering land sales through the institutions of the general legal system, why did they have their rights confirmed at the volost' court, rather than the circuit court? The litigants had made a positive decision, a choice made out of convenience, not because of any lack of familiarity with the circuit court.

The behaviour of the Popad'inskii litigants seems to indicate a desire for the approval of both systems, seen as equally valid in their own context. The heirs were playing to several galleries. A volost' court hearing was an effective way of making their inheritance known and fully accepted locally. Informing the circuit court notary of the confirmation could, meanwhile, have been a way of securing the legality of the inheritance in the eyes of the wider world beyond the village and of reinforcing the claim if there was any later challenge from within the community.

(b) inheriting money

Several cases came to light that involved inheritances that included money. Anna Vasilaeva Kriuchkova, Ekaterina Andreeva Popova, Irina Andreeva Kurova and Efrosiniia Andreeva Bezsonova of Pichaevo applied in 1914 in writing to be confirmed as heirs to some allotment land that had been registered officially as the private property of their father under the terms of the Stolypin reform (*nadel za ikh pokoinym otsom ukreplen*), a garden plot and the earnings of Anna's husband and

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the other women's father (by his first marriage), Andrei Petrov Kriuchkov. The money, one hundred and seventy-six roubles and forty-two kopecks in all, was held by Mr Spolynin of the Utakovskii estate. In a testament, Andrei had bequeathed Anna fifty roubles only, a sum that the daughters were willing to pay her once they had received the cash. Furthermore, "according to father's personal wish", Ekaterina, Irina and Efrosiniia announced in court that they would surrender a quarter of the strip land (*polevaia zemlia*) and of the household plot to their stepmother. Anna told the court that she too wished to be granted a quarter of the property and fifty roubles. The court confirmed the women's request (GATO f. 232, op. 1, d. 130a, ll. 5-5ob quotation at 5ob).

In another case, dated 1915, a widow of Kriukovo village society (Piterskoe volost'), Ekaterina Ivanova Vereshchagina, requested her confirmation as heiress to a deposit of ninety-three roubles, thirty kopecks made by her late husband, Mikhail Stepanov Vershchagin. She was supported in court by the village headman, who confirmed that Mikhail had died on 14 September 1915 and that his widow was the sole heir. In Ganisheva's litigation, and the cases over Nikolaev's inheritance and Andrei Kruichkov's estate, there is no whiff of a family feud and the lands involved do not appear to have been vulnerable to communal encroachment. Nevertheless, heirs desired the court's confirmation. This came in a decision of 19 November that year (GATO f. 231, op. 1, d. 205, ll. 6-6ob).

In 1915 Akushna Andreeva Ganicheva, a married woman from Kirilov district of Novgorod province, wrote to the court in her home volost' of Zaborov'e. She renounced any claims to her mother's "movable and immovable property and capital" in favour of her two brothers, Ivan and Andrei Kolchinov, who lived in their mother's village of Graznoe Zamost'e in Zaborov'e volost' (TsGIA St.P. f. 1807, op. 1, d. 50, ll. 3-3ob, quotation at 3). Disputes sometimes occurred in which women who had married out of the household and even away from the village and volost' sought a share of the parental property. In this case, however, a women went to the trouble of contacting the court from a great distance, at her brothers' request, for the opposite reason. The brothers anticipated they would not be able to obtain the confirmation desired from the court without their sister's renunciation. They knew that they were dealing with a body that took seriously the confirmation duties that had accrued to it. They, their community, and the court drew a distinction between property acquired as part of the emancipation, over which a married woman's would usually have had no claim, and an estate of acquired property.

Concluding Interpretations

This investigation has revealed that on the eve of the First World War villagers were seeking confirmation as heirs in uncontested cases in the volost' courts in several representative provinces of European Russia, and thus quite probably throughout the country's separate rural court system. In three of the four districts (in Orel, Khar'kov and Saratov provinces) for which figures are available, confirmation cases regularly made up between five and ten per cent of the court's civil business. Statistics on individual volosts in two districts reveal that only one court registered no confirmation cases at all in the years for which data are available. In another, they made up one quarter of all the civil cases.

There was no basis in the volost' court legislation for all this activity. The courts were performing a function which the legislator had not seen fit to place within their purview, but for which there was a need in the countryside. Some outside officials were aware of the development and did not frustrate it, but they were not responsible for it. The practice of the general courts, both before and after the court reform of 1864, provided a model that the volost' courts could imitate and adapt. Research so far does not make it possible to date this transfer with any certainty. That it happened would surprise the many Russian contemporaries (and some historians) for whom the peasant was a childlike being in a world of his own. It does, though, fit in with observations about other dual systems. Anthropologists, who have the enviable chance of working in the field, often note forces similar to those at play in the late-tsarist countryside: the prestige with which subordinate populations regard the superior courts in a dual system; the tendency of state-backed popular courts to assume functions previously performed less formally by tribal or village elders or gatherings; the tendency of written law procedures to replace unwritten customs over time.

Some of the cases discussed above suggest that the confirmation of an inheritance claim in court was a way of attempting to influence power relations within the village. The advance of the Stolypin land reform provided a new motive to gain official recognition of claims to property. The coming certification of private property and land consolidations made this true even for influential villagers, men who would normally have been able to defend their property position on the ground without having to turn outside the village for help. As (in this context) marginal members of a community, female heirs had most need of such assistance. Seeking confirmation could be a way to attempt to forestall any potential encroachment on an inheritance from the village community and individuals, including relatives. Yet in many of the individual cases discussed above, there was no apparent threat to an heir's claim. Confirmation was becoming a normal legal ritual at the volost' court. Its emergence at once reflected and added to the court's importance in rural life.

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Table 1: Confirmation cases in context in five districts, 1911-1915¹¹

Province and District (No. of volost' courts) <i>Population</i>	Year	Total cases arriving (Mean average per court)	From total: civil cases (Mean average per court)	From civil cases: voluntary procedure (inheritance and household fission) (Mean average per court)	Cases of voluntary procedure as percentage of total civil cases
Orel Orel district (19) <i>182, 800</i>	1911	11, 673 (614)	9, 278 (488)	866 (46)	9.3
	1912	12, 314 (648)	9, 789 (515)	955 (50)	9.8
	1914	10, 794 (568)	8, 886 (468)	785 (41)	8.8
	1915	8, 516 (448)	6, 736 (355)	505 (27)	7.5
Briansk district (15) <i>250, 500</i>	1911	13, 780 (919)	9, 949 (663)	692 (46)	7.0
	1912	13, 296 (886)	9, 491 (633)	726 (48)	7.6
	1914	13, 067 (871)	10, 138 (676)	755 (50)	7.4
	1915	10, 006	7, 341	484	6.6

¹¹ RGIA f. 1405, op. 543, d. 967 ll. 10ob-31 (Orel, 1911-12), d. 1007, ll. 21ob-25 (Orel, 1914-15); d. 959, ll. 191-200, 232-7 (Khar'kov); d. 1014, ll. 476ob-489 (Saratov, 1912-1913); d. 1015, ll. 28ob-37, 131ob-134 (Saratov, 1914-1915). Population figures for the districts (without the towns) from *Statisticheskii ezhegodnik Rossii 1913*. The totals include the small number persons belonging to legal estates not subject to the volost' court. In the first census of 1897 (Troinitskii 1899-1905) such people made just under 8 per cent of the rural total in Tsaritsyn district, just over 2 per cent in Khar'kov, and under 2 per cent in the other four districts.

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		(667)	(489)	(32)	
Khar'kov					
Starob- el'sk district (42) <i>461, 600</i>	1910	20, 795 (495)	17, 987 (428)	1271 (30)	7.1
	1911	20, 573 (490)	17, 476 (416)	1275 (30)	7.3
Khar'kov district (27) <i>249, 600</i>	1910	18, 022 (667)	13, 641 (505)	1006 (37)	7.4
	1911	17, 604 (652)	13, 137 (487)	1008 (37)	7.7
Saratov					
Tsaritsyn district (11) <i>137, 200</i>	1912	11, 502 (1, 046)	10, 369 (943)	384 (35)	3.7
	1913	8, 463 (769)	7, 388 (672)	339 (31)	4.6
	1914	8, 395 (763)	7, 493 (681)	188 (17)	2.5
	1915	5, 552 (505)	4, 900 (445)	83 (8)	1.7
Atkarsk district (45) <i>367, 000</i>	1912	20, 740 (461)	17, 351 (386)	1,049 (23)	6.0
	1913	21, 586 (480)	18, 263 (406)	1,305 (29)	7.2
	1914	19, 947 (443)	17, 174 (382)	1,334 (30)	7.8
	1915	13, 882 (308)	11, 933 (265)	745 (17)	6.2

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Table 2: Confirmation cases in eight volost’ courts, Tsaritsyn and Starobel’sk districts, 1910-1915¹²

Province, district and volost’	Year	Total cases arriving (Mean average per court)	From total: civil cases (Mean average per court)	From civil cases: voluntary procedure (inherit- ance and household fission) (Mean average per court)	Cases of voluntary procedure as percentage of total civil cases	
Tsaritsin district (Saratov)	Otradin	1912	1, 669	1, 469	27	1.9
	-skaia	1913	1, 479	1, 253	29	2.3
		1914	1, 282	1, 106	18	1.6
		1915	916	782	5	0.7
Erzovskaia		1912	597	528	4	0.8
		1913	610	531	14	2.6
		1914	500	437	7	1.6
		1915	400	356	12	3.4
Sareptskaia		1912	135	54	0	0
		1913	105	55	0	0
		1914	84	29	0	0
		1915	63	45	0	0
Lipovskaia		1912	1, 602	1, 476	200	13.6
		1913	841	767	175	22.8
		1914	1, 050	957	19	2.0
		1915	560	459	13	2.8

¹² RGIA f. 1405, op. 543, d. 959, ll. 191-200 (Starobel’sk); d. 1014, ll. 476ob-478; d. 1015, ll. 131ob-134 (Tsaritsyn).

**Starobel'sk
district
(Khar'kov)**

Aleksand- rovskaia	1910	532	491	35	7.1
	1911	472	440	23	5.2
Belovo- daskai	1910	861	699	135	19.3
	1911	804	572	38	6.6
Novo- Aidarskaia	1910	1, 355	1, 233	157	12.7
	1911	1, 261	1, 127	269	23.9
Taniumev- skaia	1910	358	410	15	3.7
	1911	372	426	18	4.2

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