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## Russian Justice on Trial: A Slavophile's Perspective on Judicial Reform in Dostoevsky's Brothers Karamazov

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Russian Justice on Trial: A Slavophile's Perspective on Judicial Reform in Dostoevsky's  
*Brothers Karamazov*

Michael G. Beck  
Honors Thesis

## Introduction: Cause for reform

As the Crimean War drew to a close in 1856, two things were clear: the combined forces of the British, French and Ottoman empires had routed the Russian military and that this defeat marked the end of imperial Russian strength and the beginning of grand changes in the political arena. Financially weakened and trailing the West both socially and industrially, Russia demanded change. This change was shaped by the sweeping arm of the Great Reforms spanning from 1861-1864. It marked Russia's most extensive regime changes since the Petrine Reforms as it aimed to solve the backwards nature of Imperial Russia. These changes included the emancipation of serfs, the creation of *Zemstvo*, or smaller provinces that could be governed more easily, and a new judicial system.

The antiquated courts of Russia were one of the most pressing areas of concern because they allowed for semiliterate judges to administer justice in a tribunal which was heavily overexerted and under-officiated.<sup>1</sup> In 1864, the Judicial Reform had been adopted by the Russian government and allowed for juries, instead of high officials, to adjudicate trials. At the same time this reform occurred, prominent journalist and novelist, Fyodor Dostoevsky, had become impassioned with the new form of Russian justice. One may track Dostoevsky's view on the reform through his work *A Writers' Diary*, and his subsequent paradigm shift in the novel *The Brothers Karamazov*. His interest in the jury trial can be measured by the frequency in which he utilized the courts in his works and the closeness with which he followed landmark cases such as the trials of Kairova, Kroneberg, and Kornilova.

It is through these trials that one can begin to understand the complexity of Dostoevsky's belief in the new system, how those beliefs impacted his writing, and the broader popular reaction to the Judicial Reform. Once a supporter of the Western-style jury trial, Dostoevsky's

Slavophile inclinations hardened and he became opposed to Western theories of thought. He felt that the reform had undermined what law was truly supposed to represent. It became a forum for political debate, a catalyst for lawyers who simply wanted to see their social status rise, and a mockery of justice as he felt that men and women were sentenced incorrectly. *The Brothers Karamazov* illustrated Dostoevsky's degenerative thoughts on the new court system as the protagonists, Dmitry Karamazov, is put on trial of the murder of his father. By creating a novel Dostoevsky is able to create a perfect scenario for the mishandling of the case and a platform for his personal beliefs on the matter.

#### Pre-reform Russia and the impediment of Liberalism

To set about restructuring the judicial system, the Judicial Reform Statutes were put into place on November 20, 1864. The initial presumption of Alexander II was that the judiciary would remain within the "traditional conceptions of the Russian autocrat,"<sup>2</sup> meaning that the court could, overall, not usurp the power of the tsar. This vision of an updated yet subjugated legal system could never come to fruition due to the interior pressure of men such as Sergei Zarudnyi and Prince Dmitri Obolenskii. The system which these men left behind had roots dating back to Peter the Great's Senate reform in 1711, which allowed the Senate the ability to supervise all judicial, financial, and administrative affairs.<sup>3</sup> It was not out of ill-intentions that legal reform had not occurred earlier, simply that the Russian budget was believed to have more pressing expenses.

Tsar Nicholas I, for example, had not increased appropriations to the Ministry of Interior from the period of 1839 to 1854. A gap of 15 years without an allotment increase is stunning when the total state budget had grown by 51% and the population by 9%.<sup>4</sup> Nicholas had

attempted to infuse money into the ministry, but often had his plans averted due to the increased need of other branches of government. In 1847, the Tsar promised to increase funds available for judicial offices but found that an intervention in Hungary in 1849 had depleted the treasury. By 1851, an attempt to raise the salaries of judicial officials never made it to the national level due to the Department of Economy's review of every ministry in order to decrease spending.<sup>5</sup>

Even the military had to take several cutbacks during the reign of Alexander II. The appointment of Nikolai Sukhozanet, half-literate and unlearned in the military sciences, baffled all Russians. Sukhozanet was adept at cutting costs however when he liquidated military colonies, demobilized impractical units, and released 378,000 males from the oppressive bonds of military cantons or military schools.<sup>6</sup> And by 1863, Michael Reutern, the principal figure in Russian economic policy, had created a unified treasury and budget. This made it mandatory for any estimates made by ministries to be examined by the Ministry of Finance.<sup>7</sup>

Reutern's reform created another barrier which only made it harder for the new judicial system to gain extra funding. The Russian government was eager to pay off its debt after the Crimean War with 60 to 70% of its annual budget paying for the national deficit and railway construction.<sup>8</sup> These examples thus illustrate Russia's attempt to pay off the large debt that had accumulated after the conflict in Crimea; they also tell another story however, one of modernization and westward facing inspiration.

To gain an understanding of the modernization process, it is important to note the oppressive system that was in place prior to 1864. These courts had one main objective which was to assure that administrative authorities maintained their power and prestige. Richard Wortman had dubbed this the "cloak of chancellery secrecy," because it "conceal[ed] every stage of the process and all judgments from outside scrutiny."<sup>9</sup> Local police chiefs were in charge of

conducting investigations and the enforcement a court's decision. The accused were granted no legal defense and kept in jail until the police's findings made it to court.<sup>10</sup> These are the reasons why famed author Alexander Herzen described the corruption and arbitrariness of pre-reform courts to be worse than the punishment handed down: "A man brought to trial fears not the punishment of the court, but the trail. He looks forward to being sent to Siberia. His martyrdom ends with the beginning of the punishment."<sup>11</sup> This slow and arduous process required renovation due to poor treatment of the defense.

More pressing was the fact that judicial officials were untrained in law. The lack of education encountered in the court room could be traced back to Alexander I in 1803. This new law stipulated that no one could achieve a civil post pertaining to "juridical and other knowledge," without first completing school.<sup>12</sup> The reason for the failure of the decree was that it was aimed at the nobility. Nobility was granted to any "servitor, Russian and foreign, who occupy the first eight ranks." These ranks include Fleet Lieutenant-Captain for the Navy, Major for the Army, and Assessors of the Colleges for the civil service.<sup>13</sup> They were to be the citizens with the time and money for a proper education, which would lead to an advanced legal system. The opposite outcome occurred because the upper-class was far more preoccupied with attaining a high rank rather than an education. Instead of an influx of educated elite delving into local politics, the few privileged members of the lower caste were given these posts. Therefore, it not only allowed low ranking citizens an opportunity to attain governance positions, but it also defeated the purpose of Peter I's Table of Ranks. This became especially evident in 1809 when Alexander I decreed the Examination Law.

This law created specific offices which would test one's knowledge on subjects ranging from philosophy to math, verbal sciences to physics. Unfortunately for Alexander, the

examinations drove away nobles rather than gain an educated, aristocratic, civil service. This was due to the perceived importance of an education in military sciences and the rank associated to Peter I's Table. Proof of the indifference towards a discipline in law is shown purely by the number of students who enrolled in law classes by the end of Alexander I's reign: "By 1825, enrollment had risen to 714 students, 219 of them noblemen. In the political sciences faculty, where law was taught, 101 of 267 students were noble." From these numbers, most of the nobility who entered into university originated in the service.<sup>14</sup> The statistics shown give an insight to the large decline of nobles studying law. They indicate that Alexander I's attempt to keep the nobility in power, and therefore maintain an organized bureaucracy, failed.

The problem with this system was not that nobleman were the only men capable of operating the civil service, but that they had an advantage through "work and study" programs. From a young age, boys of the Russian nobility were allowed to have special training in courses in conjunction with their work.<sup>15</sup> These programs gave early training to young Russian aristocrats and made them well-suited for a life in the service. It is important to note that Alexander I's initial design of maintaining a noble civil service, and inasmuch, the continuation of the Table of Ranks.

Moving past Alexander I's failed attempt at preserving an entitled elite, who could control the court system in Russia, was the fact that universities in this period were still trailing other major Western powers. In 1825, Moscow University had only 267 students studying law and St. Petersburg University had a paltry 18.<sup>16</sup> Experienced professors were fired, such as in the purge of Kazan University where men such as I. E. Sreznevskii, who was described as "completely qualified" by the school's curator, Mikhail Magnitskii, was let go due to internal issues of the schools structure.<sup>17</sup> Kazan is a great example of a failure to properly educate its

students during the early 1800s due to the teaching limitations. Often professors were German and would speak in their native language or Latin. This caused students to focus solely on rote learning as very few could speak anything but Russian. Learning was curbed by this, as well as professors who would skip lectures and the rudimentary courses which were often repetitions of their time at gymnasium.<sup>18</sup> Magnitskii, being so close to the school, had a firsthand understanding of the issues that Kazan, and the four other universities opened by Alexander I in his reign, truly faced. Kazan almost closed due to inadequately handling its students, and Magnitskii realized that the only thing that could help the school was an insurgence of resources. This would allow for an expansion of curricula, an increased number of Russian born professors, and maintenance for upkeep and cleanliness which was previously not found and hampered students. Under the tsar's order, Kazan stayed open, without any additional funds due to "Russia's financial condition."<sup>19</sup> Magnitskii's apt handling of the universities was able to keep Kazan functioning, but the apprehension to spend money on the school illustrated the obstinacy of Westernization in Russia.

Western philosophy, Western law

The monetary and administrative problems faced by the whole of Russia during the period of reform is reflected by its history dating back to Peter I and his Table of Ranks which was an attempt to organize the people of Russia, but only created a caste system which made Westernization, or modernization, an arduous task. By continually placing money into the military and facing difficulties in attaining a functional education system, Tsar Alexander II set in motion Russia's greatest law reform of the 19<sup>th</sup> century.



The Judicial Reform was one of a few alterations in a series of edicts made by Alexander II during his reign. Freeing the serfs and the creation of the *Zemstvo*, or local government, were two of the biggest changes which positioned Russia towards the administrative goal of Westernization. It is understandable then how drastic of a change the reform on the judiciary truly was. It changed who had the right to participate within the legal system: “1. Judicial authority belongs to: Justices of the peace; Sessions of the Justices of the peace; Circuit courts... 2. The judicial authority of the[se] extends to persons of all classes and to all cases, both civil and criminal.” These clauses clearly state that any person from any class could now have a direct impact upon the outcome of court cases; a power once reserved solely for nobles. More important than a peasant having the ability to become a Justice of peace was the fact that now “81. Jurors are elected from among all classes of local inhabitants.” Instead of courts that could meet and decide court cases in secret, a new level of transparency was allotted for all citizens. The reform had even given the defense an “examining magistrate” who was now responsible for conducting investigations. This was a drastic change from the previous system which allowed for the police to head the investigations because magistrates had to be trained, and were therefore more knowledgeable of the law and how to remain unbiased in important cases. The prosecution benefitted as well with a new chief prosecutor who would act as a supervisor during the duration of a trial.<sup>20</sup> These were only a few of the major changes, but they illustrate how far reaching the reform truly was. It had now allowed anyone, from any social rank, to participate within matters of the court. Whether civil or criminal, now even peasants had access to landmark trials.

The civil liberty afforded to peasants by allowing participation in trials showed the pervasive nature of Western enlightenment. This right was complemented nicely by the induction of the Evidence Law which abolished the old system of giving priority to certain

evidence: A male's testimony was more substantial than a female's, a cleric over a layman, and a nobleman over anyone of a lower class. This antiquated system was abandoned for the more European adversarial one. In the new court, evidence no longer held any weight and every piece of information was taken into consideration.<sup>21</sup> This allowed for evidence to be presented in court and deliberated upon there, as opposed to the old system where police chiefs gathered and collated all evidence. The reform, therefore, allowed for a more transparent proceeding, along with the new inherent speed which cases were being closed. The new found rapidity of trials came from the fact that police chiefs were no longer able to stall their findings as every piece of evidence was submitted. This had a lasting benefit in that individuals accused of a crime were no longer subject to sit in jail until their hearing. This could have taken more than two years before the 1864 reform.

It is hard to imagine, in a modern society, a world where these rights were not natural civil liberties given to those who referred to themselves as citizens. The transparency afforded by the Reform allowed Russia to look west and adopt English and French law codes. Trials would move much quicker while juries would be made up by the peers of the accused. This change was therefore looked upon favorably by those who deemed themselves liberals. There was a considerable amount of pushback to these reforms, however. Slavophiles, or those who wanted to build a government according to the tenets of the pre-Petrine era, were starkly opposed to the transformation of Russian law. Unlike the *Narodniks*, often referred to as Populists, Slavophiles believed that the scope of the reform strayed from Christianity and the core principles of nationalism. This school of thought believed in studying Russia's history and demonstrating the differences of its cultural and religious heritage to that of the West. This was meant to give Russians their own identity which would project the country onto the world stage

without having to abandon their distinctive nature.<sup>22</sup> Author Abbott Gleason refers to them as “utopian reactionaries,”<sup>23</sup> which is a blunt form of expressing how Slavophiles were adverse to the monarchy of their day, but for reasons other than social progression. No one embodied this image such as renowned journalist and author, Fyodor Dostoevsky.

The new “old-school”

The life of Dostoevsky is interesting because of the many divergent paths it takes. Whether it was his devout Orthodoxy beliefs and his addiction to roulette, or his radical populist convictions which later turned to an unyielding Russo sentiment, Dostoevsky proved he had a propensity to change. In order to understand what his beliefs were on the new reform, it is important to know how he thought and acted throughout his career as a writer. This is best encapsulated by examining the features of his early writing and his later writing. The two are easily divided by his time in Siberia, where he was sent for an involvement in an extremist book club known as the Petrashévsky Circle. His earliest work, *Poor Folk*, had a clear populist ideology which delineated over time with his writings in newspapers admonishing the liberal attitude he saw as corrupting the true nature of Orthodox Christianity.

With the success *Poor Folk* had on the literary community, Dostoevsky began to descend to the realm of arrogance. Friendships he once thought immutable were being ruined by his perceived vanity. As he lost touch with Belínsky, Nekràsov, and Turgénev, Dostoevsky began to confide with the men of the Petrashévsky Circle. These men gathered to read the revolutionary thinker, Fourier, criticize the current state of Russia, and discuss the tenets of Socialism. This led to a further incursion of radical beliefs and eventually to his time in Siberia. Dostoevsky was found guilty, in 1849, of circulating anti-government writings with the use of a private press.<sup>24</sup>

Dostoevsky was sentenced to death for this act, and seconds before he was to be executed, Tsar Nicholas I commuted his sentence to four years hard labor. Though the penalty was still stiff, it allowed Dostoevsky more time on this earth to contemplate his own feelings. He became more religious and much more open to the idea of an Eastern-centric world.

From the years of 1950 through 1954, Dostoevsky was serving his sentence for at the Omsk convict prison when he had a profound religious experience. His only source of reading material while in Siberia was a bible, and through rigorous study he began to shift his beliefs. This experience is articulated by D. S. Mirsky who wrote: “He began not only to believe in what the people believed, but to believe in it because the people believed.”<sup>25</sup> This sentiment reflects what the transformation Dostoevsky went through in order to feel closer to the Russian people as a whole. This allowed him to fight for the good of one’s soul rather than the legal definitions of right and wrong.

One of the hardest aspect about studying Dostoevsky and his religious transformation is the fact that one cannot know entirely what his thoughts were directly after he the Reform had occurred. By the time he was able to travel back to Moscow, Dostoevsky was being watched by the secret police and was therefore unable to write his exact thoughts on what the Reform had done correctly or incorrectly. It is important to note that as the editor of the journal *Vremja*, Dostoevsky was able to maintain his voice through the tone maintained by his writers. The favorable spirit that the journal maintained was therefore an indication of Dostoevsky’s thoughts on the Judicial Reform.<sup>26</sup> Dostoevsky’s inclination for the Reform was proven by a letter sent to his friend Apollon Majkov in 1867: “It is extraordinary how much strength and maturity the people have shown in receiving all our reforms... By God, our age, with regard to great changes and reforms, is hardly less important than that of Peter the Great.” This refreshed feeling

Dostoevsky had grown in him as he praised the juries as being “the very best.” His only critique of the reform was that judges did not have enough experience or education.<sup>27</sup>

Early in his career, Dostoevsky had to battle with the ideas of justice. Before being sent to Siberia he had to differentiate, and at the same time meld, two terms of truth together. He had to understand the difference between *pravda* and *istina*, otherwise known as truth. These mean the same thing in Russian, but at the same time, have different connotations. This fact gives the two words distinguishing interpretations and thus forces an author to specify his or her intention when finding the “truth” in a novel. Dostoevsky goes through this process in novels such as *Notes from Underground* (referred to as *Notes* hereafter) and later in *The Brothers Karamazov*. The significance of the two works is that *Notes* was written in April of 1864, a few months before the reform, and *The Brothers Karamazov* was written in 1880. Truth, therefore, had a much different meaning to Dostoevsky in both of these novels as his inclinations changed.

For linguist N. D. Arutiunova, *pravda* has a contradictory meaning. It can either stand for “morality and justice,” or, on the other hand, for an “unembellished reality.” The truth of a cherub versus that of serf; both can be unequivocally true, though the cherub has wings and the serf has a hoe. *Istina* has two differing meanings as well. It determines truth in both the realm of faith and the realm of knowledge. It is achieved intuitively through revelation, or the “religious conscience.” It is also found through “theoretical or empirical knowledge,” which has to be sought out and discovered; this is what is known as the “rational mind.”<sup>28</sup> These terms, which are often used separately, show an intra-conflict in Dostoevsky’s mind, as he often weaves the definitions together. Dostoevsky fights through these battles in his transition from socialist propagator to staunch Slavophile.

In *Notes*, Dostoevsky writes about a man who is neither good nor evil, neither a “hero nor an insect.”<sup>29</sup> He defies both what is perceived to be moral truth and the unembellished truth, the gamut of *pravda*. Dostoevsky believed that at their heart, people were good natured. Everyone wants to be virtuous, but their circumstances compel them otherwise. This belief stayed with him throughout his entire writing career. Dostoevsky used this belief and often made his position clear on multiple occasions when talking about the defendants of major court cases. In May of 1876, he posited this opinion when talking about the acquittal of Nastasia Kairova for an attempted murder earlier that year:

As for me, I am just happy that Kairova was released; I am only unhappy that she was acquitted. I am happy she was released, even though I don't for a moment believe she is insane, despite the views of some experts... Besides, if this poor woman is not insane, one feels even more pity for her... how will she be able to go off bearing such a burden of torment! A murder, at least when it is not committed by some “Jack of Hearts,” is a difficult and a complex thing.<sup>30</sup>

In this entry, Dostoevsky gave insight to his true notion of humanity and the nature of sin. He made a broad assumption that Kairova, if not insane, would be too torn about a murder that she simply could not commit the crime. He judged her based on his perception of her character, not on the crime she committed. He even openly admits that what she was charged for happened. In his eyes, Darwin's Theory of Evolution was an “axiom” by which all Russians lived. The West, Dostoevsky believed, had the ability to “*discriminate*” every crime committed, allowing for those with a mental illness to be judged accordingly. In the East however, the Russian mindset did not discriminate between crimes. This created a system where every crime committed was considered an illness, and therefore a call for help.<sup>31</sup> Dostoevsky believed Kairova to be of a healthy state of mind and this led him to assume that she could not commit murder, even though he accepted her actions to have happened.

The Kairova case accurately depicts Dostoevsky's process of thought in the early stages of the Judicial Reform. Such as with the portrayal of Rodion Raskolnikov conviction in *Crime and Punishment*, the truth behind Dostoevsky's predilections became obvious. He believed that every human had both good and bad within them. There was no such thing as an absolute sinner, and due to this, one could never know when a "luminous spark" of righteousness could strike.<sup>32</sup> For Dostoevsky, this could have happened in the middle of Kairova slashing the neck of Alexandra Velikanova: "I can state that even when she had begun slashing her rival she might *still not have known* whether she wanted to kill her or not and whether *this was her purpose* in slashing her."<sup>33</sup> This is bold statement for Dostoevsky to assert, however, he did believe that Russians did not discriminate the nature of crimes; they could, therefore, judge an individual based on their perceived morality rather than the circumstances of that crime. To him, Russian courts were simply a platform that "distinguishes good and evil," whereas "The actual sentence, by comparison, is a minor issue."<sup>34</sup> Dostoevsky became excited at this prospect because it allowed for the Judicial Reform to work how he believed it should have. He wanted juries to have a conscience, and allow that conscience to guide their decision. He believed that this was the most important facet of the new system of law.<sup>35</sup>

Dostoevsky's belief that juries were supposed to have a conscience was what gave him hope for the Reform's success. This very consciousness was also one of Dostoevsky's greatest fears as well. He now believed that courts were susceptible to any view that entered into them. In regards to the Kairova case, Dostoevsky had come to the conclusion that courts were "unquestionably an ethical school for our society and people. Indeed, the people learn in this school truth and morality" which then brought into question how "we [can] possibly remain indifferent to things which sometimes are uttered from those tribunes?"<sup>36</sup> This is the beginning

of Dostoevsky's fears of how the court system could fail Russia. It pointed out an alarming truth about the court system by questioning the new political forum which was created out of this process. Though Dostoevsky was still in favor of the Reform, in 1876, this displayed one of the first evolutionary shifts he underwent.

From this early leaning, Dostoevsky noted his affirmation of the Reform in which he only rebuked the ability for people to speak about a specific political agenda across. Inkings of this view began in both the Kairova case along with the Kroneberg case with Dostoevsky's admonishment of lawyers who had the ability to bend the truth. They did this to a degree that bastardized the concept morality and entered into a realm of eloquence. It was Dostoevsky's unwavering belief that the court should always speak the truth in terms of telling if a crime had been committed. This was in stark contrast to coming to a technically correct verdict based solely on the parameters of the legal code. In instances such as the Kroneberg case, Dostoevsky found himself pondering how a man who beat his daughter for a quarter of an hour would be found innocent of charges against him. This trial had, at its root, one aspect that was shared with the Kairova case: lawyers.

Transition: Orthodoxy in law

The lawyer for Kroneberg was, at the time, the most well respected man of his craft. Vladimir Spasovich was a Polish-Russian lawyer who studied in Minsk until he traveled to Russia to practice law in the newly reformed government. The case against Kroneberg took place prior to that of Kairova, but showed the early hesitations Dostoevsky faced about the post-reform system even with an overall positive outlook. The trial had come to the courts as a matter of torture against his daughter. She had been heard yelling "Papa! Papa!" while being beaten



with a switch. But it was not Kroneberg's exceptional cruelty towards his daughter that caught Dostoevsky's attention. Spasovich was the star. It was he who was able to get Kroneberg acquitted, and more importantly shape the truth.

Dostoevsky both revered and reviled Spasovich as "an exceptional talent, a real force."<sup>37</sup> This reverence came from Spasovich's ability to move people, and the revulsion came from the bending of morals. Dostoevsky stated that with "Remarkable sincerity," Spasovich could manage to "insinuate himself just a tiny way into your heart." Dostoevsky gives an exact quote of Spasovich's that brings into question a man's right to punish his children as he sees fit. The words torture, he stated, "arouse... a feeling of great compassion for the child, and... a feeling of extreme indignation against the one responsible..." This statement was followed up by the eloquent retort that "if you examine closely the circumstances that evoked that measure, if you take into consideration the nature of the child, the temperament of the father and the aims that led him to punish the child, then you will understand a great deal in this instance; and once you understand, you will pardon him..."<sup>38</sup> Spasovich made a claim that, at its root, was meant to show the source of power which Russians were accustomed: "the state can only be strong when it rests on the strong family."<sup>39</sup> Dostoevsky saw this as Spasovich's greatest treason to the Russian people. The idea that Kroneberg could be put in a position where juries saw his innocence even after knowing his unending cruelty began to sour Dostoevsky towards law. This stemmed from Spasovich who, according to Dostoevsky was a truly skilled attorney. However, this skill had its limit which was the disregard for a morally correct judgement. The whole of Spasovich's argument was strictly "by design... in order to save [his] client."<sup>40</sup>

From this early on Dostoevsky realized the power of lawyers, and their potential to neglect the true purpose of courts. In his mind, Dostoevsky believed that courts existed for the

dissemination of morally sound ideas. They were supposed to serve as a “conduit for alien relativistic notions of sin, crime, and responsibility.”<sup>41</sup> However, the internal conflict which he fought was based off how the new judicial system operated. His rebuke of the reform was prefaced by stating that “establishing the legal profession was an excellent thing” but then giving credence to the dilemma which it created:

I keep imagining some sort of modern school in which people are trained to have agile minds and arid hearts, a school in which every healthy feeling is distorted when the occasion demands distortion; a school that teaches every possible method of personal attack, made without fear or punishment, continually and unrelentingly, based on need and demand, whose techniques have been elevated to the level of a principle and.. have acquired a luster of heroism that is universally applauded... I would only like us all to become a little better than we are.<sup>42</sup>

This quote illustrated the fear of the institution that Dostoevsky held. He believed that the reformed universities were now strictly teaching how best to defend someone who was guilty. This began his descent into animosity for the jury trial. Once a supporter, Dostoevsky became more jaded as trials were judging people based on the technical letter of the law rather than the righteous way.

Righteousness is, however, a hard term to make an objective judgement about. In Dostoevsky’s situation this was particularly true about a woman Ekaterina Kornilova who, in late 1876, was sentenced to two years hard labor in Siberia only to be later re-tried and found innocent. She was married to a widower who would beat, berate, and confine her. After years of this, Kornilova could take no more and decided that her only form of revenge would be to kill her step-daughter. She pushed the girl out of an open, three story high building, where she, “through some miracle, survived in good health.”<sup>43</sup> Dostoevsky then stated that Kornilova immediately dressed herself and went to the police station to confess. Her crime resembled Kroneberg’s and therefore allows the assumption that Dostoevsky would have little sympathy

towards her. He does not criticize her and, in fact, laments that she was given hard labor as a punishment. He blames this sudden rush to vengeance on Postpartum depression as Kornilova was about to give birth. He was also stunned that she went directly to the police station. In a conversation he had with her, Dostoevsky cited Konilova as stating: “I didn’t want to go to the station at all, but somehow got there—not knowing how—and confessed the whole thing.”<sup>44</sup> Even though the theoretical cause of the crime was her pregnancy, Dostoevsky was far less concerned about this in his analysis and points to her cooperation and renewal as the primary factors of her innocence. In his mind, Kornilova had nothing to gain from going to Siberia. She would have left behind two children and a husband. She could not mend her relationship with her husband in Siberia, and her children would have to live without a mother. This punishment would simply harm the plaintiff as much as it would the defendant. Dostoevsky explains this view as harming Russia as much as it would that family. He believed that “with our People the result will never be an epic poem... They are the most prosaic people in the world, so that one is almost ashamed of them in that respect.” Dostoevsky pointed to the simplicity of the Russian people. He believed that Russians would be able to see past a transgression if the perpetrator was truly contrite. It was the regeneration of the soul that made him believe that a court’s function was to show mercy and cultivate salvation. Kornilova was, therefore, an example of a moral criminal.

Dostoevsky’s report on the Kornilova case had become a national sensation of the course of the next month. Her case was re-opened due to the public out-cry of her pregnancy. Dostoevsky stated that he “happened to play a certain role in this case... that the initial guilty verdict on Kornilova was quashed precisely as a result of the idea set forth in the *Diary*.”<sup>45</sup> The verdict of the new trial weighed heavily upon whether a pregnancy could change a woman’s

train of thought. The question of whether this hormonal imbalance could allow for Kornilova to throw her step-daughter out of a window became to the key piece of evidence. Three out of the five doctors called to court to discuss the matter agreed with Dostoevsky, with only one frankly dismissing the claim. The defendant was found not guilty on April 22, 1877, and Dostoevsky was able to find solace that one had been adjudicated on correctly.

The re-trial of Kornilova and the positive reaction felt by Dostoevsky offers insight to the writer's perspective. Her case simply affirmed the fact that Dostoevsky wanted a moral judgement rather than a technical letter of law. He did not want to oppose the Judicial Reform simply because it marked the rise of Western philosophy in Russia; in fact, Dostoevsky started his journalism career in favor of the courts. The courts were being corrupted by the strict interpretation of law and the reversal of Kornilova's initial sentence to hard labor was a sign of this. Her re-trial affirmed two things in the mind of Dostoevsky: every Russian was given their own form of justice dependent on their case, and that a trial is strictly meant to find whether or not someone is guilty. This was one the first time since before the Kroneberg case that Dostoevsky extolled the decision of the court. Not because he agreed with the tenets of the reform but because he believed that this was how a judicial branch was supposed to function.

Dostoevsky's ideal courtroom would therefore look more like the inside of a confessional. The belief that a court was simply meant to assess guilt rather than to implement justice illustrated the religious role the judiciary was meant to have. Religion was what was supposed to integrate a criminal back into society. Rhetoric and status were the enemies of this as someone who was truly guilty could have been absolved of a sin without either the repentance of their own soul, or the adjudication of a jury. Men such as Kroneberg epitomized this notion because they were able to be viewed as technically innocent even though the welts and bruises

had still not healed on his daughter. This point was also proven by a jury who Dostoevsky deemed incompetent for not being able to see the innocence of a woman like Kairova without accepting her sanity.

Dostoevsky's logic was anything but straightforward however, and this his passion for the Kornilova case demonstrated this fact. The pleasure that he gained from being the cause of a re-trial does come into direct conflict with his assertion that juries can be easily influenced. How can Dostoevsky, who is skeptical that justice can be obfuscated by lawyers, boast that he was able to force a re-trial? He is doing precisely what he hated most which is swaying the decision of the courts. In fact, he may be a worse perpetrator of this simply because the trial had been concluded by the time of his involvement. To this accusation, one can only make a single feasible reply: Dostoevsky was primarily concerned about absolution rather than influence. He detested lawyers for their power to obscure justice. This meant that he hated the idea of a bastardization of law and more importantly, anyone who intentionally perverted the letter of the law for personal aggrandizement. Lawyers such as Spasovich fit that image and were precisely what Dostoevsky tried to fight against.

Gaining fame, or conversely, notoriety, in court was one issue Dostoevsky would fervently fight. This was not his only passion, however, as was proven by one of the biggest cases in Russia. A large issue at this point in 19<sup>th</sup> century Russia was the usage of the court as a platform for political dissemination. Printing any view that was contrary to what the tsar wanted his people to know was impossible due to heavy censor laws at the time. Because courts were a place where the crimes of a man or woman would be intrinsically linked to laws, a natural debate about government ensued. By far the most important of these cases was that of Vera Zasulich, a woman who shot a Russian officer to gain vengeance for a fellow revolutionary who was flogged

for not taking off his cap in a show of respect. She admitted her guilt and was tried based not on what she had done, but on the character of her person

Although Dostoevsky had stopped writing *A Writer's Diary* by the time of Zaslulich's case in 1878, he was still involved with the trial directly. He was able to gain a ticket to the trial through his connections and was admitted as a member of the press.<sup>46</sup> What made Zaslulich's case more intriguing than any other at that time was that the Russian government chose to try her by a jury rather than in a court of the Senate. Seeing as how her motivation was deemed political, the Russian government had a right to put this case in the hands of the senate. They did not do this, however, because they believed it would be an easy conviction and show that the government was staying out of court affairs. Unfortunately, both Zaslulich's lawyer, P. A. Aleksandrov, and the St. Petersburg circuit court judge, A. F. Koni, had no intention of kowtowing to the government's wishes.

Aleksandrov began his case by expanding on the unlawful whipping of Bogolubov, Zaslulich's political cohort. He explained how her sympathy and kind-hearted nature lead her to become dear friends with anyone who "was forced to drag out the miserable existence of a political suspect."<sup>47</sup> The loquacious lawyer was already priming his jury to understand two things about Zaslulich in this statement: That her political inclinations alienated her from Russia, and that her well-intentioned soul forced her to act harshly. He went on for the duration of the trial defining her character. He accused the press of remaining silent on the matter which had no way of evading the ever present eye of the censors. He even put the public on trial for not speaking out against the injustice. Aleksandrov made a point to put Zaslulich on a pedestal; one that would prove that she was a political activist rather than an attempted killer:

It was the clank of his [Bogolubov's] chains which troubled her soul... And suddenly, an unexpected thought brightened her mind: 'Oh, I myself!... If I

commit a crime... the silenced question about Bogolubov's punishment will arise; my crime will provoke a public trial, and Russia, in the person of her people's representatives, the jury, will be compelled to pronounce a verdict not on me alone'...<sup>48</sup>

After this speech the jury began their deliberation. They were not gone long when the foreman returned to read the verdict. Zasulich was found not guilty of attempted murder, and an uproarious exclamation swept over the crowd.

Dostoevsky's philosophy would initially look to support a non-guilty verdict of Zasulich. However, his belief was in the absolution of the soul, not absolution because of the soul. Dostoevsky firmly thought that a good hearted person, who came to an understanding of their wrong-doings through the trial process, had atoned for their sins. Zasulich was found not-guilty because the way Aleksandrov fought the nature of the crime. He claimed that Zasulich's character and her motivation were enough to be considered innocent. Koni, the judge presiding over the case, did nothing to steer the case towards the facts. This left Dostoevsky questioning the validity of the outcome as it was not with what he associated Russian Justice.

Dostoevsky's attempt at a trial

The final book of *The Brothers Karamazov* was indicative of Dostoevsky's evolution as a supporter of the initial reform to one of its harshest critics. "A Judicial Error," as is the name given to the book, illustrates how the ensuing trial had become the image of what Dostoevsky reviled in the new system. Dmitry Karamazov, eldest brother and man who stood accused of patricide, was the embodiment of this criticism and gave Dostoevsky the power to create the exact scenario to show what the reform had done to Russian justice. The novel, written in 1881, became Dostoevsky's voice for vilifying both juries and lawyers alike. He maintained that "truth

and trial by jury [were] inherently incompatible” and that the two could only coincide when “we grow wings and all people are converted into angels.”<sup>49</sup>

Writing a novel gave Dostoevsky an outlet. This afforded him the chance to create a trial which every piece moved the way he wanted. Inasmuch, the jury in *The Brothers Karamazov* were granted a freedom that neither he nor any other jury were granted. He allowed them the ability to resist captivation by lawyers. The lawyer who represented Dmitry Karamazov, Fetyukovich, had no success using his genuinely amicable disposition. And on the other hand the inflammatory, yet renowned, Ippolit Kirillovich, found little success in swaying the jury either. Dostoevsky proved that he created a perfect jury when he wrote: “Fetyukovich himself was completely certain of his success. He was surrounded, congratulated, fawned upon... ‘There are invisible threads binding the defense attorney and jurors... you can be assured that the case is ours.’”<sup>50</sup> Fetyukovich’s mistake was that he made a connection to the real world in a fictional work.

The jury was therefore subject to the details of the trial. Dostoevsky used his knowledge of previous cases to look directly at the circumstances of Dmitry’s. Seeing the connection of cases like Kairova’s and Kornilova’s begin to shed light on how he planned to this trial. In the Kairova case, Dostoevsky antagonizes the decision to release the defendant based on temporary insanity. He cannot disagree with the same verdict in the case of Kornilova however, as he was a major factor in her Postpartum plea. The difference was that Dostoevsky believed in temporary insanity, but did not believe in the exploitation of it as an excuse. Dostoevsky expressed this belief in *The Brothers Karamazov* by giving Fetyukovich the ability to use insanity but never taking it seriously.



This section of the novel does introduce expert testimony, which is the true matter of relevance to both Kairova and Kornilova. Dostoevsky used this to show the pitfalls of witnesses. Three doctors were called upon to show the state of Dmitry's mind: Dr. Herzentube, A famous, yet unnamed doctor from Moscow, and Dr. Varvinsky were all called upon to assess the validity of an insanity plea. In the view of author Gary Rosenshield, all three men had testimonies that were compromised due to the character of the witness.<sup>51</sup> Dr. Herzentube was portrayed as an old doctor who was no longer relevant in the medical world. The unnamed doctor simply came for the money, but ended up trying to demonstrate his prowess over Herzentube by disproving everything he said. Lastly, Dr. Varvinsky could not "resist the temptation of contradiction for its own sake," which led him to disagree with the other two doctors.<sup>52</sup> The three based their judgment on Dmitry's state of mind by how he walked into the courtroom. This is a comical poke by Dostoevsky to illustrate that these testimonies were based not on an actual diagnosis, but on the ability to become famous for being the key witness in a paramount case. The trial became too popular and thus it muddled the validity of any actual psychological examination.

The reason that Dostoevsky did not dismiss these testimonies completely was because he did not want to show that the famous lawyer Spasovich, in the Kroneberg trial, had been right. Spasovich won his case due to the bending of the definition of child abuse and his way of undermining every witness as "hostile." In *A Writer's Diary*, Dostoevsky referred to this as "Spasovich's art." He explains that Spasovich "absolutely destroys at a stroke the most telling witness against his client... He merely seized upon one short phrase and exploited it."<sup>53</sup> Dostoevsky had to be careful by discounting his witnesses because he would not succumb to the level of Spasovich and condemn every witness as hostile in order to make prove his point about the dangers of trusting whole-heartedly the testimonies of experts.<sup>54</sup>

Dostoevsky created this perfect jury in order to prove his earlier conviction that truth and trial were two separate entities. He did this by giving his reader access to the knowledge that Dmitry's father, Fyodor Karamazov, was killed by the servant Pavel Fyodorovich Smerdyakov. The jury was not given the same information as the reader, and in the true sense of dramatic irony, was left to convict Dmitry. His innocence meant nothing, and the eloquent speeches of both lawyers could not detract from the evidence. The fact was that Dmitry was in his father's house the night of the murder with a motive to kill him. Dostoevsky's jury did not make a mistake yet proved that the system could still render an incorrect verdict. He offered a counter to the idea that justice and a trial were synonymous, thus proving that an unbiased jury had the capacity to err.

Though the jury proved resilient to the tactics Dostoevsky's rhetorical lawyers, one may not discount their effect towards self-aggrandizement. It was written that Kirillovich, "who ever since Petersburg had always thought himself injured by someone, because his talents were not properly appreciated, had been resurrected in spirit by the Karamazov case and even dreamed of resurrecting his flagging career through it."<sup>55</sup> He was revitalized by the idea that his career could be restored to where it once was before a previous trial where Fetyukovich had embarrassed him. Kirillovich was not particularly concerned with the facts of the case so much as he was interested in his movement through Russian social circles. It did not matter that the jury ruled in his favor because he was out to impress the audience, which, at the end of the novel, he certainly does. Fetyukovich is guilty of this as well due to the fact that he took on the case solely for its high-profile nature.<sup>56</sup> The plea that he makes in the novel was one that resembled the Zasluch case. He begs the jury to acquit Dmitry not because of any perceived innocence, but because Dmitry can be saved through Christian salvation. Like Zasluch, Dmitry was being defended based on

his character rather than the nature of the crime. Unlike the Zasluch case, however, the jury was now acting in accordance to Dostoevsky's philosophy. They looked at the facts and gave their verdict. This fit in line with Dostoevsky's beliefs because he wanted the absolution of the soul to be intrinsically tied with the punishment, not with the pronouncement of guilt.

The Zasluch case was one of the most important factors in influencing Dostoevsky's lawyers during the trial scene. One of the bigger issues that he had with the new trial system was how it gave a podium to anyone who wanted to make a political scene of a case. Such as with Zasluch, who Dostoevsky took pity on, he was baffled at how her lawyer, Aleksandrov, could create such a political frenzy over a legal matter. In the novel, Fetyukovich is never portrayed as the savior of Dmitry. He is simply someone who was hired, and thus he did his job. He even explains to the jury why he took the case, citing it to be "in order to demolish this terrible totality of facts and show how undemonstrable and fantastic each separate accusing fact is."<sup>57</sup> He never believed his client to be innocent, but simply knew that he could create political upheaval through the trial. As Rosenshield states, Fetyukovich was a "lawyer-citizen," someone who wanted to shape public opinion and replace the metaphysical concept of being Russian with a more enlightened, European philosophy.<sup>58</sup> This was precisely what the Slavophile in Dostoevsky hoped never to see. An internal struggle was therefore westernizing the country in ways which even Napoleon failed to do in 1812. Lawyers who simply saw their job as a technical position rather than a moral one were who Dostoevsky feared.

## Conclusion

At the end of the novel, Dmitry Karamazov is pronounced guilty and sentenced to twenty years of hard labor. His trial became a parable for future Russian proceedings on juridical

matters. Dostoevsky's rebuke of the trial allowed his reader to understand the dangers of the reform of 1864. Though what many hailed as a successful improvement on an otherwise flawed system, Dostoevsky became bitter. His mood changed from the point of his return from Siberia and he slowly became cynical of the change that had taken place. From his passionate writings in *A Writer's Diary*, Dostoevsky's emotions can be traced back through some of the earlier cases of the reform. His satisfaction of the release of Kairova can be matched by displeasure of the circumstances which brought it about. A further disparaging view of Kroneberg and his lawyer Spasovich are illustrated to show the true negative side of a jury trial. And the case of Kornilova, who became his one bright point of adjudication, showed further that the system needed the persistence of the Russian people to prove absolution. Dostoevsky used these cases, as well as cases like the Zsulich's, to articulate the problems of a system he believed was inherently flawed. The concept of a guilty verdict being tied to a light sentence was what he believed to be the perfect form of justice. For Dostoevsky, law and justice were two different matters. Justice was tied to righteousness whereas the law was a man-made construct which had the ability to be wrong.

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<sup>1</sup> W. Bruce Lincoln, *The Great Reforms: Autocracy Bureaucracy, and the Politics of Change in Imperial Russia* (Dekalb: Northern Illinois University Press, 1990), 38.

<sup>2</sup> Richard S. Wortman, *The Development of a Russian Legal Consciousness* (Chicago: University of Chicago Press, 1976), 244.

<sup>3</sup> Nicholas V. Riasanovsky and Mark D. Steinberg, *A History of Russia* (Oxford: Oxford University Press, 2011), 228.

<sup>4</sup> Wortman, *Russian Legal Consciousness*, 237.

<sup>5</sup> Wortman, *Russian Legal Consciousness*, 237-238.

<sup>6</sup> E. Willis Brooks, "Reform in the Russian Army, 1856-1861," *Slavic Review* 43, no. 1 (1984): 69.

<sup>7</sup> Edward C. Thaden, *Russia Since 1801: The Making of a New Society* (New York: John Wiley and Sons, 1971), 193.

<sup>8</sup> Thaden, *Russia Since 1801*, 197.

<sup>9</sup> Wortman, *Russian Legal Consciousness*, 238.

<sup>10</sup> Wortman, *Russian Legal Consciousness*, 238.

<sup>11</sup> Gary Rosenshield, *Western Law, Russian Justice: Dostoevsky, the Jury Trial, and the Law* (Madison: University of Wisconsin Press, 2005), 21.

<sup>12</sup> Wortman, *Russian Legal Consciousness*, 38.

- <sup>13</sup> Daniel H. Kaiser and Gary Marker, "The Table of Ranks of All Grades: Military, Administrative, and Court," in *Reinterpreting Russian History: Readings, 860-1860s*, ed. Daniel H. Kaiser and Gary Marker (Oxford: Oxford University Press, 1994), 228.
- <sup>14</sup> Wortman, *Russian Legal Consciousness*, 38-40.
- <sup>15</sup> Walter M. Pintner, "The Russian Higher Civil Service on the Eve of the Great Reforms," in *Reinterpreting Russian History: Readings, 860-1860s*, ed. Daniel H. Kaiser and Gary Marker (Oxford: Oxford University Press, 1994), 265.
- <sup>16</sup> James T. Flynn, "Magnitskii's Purge of Kazan University: A Case Study in the Uses of Reaction Nineteenth-century Russia," *Journal of Modern History* 43 no. 4 (1971): 609.
- <sup>17</sup> Flynn, "Magnitskii's Purge," 609.
- <sup>18</sup> Flynn, "Magnitskii's Purge," 603.
- <sup>19</sup> Flynn, "Magnitskii's Purge," 610.
- <sup>20</sup> Daniel H. Kaiser and Gary Marker, "The Political Debates," in *Reinterpreting Russian History: Readings, 860-1860s*, ed. Daniel H. Kaiser and Gary Marker (Oxford: Oxford University Press, 1994), 435.
- <sup>21</sup> Irena Reshetnikova, "Judicial Reforms in Russia: 1864 to 2014," *Russian Law Journal* 3 no. 2 (2015): 113.
- <sup>22</sup> Sarah Hudspith, *Dostoevsky and the Idea of Russianness* (London: RoutledgeCurzon, 2004), 3.
- <sup>23</sup> Abbott Gleason, *Young Russia: The Genesis of Russian Radicalism in the 1860s* (Chicago: University of Chicago Press, 1980), 35.
- <sup>24</sup> D.S. Mirsky, *A History of Russian Literature: From Its Beginnings to 1900*, ed. Francis J. Whitfield (New York: Vintage Books, 1958), 182-183.
- <sup>25</sup> D.S. Mirsky, *History of Russian Literature*, 275.
- <sup>26</sup> Gary Rosenshield, "The Imprisonment of the Law: Dostoevskij and Kroneberg Case," *Slavic and East European Journal* 36, no. 4 (1992): 418.
- <sup>27</sup> Rosenshield, "Imprisonment of the Law," 418.
- <sup>28</sup> Ksana Blank, *Dostoevsky's Dialectics and the Problem of Sin* (Evanston: Northwestern University Press, 2010), 97.
- <sup>29</sup> Fyodor Dostoevsky, *Notes From Underground*, trans. Richard Pevear and Larissa Volokhonsky (New York: Vintage Books, 1994) 5.
- <sup>30</sup> Fyodor Dostoevsky, *A Writer's Diary vol. I*, trans. Kenneth Lantz (Evanston: Northwestern University Press, 1993), 474.
- <sup>31</sup> Dostoevsky, *A Writer's Diary*, 475.
- <sup>32</sup> Blank, *Dostoevsky's Dialectics*, 38.
- <sup>33</sup> Dostoevsky, *A Writer's Diary*, 476.
- <sup>34</sup> Rosenshield, *Western Law*, 34.
- <sup>35</sup> Dostoevsky, *A Writer's Diary*, 478.
- <sup>36</sup> Rosenshield, "Imprisonment of the Law," 418.
- <sup>37</sup> Dostoevsky, *A Writer's Diary*, 365.
- <sup>38</sup> Dostoevsky, *A Writer's Diary*, 365.
- <sup>39</sup> Dostoevsky, *A Writer's Diary*, 382.
- <sup>40</sup> Dostoevsky, *A Writer's Diary*, 378.
- <sup>41</sup> Rosenshield, *Western Law, Russian Justice*, 33.
- <sup>42</sup> Dostoevsky, *A Writer's Diary*, 384.
- <sup>43</sup> Dostoevsky, *A Writer's Diary*, 641.
- <sup>44</sup> Dostoevsky, *A Writer's Diary*, 725.
- <sup>45</sup> Fyodor Dostoevsky, *A Writer's Diary vol. II*, trans. Kenneth Lantz (Evanston: Northwestern University Press, 1993), 1221.
- <sup>46</sup> Rosenshield, *Western Law, Russian Justice*, 135.
- <sup>47</sup> Samuel Kucherov, "The Case of Vera Zasulich," *Russian Review* 11, no. 2 (1952): 89.
- <sup>48</sup> Kucherov, "The Case of Vera Zaulich," 91.
- <sup>49</sup> Rosenshield, *Western Law, Russian Justice*, 131.
- <sup>50</sup> Fyodor Dostoevsky, *The Brothers Karamazov*, trans. Richard Pevear and Larissa Volokhonsky (New York: Vintage Books, 1990), 751.
- <sup>51</sup> Rosenshield, *Western Law, Russian Justice*, 143.
- <sup>52</sup> Rosenshield, *Western Law, Russian Justice*, 143.
- <sup>53</sup> Dostoevsky, *A Writer's Diary*, 370.

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- <sup>54</sup> Rosenshield, *Western Law, Russian Justice*, 143.  
<sup>55</sup> Dostoevsky, *The Brothers Karamazov*, 658.  
<sup>56</sup> Dostoevsky, *The Brothers Karamazov*, 658.  
<sup>57</sup> Dostoevsky, *The Brothers Karamazov*, 726.  
<sup>58</sup> Rosenshield, *Western Law, Russian Justice*, 179.

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