

The Problem of the Law: Nikolai Gogol and Nineteenth-Century Russian Literature

By

Naomi Olson

A dissertation submitted in partial fulfillment of  
the requirements for the degree of

Doctor of Philosophy

(Slavic Languages and Literature)

at the

UNIVERSITY OF WISCONSIN-MADISON

2015

Date of Final Oral Examination: May 7, 2015

The dissertation is approved by the following members of the Final Oral Committee:

Judith Deutsch Kornblatt, Professor Emerita, Slavic Languages and Literature

Karen Evans-Romaine, Professor, Slavic Languages and Literature

Alexander Dolinin, Professor, Slavic Languages and Literature

Andrew Reynolds, Associate Professor, Slavic Languages and Literature

David McDonald, Professor, Department of History

For Oma and Claire

## Acknowledgments

This project would not have been possible without Daniel Olson, my very favorite person, who has patiently and lovingly provided support, humor, encouragement, and inspiration throughout my every endeavor. I extend deep gratitude to my parents, Jane and Michael Bethel, who from my earliest memories have emphasized academic rigor and intellectual engagement. Katrina and Bruce Olson deserve special recognition for the love and support they have provided. My heartfelt appreciation also extends to my advisor and fellow Gogolophile, the inimitable Dr. Judith Deutsch Kornblatt, whose spirit, integrity, commitment, and scholarly insight never fail to impress. I am honored to have received guidance from such an admirable and inspiring individual.

Several scholars have provided support from which this project has greatly benefited. Alexander Dolinin, Marina Antic, Andrew Reynolds, Karen Evans-Romaine, David McDonald, and Tomislav Longinovic have offered essential advice. For their assistance translating Russian phrases and folk-sayings, I am indebted to Dasha Ivashniova, Anna Ushamirskaya, and Igor Buyalsky.

In addition to valuable contributions to the content of this project, I would like to thank the entire “UW Slavic Mafia” (University of Wisconsin-Madison Slavic Department scholars both past and present) for their unwavering friendship, fellowship, humor, and support. I am especially grateful to Molly Thomasy Blasing, Stephanie Richards, Sarah Kapp, Molly Peeney, Jesse Stavis, Anna Tumarkin, Amanda Murphy, Sergey Karpukhin, Melissa Miller, Kat Scollins, Viktoria Kononova, Shannon Donnally Spasova, and Jennifer Tishler. Special thanks also to Lori Hubbard, Masha Kisel, Nicole Butkovich Kraus, and Jane Roberts. I cannot overstate how deeply I cherish my Slavic friends and colleagues.

**Table of Contents:**

Introduction: Russian Letters and the Law	1
Chapter One: Horizontal and Vertical Law	26
Chapter Two: Demonic Law and Divinely-Inspired Mercy	97
Chapter Three: The Monster and the Machine	164
Conclusion: Liminality	245
Bibliography	258

## Abstract

This dissertation examines why and how nineteenth-century Russian writers shaped an enduring, fundamentally negative image of the law, with a particular focus on Nikolai Gogol.

Chapter One, “Horizontal and Vertical Law,” employs an historical model of legal systems to compare elements of informal resolution known as “horizontal law” to modern bureaucratic legal systems known as “vertical law” in Gogol’s “The Tale of How Ivan Ivanovich Quarreled with Ivan Nikiforovich” and Aleksandr Pushkin’s *Dubrovskii*.

Chapter Two, “Demonic Law and Divine Mercy,” incorporates insights from Iurii Lotman’s “‘Agreement’ and ‘Self-giving’ as Archetypal Models of Culture” to compare the law and its “agreements” to another major alternative to the modern legal system: the imperial appeal. This chapter analyses imperial appeals in Gogol’s “The Night before Christmas,” Pushkin’s *Captain’s Daughter*, and Lev Tolstoi’s *War and Peace* and *Resurrection*. As both chapters show, while they appear as favorable extralegal alternatives, neither horizontal law nor the imperial appeal serve as reliable means to moral justice.

Chapter Three, “The Monster and the Machine,” introduces a typology of nineteenth-century legal-literary characters: the “morally vacant authority figure,” the “legal predator,” and “the questioner.” Analyses of the ways in which these characters demonstrate the absurdity, limitations, and cruelty of the law follow illustrations of each character type in texts by Gogol and other authors, including Mikhail Satlykov-Shchedrin, Vladimir Odoevskii, Aleksandr Sukhovo-Kobylin, Lev Tolstoi, Aleksandr Ostrovskii, and Fedor Dostoevskii. Theories of comedy and laughter inform the analysis of the ways in which these writers use humor to depict the law and use legal tropes to create humorous situations in the texts, all the while underlining the inhumanity of the law.

The conclusion elaborates on the notion of the legal realm as hostile to humanity by probing the ways in which the law facilitates a breakdown of the distinction between the living and the dead, or the existent and the nonexistent. By depicting the bureaucratic, hyper-rationalized legal system of the law as something inherently threatening to the human condition (while refraining from upholding a viable alternative), Gogol and many of his fellow Russian writers express an ambivalence to legal justice that pervades nineteenth-century literary depictions of the legal realm.

**Introduction:****Russian Letters and the Law**

Everywhere one can see a remarkable phenomenon, namely, the laws have gone beyond their limits and have trespassed on areas that do not belong to them.

*Nikolai Gogol, Selected Passages from  
Correspondence with Friends*

Where there's law there's injustice.

*Lev Tolstoi, War and Peace*

Russians' cynicism towards the judiciary has become a modern cultural cliché, but the problematic relationship between the individual and the law in Russian culture is by no means a modern phenomenon. Nor should it be understood as a simple stereotype. One of the most fruitful venues in which to examine the complexities of this phenomenon is the literature of the nineteenth century, a period in which discourse actively revolved around questions of culture, history, national identity, and in no small part the question of law and the judiciary.

Scholars seeking an understanding of the intersection of moral responsibility and the law in the nineteenth century have traditionally turned to works in which authors explicitly address legal topics. It is not difficult, for instance, to locate major questions of legality and morality posed in Dostoevskii's *Crime and Punishment* and *Brothers Karamazov* or Tolstoi's *Resurrection*. Yet as I demonstrate in the chapters that follow, nineteenth-century Russian

writers also engage with legal themes in surprisingly complex ways and in rather unexpected places. While there is no dearth of scholarship on the works of Nikolai Gogol, the question of the portrayal of the law in Gogol's texts remains underexplored.<sup>1</sup> The current investigation fills this gap in understanding both Gogol's portrayal of the law and the way that this engagement connects him and his work to other legal-literary texts in the nineteenth-century canon.

Like the impetus for much scholarly research, this dissertation was borne of a haunting encounter with one specific text: Gogol's "The Tale of How Ivan Ivanovich Quarreled with Ivan Nikiforovich." With its jocular beginning and proto-nihilistic ending, this tale about an interminable legal battle inspired an intense curiosity in me. In the legal aspects of this tale I sensed something more profound than a caricature of judicial corruption and inefficiency – something existentially unsettling. From initial questions about the depictions of legal encounters in this text, further research led me to a broader investigation not only of texts by other nineteenth-century Russian authors, but also of texts from the period that do not explicitly engage with the law. I wanted to understand what the law is "doing" in these texts; what, if anything, these narratives "say" about the law; and why and how nineteenth-century authors engage with legal themes. While my investigation confirms an overall negative relationship to the law in these texts, my analysis of texts by Gogol and his cohort reveals compelling ambiguities and tensions in these depictions that endure throughout the century.

Gogol's fictional portrayals of the law and its servitors are indeed rife with comedic mockery of judicial corruption, yet the implicit criticisms of the law are by no means one-sided. Gogol's depictions of bribe-taking judges and derelict courtroom chambers hint at deeper

---

<sup>1</sup> Russian names and words are transliterated using the Library of Congress system (without diacritical marks) throughout this dissertation with the notable exception of Gogol', which is rendered simply as Gogol to avoid duplicate apostrophes when referring to the author in the possessive.



tensions raised by the prospect of the increasingly centralized legal bureaucracy of an absolutist state. More than a lampoon of the provincial courts, Gogol's encounters with the law are critical of the implementation of the law, the corrupt and corrupting legal culture, and the very principles of legal objectivism upon which the law is founded. As expected, close readings of Gogol's literary legal scenarios reveal the ways in which the legal system fails the individuals who encounter it. Less predictably, however, these depictions also demonstrate surprising ways in which alternatives to the law, despite their apparent advantages, similarly fail to serve as a conduit for true justice. Gogol's relevance in the legal-literary canon of the nineteenth-century stems from the frequency with which the specific themes, devices, and tensions so well articulated in Gogol's legal scenarios emerge in texts by his fellow and subsequent writers. The critical and ambiguous aspects characterizing Gogol's portrayals of the law can be identified in texts by authors from as early as Vladimir Odoevskii (1833) to as late as Lev Tolstoi (1899).

An entire field of inquiry dedicated to questions of the law in literature has grown substantially within the past hundred years of literary scholarship.<sup>2</sup> The examination of satirical depictions of judicial corruption and the absurdities of procedural norms is not a novel subject in literary scholarship.<sup>3</sup> The notion of the proceduralism of the law as antithetical to human justice has been explored in works from the earliest records of modern literature and in texts far beyond the borders of the Slavic lands, from Aristophanes and William Shakespeare to Charles Dickens and Franz Kafka.<sup>4</sup> To consider this conflict between law and justice in specific contexts outside

---

<sup>2</sup> For more on the law and literature "movement," see Richard Posner, *Law and Literature: A Misunderstood Relation* (Cambridge: Harvard University Press, 1988). For studies of "dislocations of law and morality," from classical antiquity to the late twentieth century, see Theodore Ziolkowski, *The Mirror of Justice: Literary Reflections of Legal Crises* (Princeton: Princeton University Press, 1997), 18.

<sup>3</sup> For the connections between bureaucracy and absurdity beyond the Russian context, see Harry Cohen, *The Demons of Bureaucracy: Problems of Change in a Government Agency* (Ames: Iowa State University Press, 1965). See also Karl Ryavec, *Russian Bureaucracy: Power and Pathology*. Lanham: Rowman & Littlefield, 2003.

<sup>4</sup> For an early example of such scholarship, see Irving Browne, *Law and Lawyers in Literature* (Boston: Soule and Bugbee, 1883).

of Western European or American legal traditions, however, remains a relatively underexplored area in the field of law and literature. Elizabeth Gemmette's relatively recent collection, *Law in Literature: An Annotated Bibliography of Law-Related Works*, for instance, includes only a handful of Russian or Soviet texts among the 250-odd entries in the collection.<sup>5</sup> Underscoring the need to address literary representations of the law that stem from a variety of legal traditions, there has been a relatively recent call for more analyses of literary-legal phenomena in texts beyond the canon of Western European and American literatures.<sup>6</sup>

Gogol was by no means the first Russian author to use satirical humor to depict the legal realm and its servitors.<sup>7</sup> As the third chapter of this dissertation discusses, however, Gogol's nineteenth-century texts differ from previous eighteenth-century literary treatments of legal themes by offering a more sophisticated critique of judicial institutions and the categorization and bureaucratization of human life.

The scope of this project is very specific: to understand both why and how Gogol and others shaped a negative image of the law in nineteenth-century Russian literature. The emphasis on Gogol as a particularly important figure in the literary-legal canon serves a twofold purpose: to demonstrate the heretofore-overlooked importance of themes of law and justice in his texts, and to highlight the fact that all of the various legal motifs that appear throughout works by writers throughout the nineteenth century all appear in Gogol's texts. As the third chapter of this dissertation addresses, Gogol's textual engagements with the law are neither the first nor the

---

<sup>5</sup> The collection includes texts by Fedor Dostoevskii, Lev Tolstoi, Boris Pasternak, and Aleksandr Solzhenitsyn. See Elizabeth Gemmette, *Law in Literature: An Annotated Bibliography of Law-Related Works* (Troy: Whitston, 1998).

<sup>6</sup> See, for instance, Greta Olson, "De-Americanizing Law and Literature Narratives: Opening Up the Story," *Law and Literature*, 22.2 (2010): 338-364.

<sup>7</sup> Earlier treatments of legal themes in early Russian literary history include the anonymous seventeenth-century works *The Judgment of Shemiaka (Shemiakin Sud)* and *The Tale of Ersh Ershovich (Povest' o Ershe Ersheviche)*. Antiokh Kantemir, Aleksandr Sumarokov, Ivan Khemnitser, and Gavriila Derzhavin also write about corruption in the judicial system. See Ivan Goliakov, *Sud i zakonnost' v russkoi khudozhestvennoi literature XIX v.* (Moskva: Izdatel'stvo Moskovskogo universiteta, 1956), 83-88.

most explicit in the nineteenth-century literary canon. Gogol likely drew inspiration from popular folk-sayings, eighteenth-century and earlier precedents, and works by his own contemporaries, which in turn were likely indebted to ancient and Western European sources. Yet Gogol's sophisticated manner of critiquing not only the vice of corruption, but also the limitations and absurdity of the bureaucratic mentality of the legal sphere as a whole, is undeniably more sophisticated than the techniques of his predecessors. It is precisely the wide variety of specific legal tropes featured in *Gogol's* texts that become conventional in the nineteenth-century literary treatment of legal themes, including texts by Aleksandr Pushkin, Tolstoi, and Dostoevskii. Though proving direct influence is not a goal of this dissertation, it is significant that in many cases Gogol was the first to depict a specific legal scenario or trope, and that he continued to explore these themes throughout his literary career.

In an effort to understand *why* the law takes such negative shape in nineteenth-century fictional texts, the first two chapters, "Horizontal and Vertical Law" and "Demonic Law and Divinely-Inspired Mercy," examine two alternatives to the law present in this literature's critique of law: informal mediation, and the imperial appeal, respectively. In an attempt to understand *how* such a negative composite portrait of the law crystallizes throughout the nineteenth century, the final chapter, "The Monster and the Machine" offers an interpretive typology of recurring legal character types who embody and illustrate negative characteristics of the fictionalized Russian legal system. In-depth literary analyses of these works, which take into consideration their social, historical, and artistic contexts, suggest that in the Russian literary tradition of the nineteenth century, the concept of rational and secular justice remains both subordinate to and irreconcilable with forms of judgment based on intuition, spirit, and conscience.

By portraying alternative methods to legal decisions that invoke and promote values held sacred in a specific line of thinking that privileges Russian Orthodox traditions vis-à-vis the West, and by characterizing the law with negatively-charged motifs, Gogol and other nineteenth-century writers communicate, by means of contrast, a set of ideals that are admirable, but not always sufficient, in precisely the ways that the law is not.

### **Scholarship on Law in Russian Literature**

While “the law” in Russian literature is not a novel topic of research, my focus on legality rather than morality, and some of the unorthodox texts I explore, offer a necessary addition to the canon of scholarship on the law in Russian literature. Unlike extant research on the topic, this study is not so much concerned with the relationship between the individual and his own conscience (at stake in depictions of violent crimes) or between the individual and the state (at stake in depictions of political crimes), as it is concerned with the relationship between the individual and the law itself (both its principle and in its manifested forms), at stake in depictions of a variety of cases including the often-overlooked category of civil lawsuits. In order to explore portrayals of the legal principles in conceptual terms, this examination also includes texts that do not explicitly engage with the law, but rather depict “legalistic” or contractual exchanges between individuals. By broadening the scope of the texts in a literary study of legal representations, this dissertation reveals the previously-overlooked legal dimensions of familiar or canonical texts of the nineteenth century.

The approach of this dissertation likewise distinguishes itself from previous scholarship on the law by focusing on the continuities shared among portrayals of the law in a variety of texts by authors writing in very different periods of legal history. The portrayal of attitudes

towards the momentous changes in Russia's courts accompanying the sweeping Judicial Reforms of 1864 (which opened the courts to the public, implemented a jury system, created an independent judiciary, and ushered in a new era of oral testimony and lawyerly performances of legal argumentation) has been well-studied, but often ignore how much stayed the same as the legal territory underwent a radical change.<sup>8</sup> Considerable scholarship on the law in Russian literature has been dedicated to topics such as depictions of the relative merits of the pre- and post-reform legal systems, explorations of the conflict between personal moral responsibility and legal culpability, and tensions between artistic authority and political power. Yet few studies examine Gogol's texts in their analyses; fewer still situate Gogol as an important figure in the Russian literary-legal canon.

Literary scholars such as Harriet Murav (1998), Catherine Nepomnyaschchy (1995), and Gary Rosenshield (2005) analyze philosophical and moral questions raised by sensational literary trials. In *Russia's Legal Fictions* (1998), Harriet Murav examines the dynamics of power in the relationship between reader and author, as well as those between author and regime, in a variety of violent and political 'crimes,' broadly defined.<sup>9</sup> Murav examines alleged historical crimes committed by authors, the fictional depictions of crimes, and the criminalization of literature itself (as exhibited in the trial of Iosif Brodskii). Through her exploration of the literary legal scenario as a metaphor for authority and authorship, Murav identifies ways in which authors become rulers or 'lawgivers' through the narrative process. As it primarily focuses on theatrical or performative aspects of trials in the post-reform period, Murav's study does not include analysis of Gogol's legal fictions.

---

<sup>8</sup> See, for example, Gary Rosenshield. *Western Law, Russian Justice: Dostoevskii, the Jury Trial, and the Law* (Madison: University of Wisconsin Press, 2005) 20.

<sup>9</sup> Harriet Murav, *Russia's Legal Fictions* (Ann Arbor: The University of Michigan Press, 1998).

In *Abram Tertz and the Poetics of Crime*, Catherine Nepomnyashchy also pursues a metaphorical reading of authorship as “crime” and the punitive aspects of legality in her examination of the literary and biographical narratives of Andrei Siniavskii.<sup>10</sup> Nepomnyashchy explores issues of transgression and taboo in the relationship between author, reader, and text in works written by Siniavskii during in Soviet literary period. Nepomnyashchy’s monograph offers a compelling look at notions of both legal, social, and artistic rules in real, fictional, and metaphorical trials.

Gary Rosenshield deconstructs the rhetorical and performative aspects of the narratives of the jury trial in *Western Law, Russian Justice: Dostoevskii, the Jury Trial, and the Law*. Rosenshield examines Fedor Dostoevskii’s fictional, journalistic, and personal writings in a detailed study of the author’s conflicted attitudes toward Russian legal institutions before and after the 1864 judicial reforms. Rosenshield’s study is the most thorough historical and literary study of the portrayal of the law by an author in Russian literature. Rosenshield’s focus is on the word of the author, the Word of God, and the dynamics of authority and authorship as explored in Dostoevskii’s legal literary texts. He examines how Dostoevskii’s conflicted attitudes toward the judicial reforms and the introduction of the jury trial appear in fictional and nonfictional writings on Russian law in the post-reform period. Whereas Rosenshield focuses specifically on the judicial reforms as a pivotal moment in the history of Russian legal development, my dissertation looks at the broader continuities in how Gogol and other writers throughout the nineteenth century shape a composite portrait of the law.

As his title indicates, Rosenshield’s study highlights the contrast between the *foreignness* of judicial procedure (referring specifically to the judicial reforms) to a *domestic* sense of justice

---

<sup>10</sup> Catherine Nepomnyashchy, *Abram Tertz and the Poetics of Crime* (New Haven: Yale University Press, 1995).

that is particularly Russian. As will be discussed, this notion—that the “law,” with its Western ideals, is something both other than and inadequate to more familiar, homegrown ideas about justice and morality—is a sentiment that appears importantly as well in Gogol’s writings and continues throughout the writings of several authors throughout the nineteenth century.<sup>11</sup>

In a sense, all of the abovementioned studies explore how notions of judgment, law, punishment, and power in literary legal scenes can teach us more about artistry and the creative act of writing. Rather than focusing on the struggle between authority and authorship, my research instead explores how and why Gogol and other canonical Russian writers helped shape a negative image of the law. I analyze how Russian authors react to and help create enduring thematic perceptions of the institutions that govern their lives. This study purposely looks at cases in which the nature of transgressions is neither overtly political nor moral, in hopes of singling out and parsing the characteristics of the legal—understood more as a governing process rather than a political instrument.

Depictions of mundane legal cases such as lawsuits and other primarily civil matters in Russian literature have not escaped the purview of notable historians and legal scholars. Although these studies do not conduct in-depth literary analyses, they are useful references. In his 1956 study *Court and Legality in Nineteenth-Century Russian Literature*, the Soviet legal expert Ivan Goliakov offers a catalog of nineteenth-century literary treatments of the law.<sup>12</sup> What it lacks in depth the encyclopedic study makes up for in breadth; Goliakov dedicates fourteen

---

<sup>11</sup> To privilege domestic tradition over imported Westernization is a central tenet of Slavophile thought, yet to situate Gogol and other nineteenth-century authors discussed in this dissertation into one of only two strictly-defined categories (of either the liberal Westernizers [*Zapadniki*] or the nationalist Slavophiles [*Slavofili*]) is beyond the scope of this project. For a nuanced understanding of the Westernizer/Slavophile discourse that dominated intellectual discussions in the middle of the century, see Susanna Rabow-Edling, *Slavophile Thought and the Politics of Cultural Nationalism* (Albany: State University of New York Press, 2006).

<sup>12</sup> Goliakov, *Sud i zakonnost'*. Goliakov was the Chief Justice of the Supreme Court of the Soviet Union.

chronologically-organized sections to legal depictions in works by individual nineteenth-century authors ranging from Radishchev to Korolenko. Although Goliakov's ideological agenda is transparent (he interprets the negative depictions of the law as the result of a bourgeois court system), his study is a helpful introduction to literary depictions of legal corruption.

In his seminal English-language study *The Development of a Russian Legal Consciousness*, renowned legal historian Richard Wortman refers to several moments in texts by Nikolai Gogol and other authors in order to illustrate the lamentable conditions of the pre-reform provincial Russian court system.<sup>13</sup> Wortman uses fictional legal depictions to complement his historical sources. The philologist Iurii Fedosiuk similarly uses anecdotes from Gogol's legal scenes to explain archaic aspects of legal administration with which contemporary readers may be unfamiliar in his Russian-language volume, *What's Misunderstood in Russian Classics: An Encyclopedia of 19<sup>th</sup>-Century Life*.<sup>14</sup>

An important feature of both Rosenshield's and Wortman's study is the focus on the significant impacts of the judicial reforms of 1864 in the private lives and the public sphere of inhabitants of the Russian empire at the time. The reforms initiated sweeping changes in Russian legal history (the establishment of a formally trained legal profession through the first institution of a bar and the establishment of the public jury trial system) that incited lively public discourse about justice and the legal system. While Rosenshield's and Wortman's studies focus on the changes brought about by the drastic reforms, as previously stated, my analysis focuses instead on the continuities in thought that remain despite these changes.

---

<sup>13</sup> Richard Wortman, *Development of a Russian Legal Consciousness* (Chicago: University of Chicago Press, 1976).

<sup>14</sup> Iurii Fedosiuk, *Chto neponiatno u russkikh klassikov ili entsiklopediia russkogo byta XIXogo veka* (Moscow: Flinta, 1998), 64-88.



Two articles from legal scholarship are noteworthy for their exploration of the phenomenon of the unequivocally negative treatment of legal themes and characters in nineteenth-century Russian literature. Both Michael Newcity's "Why is there no Russian Atticus Finch? Or Even a Russian Rumpole?" and Jessica Wilson's "Russia's Cultural Aversion to the Rule of Law," initiate an important line of scholarly inquiry by highlighting the significance of literary texts (including Gogol's) in both contributing and responding to Russian cultural perceptions of the law. Both scholars suggest that, although the Russian tradition has no singular claim to a critique of objective processes, the negative reception of legal objectivism in Russian culture is due to the incompatibility of legal principles and procedures with cultural traditions (which privilege the collective over the individual) and traditional Russian Orthodox values (which do not promote ideals of objectivity or rationality).<sup>15</sup>

Although my conclusions are in line with Newcity and Wilson, I approach the question from a literary, rather than a legal or historical perspective, and I use methods specific to literary analysis in my examination. My findings also expand significantly upon Newcity and Wilson: I demonstrate how writers pose particular concepts that are emphasized in the Russian Orthodox tradition (such as notions of *sovest'*, *sobornost'*, and *vruchenie sebia*) as counterpoints to specific features of the law and legal principles. My analyses examine the narrative structural devices, literary allusions, embedded social commentary, and linguistic play at work in these texts.

The study closest to the spirit and methodology of my line of inquiry is Anna Krivoruchko's recent dissertation, "Justice and How to Attain it in Russian Literature and Film"

---

<sup>15</sup> Michael Newcity, "Why is there no Russian Atticus Finch? Or even a Russian Rumpole?" *Texas Wesleyan Law Review* 12 (2005-6): 271-302. See also Jessica C. Wilson, "Russia's Cultural Aversion to the Rule of Law," *Columbia Journal of East European Law* 2.2 (2008): 195-232.

(2014).<sup>16</sup> Krivoruchko's multifaceted analysis investigates the topic of justice as it is presented in heterogeneous sources; she examines justice and mercy in Alexander Pushkin's *The Captain's Daughter*, identifies a breed of "legal tricksters" in tales by Nikolai Leskov, and contrasts the cultural values promoted in Nikita Mikhalkov's film *Twelve* to those expressed in Sidney Lumet's 1957 original, *Twelve Angry Men*. By using these diverse works by Pushkin, Leskov, and Mikhalkov as case studies, Krivoruchko posits three different ways to attain justice (appealing for mercy, legal trickery, and vigilante justice, respectively). Although the approach of my investigation shares some features with Krivoruchko's (the investigation of extralegal alternatives to the law and the incorporation of specific insights by Iurii Lotman, for example), the object of Krivoruchko's study is to examine the portrayal not of law, but of justice. The distinction is important, and ultimately, our conclusions about the attainability of justice differ.

Krivoruchko suggests that the abovementioned extralegal alternatives can function as a means to moral justice, whereas my analyses suggest that in nineteenth-century texts, moral justice is not attainable through any prescriptive secular means. On the contrary, my findings suggest that not a single extralegal alternative is presented as reliable, or without its own set of considerable limitations. Although I show that extralegal methods can indeed appear favorably relative to formalized legal channels, they too nevertheless fail to serve as universally accessible and viable conduits for the pursuit of true moral justice. I study extralegal alternatives to the law not in order to demonstrate how justice can be attained, but rather to illustrate how the positive characteristics in extralegal alternatives contrast with the inherently negative features of legal procedure.<sup>17</sup> In addition to offering an interpretation of some of same themes discussed by

---

<sup>16</sup> Anna Krivoruchko, "Justice and How to Attain it in Russian Literature and Film," Ph.D. diss., University of Southern California, 2014.

<sup>17</sup> For more on the necessity of pursuing extralegal means to true moral justice, see Rosenshield, *Western Law, Russian Justice*, 135-291.

Krivoruchko, my analyses also emphasize the importance of Gogol's role and place in the traditions of Russian literary legal texts.

Gogol's works are not widely considered relevant texts in Russian "law in literature" scholarship. Yet, as I argue, Gogol is an important figure in this discussion, as Gogol's texts contain many of the important tensions and themes that arise in more explicit or comprehensive detail in later works. Gogol's ridicule of the law offers a complex satirical look at the flawed implementation of objective legality and also expresses values important to Russian cultural identity, positive values that legal procedure, with its rigid and formulaic nature, contradicts.

### **Cultural Concepts of Justice and the Law**

As the terms do not denote analogous concepts in translation, any discussion regarding "law" and "justice" in Russia conducted in the English language requires clarification.

References in this dissertation to "the law" denote the formal legal institutions, regulations, procedures, and functionaries of the judicial bureaucracy of the Russian empire. As it is used in this dissertation, unless otherwise specified, the general term "the law" may correspond to the Russian terms *zakon*, *zakonodatel'stvo*, *iurisprudentsiia*, etc., but does not refer to any broader notions of law such as natural law or moral law, or to specific types of historical law, such as ecclesiastical or military law.

As it is commonly used in English, "justice" signifies the venerated concept of righteous judgment and fair objectivity. There are two ways to express concepts of "justice" in Russian that differ in nuanced, but significant ways. As Krivoruchko explains, the term *pravosudie* refers

to the “judicial administration of law or equity.”<sup>18</sup> Formed by the root words *prav* (“fair,” “true,” “right,” “law”), and *sud* (“court” or “judgment”), this term refers to legal fairness or correctness but significantly lacks a moral component. In contrast, the term *spravedlivost’* (similarly formed from the root *prav*) also refers to fairness, but, as Krivoruchko elaborates, also denotes “the quality of being [morally] just or righteous.”<sup>19</sup> While the similarities of the terms may cause confusion, the distinction between legal fairness and moral justice is of utmost importance. Indeed, therein lies the chief complaint about the objectivity of the law articulated in literary texts.

The distinction between objective legality or fairness and moral righteousness or truth is crucial in understanding comparisons between the law and its alternatives in literary texts. The concept of legal justice, for instance, is commonly opposed to an inner sense of right and wrong. Russians commonly cite the difference between judgments made according to the law (*po zakonu*) or by conscience (*po sovesti*).<sup>20</sup> This opposition emphasizes the fact that legal justice lacks something that cannot be achieved via impersonal legal procedure, but may be found instead within the conscience of an individual. It emphasizes the difference between intuition and formula. The fact that a synonym for judging “by conscience” is to judge *po spravedlivosti* (“by moral fairness”) emphasizes the difference between an objective legal judgment and a subjective moral one. The first extralegal alternative examined in Gogol’s texts in Chapter One examines precisely these differences between intuitive human judgment and procedural legal judgment.

---

<sup>18</sup> Anna Krivoruchko, “Law, Justice and Mercy in Russian and English Literature.” Unpublished conference paper. American Association of Teachers of Slavic and East European Languages, delivered January 8, 2011.

<sup>19</sup> Anna Krivoruchko, “Law, Justice and Mercy.” PAGE NUMBERS POSSIBLE?

<sup>20</sup> A 2011 article for the Russian online journal *Politvektor* titled “Justice and the Law in Russian History,” opens with a familiar question: Would you prefer to be judged according to the law or according to conscience? (*Vas sudit’ po zakonu ili po sovesti?*) It continues: “If the *answer* is clear to you, then you are definitely a Russian [*tochno russkii chelovek*]. If the *question* is not clear to you, then you are still a fine person [*tozhe khoroshii chelovek*]; you just haven’t had the pleasure of becoming familiar with Russian culture.”

A famous scene from Pushkin's *Captain's Daughter* (*Kapitanskaia Dochka*, 1836) illustrates another difference between moral righteousness and legal justice. Masha Mironova, the eponymous heroine, appeals to Catherine the Great on behalf of her fiancé, who has technically broken the law in order to achieve a higher moral goal (saving Masha's life). Privileging truth over justice, she explains, "I have come to ask not for justice [*pravosudiia*], but for mercy [*milosti*]" (6:357).<sup>21</sup> Masha is, in fact, asking for a morally just decision to be made that will contradict the technically correct legal decision that has already been made. The difference between a merciful, empathetic, and divinely-inspired understanding of truth and the legal understanding of truth, limited by prescriptive categories, is a critical difference highlighted in the analysis of Gogol's own depiction of an imperial appeal in the second chapter of this dissertation.

Finally, it is necessary to provide some explanation of what is meant by "the legal sphere." The boundaries separating the judicial and administrative bodies at different times of the Russian legal administration are often not clearly, if at all, delineated. The branches of legal authorities (the prosecutorial branch and enforcement branch, for instance) similarly lack strict separation. For this reason, the definition of what belongs in the legal sphere is intentionally broad. While much of the analysis of "the legal" in this dissertation shares aspects with studies of "the bureaucratic" in general, the added punitive and existential component of the powers of the legal administration over individuals is the operative distinction between the two spheres. The bureaucratic aspect of the law is indeed an important part of its depiction in various literary works, but it is only one among many significant components.

---

<sup>21</sup> All page references in the text refer to A. S. Pushkin, *Polnoe sobranie sochinenii*, ed. B.V. Tomashevskii, 10 vols. (Leningrad: Nauka, 1977-1979).

## Methodology

This dissertation primarily utilizes close readings of primary texts, which incorporate and interrogate conceptual and theoretical models from legal history (Kaiser, 1980), philosophy (Solov'ev, 1899), and semiotics (Lotman, 2002 and Uspenskii and Zhivov, 1987). The analyses examine specific aspects of fictional legal portrayals as well as general motifs that recur in a variety of texts relevant to the legal-literary canon.<sup>22</sup> Insights from theories on comedy and laughter augment the analysis of narrative devices of dark humor, which function to mock courts and legal servitors. Empirical findings presented by historians Jane Burbank (2004) and Valerie Kivelson (1997), the analysis of imperial administration described by John LeDonne (1991), and cultural analysis of the role of Orthodoxy in history by Richard Wortman (1995-2000) and literature by Ivan Esaulov (1995) further contribute to the reading of these patently negative literary portrayals of the law not as mimetic representations, but as a process of cultural mythmaking.<sup>23</sup>

Much of the analysis in this dissertation springs from or reacts to the notion of the binary, a prominent categorical device found both in fictional legal portrayals and in scholarship dedicated to them. Following David Frick, Valerie Kivelson advocates for the binary as a useful tool, insisting that despite its inevitable reductive tendencies, the binary is a natural conceptual model, one that is “fundamentally attractive to the human mind”; paired opposites, she continues,

---

<sup>22</sup> See Daniel Kaiser, *The Growth of the Law in Medieval Russia* (Princeton: Princeton University Press, 1980). See also Richard Hellie, "Introduction," in Daniel H. Kaiser (ed. and transl.) *The Laws of Rus- Tenth to Fifteenth Centuries* (Salt Lake City: Charles Schlacks Jr., 1988). See also Lotman, Yurii. ““Dogovor’ i ‘vruchenie sebia’ kak arkhētīpicheskie modeli kul’tury.” in Yurii Lotman, *Stat’i po semiotike kul’tury i isskusstva* (Sankt-Peterburg: Akademicheskii proekt, 2002). 466-483. (original publication date 1981)

<sup>23</sup> See Jane Burbank, *Russian Peasants Go to Court: Legal Culture in the Countryside, 1905-1917* (Bloomington: Indiana University Press, 2004). See also Valerie Kivelson, “Merciful Father, Impersonal State: Russian Autocracy in Comparative Perspective,” *Modern Asian Studies*. 31.3 (1997): 635-663. See also John P. LeDonne, *Absolutism and Ruling Class: The Formation of the Russian Political Order, 1700-1825* (New York: Oxford University Press, 1991). See also Ivan Esaulov, *Kategoriia sobornosti v russkoi literatury* (Petrozavodsk: Petrozavodskii Universitet, 1995).

“assume cultural weight and explanatory power.”<sup>24</sup> However, while it may be appealing to perceive the world in binary terms, she explains that humans also like to “escape binaries that are imposed upon them” in often “remarkably creative ways.”<sup>25</sup> Kivelson’s and Frick’s comments are especially apt for understanding the law as a cultural and literary phenomenon in the Russian context.

The dichotomous approach in defining or characterizing the law in both primary and secondary sources is so pervasive that it can be thought of in terms of a simple phrase: “the law versus *x*. In the Russian cultural context, a variety of alternative values can stand in for the *x*, e.g. the law vs. conscience (*sovest’*); the law vs. the truth (*istina*); the law vs. moral righteousness (*spravedlivost’*); the law vs. salvation (*spasenie*); the law vs. mercy (*milost’*); the law vs. divine judgment (*strashnyi sud, Bozhii sud*), and so forth. While many of these binaries prove helpful in structuring challenges to the law, nineteenth-century authors evade the simplifications of binary conceptual models, as Kivelson mentions, in remarkably creative and nuanced ways. The first two chapters of this dissertation, for instance, demonstrate how the simple binary of the negative entity of the law versus a positive extralegal alternative breaks down under close scrutiny, which exposes critical flaws in the ostensibly favorable alternative.

This tradition of expressing the problematic nature of the law by contrasting it to a favorable alternative is as old as Russian literature itself. *The Sermon on Law and Grace (Slovo o Zakone i Blagodati*, ca. 1050) attributed to Metropolitan Ilarion offers a prototypical dichotomy

---

<sup>24</sup> Valerie Kivelson and Robert H. Greene, eds., *Orthodox Russia: Belief and Practice Under the Tsars* (University Park: Pennsylvania State Press, 2003), 17. See also David Frick, “Misrepresentations, Misunderstandings, and Silences: Problems of Seventeenth-Century Ruthenian and Muscovite Cultural History” in *Religion and Culture in Early Modern Russia and Ukraine*, eds. Samuel H. Baron and Nancy Shields Kollmann (DeKalb: Northern Illinois University Press, 1997), 149-68.

<sup>25</sup> Kivelson and Greene, *Orthodox Russia*, 17.

in which the author compares the law (*zakon*) to grace (*blagodat'*), a clearly favorable alternative. The author of the *Sermon* uses parallelism, metaphor, and rhetorical balance to compare “the law” (personified by the biblical bondswoman Hagar and metaphorically representative of Judaism and the Old Testament) to “Grace” (personified by the Biblical freewoman Sarah and metaphorically representative of Christianity and the New Testament). The *Sermon* presents Grace and all that it represents as an unequivocal improvement upon the law, which it has superseded: “First there was law [*Zakon*], then there was grace [*Blagodat'*]; first there was shadow [*ten'*], then there was truth [*Istina*].”<sup>26</sup> The *Sermon* argues that “the world is not saved by law,” but rather, “Grace [will] descend to the earth and save the world.”<sup>27</sup> The text of the *Sermon* suggests that spiritual salvation should be held in higher regard than justification, explaining that, “with the shadow and the Law Jews were justified but not saved; with the Truth and Grace Christians are not justified but are saved.”<sup>28</sup> The emphasis on the lack of the moral component of the law in the *Sermon* recurs as a fundamental theme in nineteenth-century literary depictions of legal systems and legalistic ways of perceiving the world.

One final important motif that appears in the *Sermon* and remains relevant in nineteenth-century depictions of the law and the legalistic is the notion that *true* moral justice is something that is inaccessible on this earth via secular means. The *Sermon* reads: “Jews have justification [*opravdanie*], Christians have salvation [*spasenie*]: for justification is in this world, but salvation is in the age to come.”<sup>29</sup> This notion—that true moral justice in its ideal form is something

---

<sup>26</sup> Ilarion, *Sermons and Rhetoric of Kievan Rus'*, trans. Simon Franklin (Cambridge, Mass: Harvard University Press, 1991), 4.

<sup>27</sup> *Ibid*, 4.

<sup>28</sup> *Ibid*, 4.

<sup>29</sup> *Ibid*, 7.



unattainable, something divine, something deferred, something otherworldly—recurs as a motif in various manifestations in nineteenth-century literary depictions.

### **The Shape of the Law in Gogol and Beyond**

The values and alternatives with which “the law” is opposed differ greatly among various texts and authors, but as the following chapters demonstrate, the relatively favorably-presented extralegal alternatives share a common essential feature. By invoking notions such as human conscience or divine mercy, they underscore the aspects of the law that are insensitive to the multifaceted nature of truth and the human spirit.

The first two chapters of this dissertation contrast depictions of the law with depictions of two major extralegal alternatives. Chapter One, “Horizontal and Vertical Law,” employs a conceptual model of legal systems described in Daniel Kaiser’s historical study *The Growth of the Law in Medieval Russia* to compare elements of informal, custom-based resolution known as “horizontal law” to modern bureaucratic legal systems known as “vertical law” in Gogol’s “The Tale of How Ivan Ivanovich Quarreled with Ivan Nikiforovich.” The differences between horizontal law, which derives its legitimacy from local community consensus, and vertical law, which derives its authority from the state, offer insights as to why formal law might receive negative cultural valuation in the Russian context. Through close readings of both forms of law in Gogol’s tale, I demonstrate that while horizontal legal methods may not result in any progress or resolution, vertical law results in active decline and destruction. In the context of a culture influenced strongly by Russian Orthodox values, which emphasize humility, forgiveness, community, and redemption, the comparison of the ultimate goals of horizontal law (forgiveness

and reconciliation) with those of vertical law (an objectively fair legal decision) privileges the former.

The close reading also expresses surprisingly grave flaws in attempts to practice informal mediation as an alternative to the law. Ivan Esaulov's study on apostasy in Gogol's tale, *The Category of sobornost' in Russian Literature (Kategoriia sobornosti v russkoi literatury, 1995)*, points to the breach of *sobornost'*, or a communal sense of spiritual unity, as the cause of the failures of reconciliation in this tale.<sup>30</sup> Though horizontal legal strategies prove no more successful than vertical legal strategies in reuniting the litigious neighbors in friendship, the attempts at community-based resolution that characterize horizontal law nevertheless invoke the notions of community, forgiveness, and conscience, notions lacking in formal law.

After a brief assessment of tensions between horizontal and vertical law as they appear in Pushkin's unfinished novella *Dubrovskii*, the chapter concludes by identifying additional texts in which other nineteenth-century authors explore forms of community-based judgment.

Ultimately, in Gogol's story, as in later stories by other writers, neither horizontal nor vertical law represents an adequate conduit for the pursuit of justice, implying that in Russia, secular justice (in the sense of true moral justice) is an oxymoron. Chapter One shows how notions of judging according to one's own human conscience (rendered as *po sovesti*, *po spravedlivosti*, or *po chelovechestvu*) present the potential for a more meaningful, morally-based form of resolution than does formal legal procedure, designed solely to produce outcomes that are technically and procedurally correct. The shrewd Borovtsov in Aleksander Ostrovsky's play, *The Abyss (Puchina, 1866)*, illustrates this well; in a discussion of whether to judge according to human principles (*po chelovechestvu*) or by the law (*po zakonu*) Borovtsov explains: "If every one of us

---

<sup>30</sup> See Esaulov, *Kategoriia sobornosti*, 61-85.

were put under the law, then no man would be innocent [*prav*], for we all transgress the law with every step that we take. You, and me, and him –they’d need to send everyone off to Siberia.”<sup>31</sup>

In contrast to Chapter One, which examines the failures of the execution and aims of the law in practice, Chapter Two investigates the conceptual flaws inherent in the law’s fundamental principles. Chapter Two, “Demonic Law and Divine Mercy,” examines the structure of the ‘psychology’ that underlies legalistic interactions by comparing it to yet another major extralegal alternative: the imperial appeal. In his essay “Agreement and Self-Giving as Archetypal Models of Culture,” Iurii Lotman provides a conceptual model to describe two types of cultural interactions: the legalistic contract or “agreement” (*dogovor*) and the religious act of “self-giving” (*vruchenie sebia*). The analyses in this chapter explore the ways in which Lotman’s model facilitates a comparison of the law and the psychology of exchange as opposed to the dynamics at play in a subject’s petition to the Tsar. Lotman contrasts agreements, in which two parties of equal rank agree to a reciprocal exchange, with acts of self-giving, where one party of ‘lesser’ standing unconditionally submits him- or herself to a higher authority who may choose (but is under no obligation) to bestow mercy or favor upon that individual. Lotman argues that the agreement can only be drawn up with pagan or demonic figures. Such interactions, he reasons, receive a negative valuation in Russian culture due to the obligatory, conditional, and conventional (and therefore violable) nature of the exchange. In contrast, according to Lotman, the “religious” act of self-giving (the only form of interaction in which the divine can participate) appears as a more favorable cultural mode of interaction.

---

<sup>31</sup> My translation: *The Abyss*. See A. N. Ostrovskii, *Puchina*, in *Polnoe sobranie sochinenii*, 16 vols. (Moskva: Gosudarstvennoe izdatel’stvo khudozhestvennoi literatury, 1949-1952) 4:218.

Detailed analyses of the agreements and the imperial appeal in Gogol's early and fairy-tale-like story "The Night Before Christmas" illustrate several compelling ways in which Lotman's binary formula facilitates an enlightening comparison of the principles and, indeed, the practical results of both forms of interaction in this tale. At the same time, close scrutiny reveals striking moments in which Gogol's portrayal of the imperial appeal resists interpretation according to Lotman's model. Just as the horizontal law depicted in Gogol's "The Tale of How Ivan Ivanovich Quarreled with Ivan Nikiforovich" does not emulate an ideal example of horizontal mediation, the imperial appeal in Gogol's "The Night Before Christmas" fails to present self-giving as a viable alternative to the law and its legalistic principles.

The latter half of the second chapter is concerned with the degree to which Gogol's fictionalized imperial appeal can be understood in terms of Lotman's concept of the sacred and inviolable interaction of self-giving. It also examines the degree to which Gogol's depiction of the appeal subverts the mythology of the "good tsar" (the divine and benevolent public image of the monarch cultivated through official imperial narratives). This chapter incorporates research from the essay "Tsar and God: Semiotic Aspects of the Sacralization of the Monarch in Russia," in which Boris Uspenskii and Viktor Zhivov examine the ways in which tsars and their retinues cultivated a mythology of the monarch as a divine and benevolent figure in texts and public 'performances' throughout the history of modern Russia. These specific motifs examined in this essay aid an exploration of the ways in which Gogol polemicizes with and even parodies official imperial mythologies.<sup>32</sup>

---

<sup>32</sup> Boris A. Uspenskii and Viktor Zhivov. "Tsar i bog: semioticheskie aspekty sakralizatsii monarkha v Rossii." In *Semiotika istorii, semiotika kul'tury* (Moskva: Gnozis, 1994). 110-193.

The chapter concludes by addressing these issues in more substantial texts: Pushkin's *The Captain's Daughter*, Lev Tolstoi's novels *War and Peace* (*Voina i mir*, 1869) and *Resurrection* (*Voskresen'ie*, 1899). While these texts engage in some of the official mythology of the benevolent tsar, the depictions nevertheless communicate the improbability of the appeal as an extralegal alternative. Yet again, however, the principle behind the act of the imperial appeal (mercy) is presented as more valuable and more in line with values in Russian Orthodox traditions and Russian culture than the ideal objective of the legal agreement (objective fairness). The unconditionality and lack of compulsion in the methods of the imperial appeal, which invoke both the interpersonal and the divine, similarly outshine the methods of principles of the law (reciprocity, compulsion, etcetera). Whereas vertical law cannot result in the forgiveness that horizontal law can achieve (at least in theory), the contract similarly cannot result in the potentially more worthwhile outcome of the scenario of the imperial appeal: divinely-inspired mercy.

To complement the work conducted in the first two chapters, which examine potential reasons why Gogol and other nineteenth-century authors portray the law negatively, Chapter Three explores in more detail the specific devices with which this negative portraiture is achieved. To do so, the third chapter, "The Monster and the Machine," offers an interpretive typology of recurring literary legal functionaries in a wide range of texts from Gogol to Tolstoi. This chapter features yet another binary that emerges as a recurring theme in nineteenth-century portrayals of the law and legal servitors: the difference between the *letter* and the *spirit* of the law. These servitors fall into three primary literary legal character types: the morally vacant authority figure, the legal predator, and the questioner.

Each introduction of a character type is accompanied by an analysis of the ‘monstrous’ (demonic and predatory) as well as ‘machine-like’ (routine and unthinking) tropes used to describe the law and its functionaries as cruel, limited, and absurd. Morally vacant characters are dehumanized machine-like automatons who ignore both the spirit of the law and their own responsibilities to those victimized by legal cruelties and limitations. A variety of insights from studies of laughter and the comic, especially Henri Bergson’s *Laughter: An Essay on the Meaning of the Comic*, informs my analysis of the comedic elements that mock the negative traits of morally vacant characters.<sup>33</sup>

Comedic theories including Superiority Theory, Incongruity Theory, and Psychic Release or Relief Theory elucidate the ways in which authors make comedic butts of the second character type, legal predators: a voracious breed of legal functionaries who ‘hunt’ down loopholes in literal renderings of legal procedure in order to exploit it and ‘prey’ on victims. While morally vacant characters adhere to the letter of the law while neglecting its spirit, legal predators actively seek out ways in which to circumvent or contradict the spirit of the law. Finally, the questioners are characters who express a sudden or lifelong suspicion of and hesitation about participating in a corrupt and corrupting institution. The futile efforts of these questioners to make meaningful changes to the system characterize legal institutions as hopelessly and inevitably inimical to the interests of the human spirit and the human condition. What results is a portrayal of a cruel, limited, and absurd legal system that is fundamentally hostile to the human spirit and the human condition.

---

<sup>33</sup> Henri Bergson, *Laughter: An Essay on the Meaning of the Comic*. Eds. Cloudesley S. H. Brereton and Fred Rothwell (London: Macmillan, 1921).

In Gogol's fictional legal scenarios, as in those of his fellow writers, alternative systems of resolving human circumstances and conflicts that rely on higher moral methods or ideals such as conscience and mercy at least ostensibly prevail over the cold rationality of objective legal procedure. While the former may be improbable and fatally flawed, it nevertheless makes possible the potential for redemption or moral righteousness, whereas the rigidity of the law precludes outcomes that involve morality, spirituality, or brotherly forgiveness. Ultimately, however, true moral justice – or, to be more exact, salvation or redemption, appears in literary texts as something otherworldly, something that is eternally deferred. It is likely not possible to achieve moral justice through any prescriptive means, but it most certainly cannot be achieved through secular human institutions.

## Chapter One:

### Horizontal and Vertical Law

The Russian is either above the law or below it—never, or rarely, capable of appreciating law for its own value as an ethical minimum, or as a necessary mediation between the kingdom of God and the animal struggle for life.

*Georgii Fedotov, The Russian Religious Mind*<sup>34</sup>

The persistent and widespread antipathy towards the law in Russian culture is well known. Legal justice is not regarded as a value or an ideal in Russian culture. But what precisely has rendered legal justice so unappealing to Russian cultural consciousness for so long? The answers to this question are complex, and many facets of this cultural phenomenon cannot be understood through literary analysis alone. Yet literature, as one of the few venues for the public expression of ideas in a society lacking freedom of the press, can serve as a rather fruitful arena in which to explore the complexities of the negative valuation of legal justice in Russian culture. The following investigation examines how and why nineteenth-century literary texts help to craft an image of the law, and in turn, how aspects of Russian cultural consciousness might inform literary depictions of legal scenarios.

Nineteenth-century works present an unequivocally unfavorable composite portrait of the law and its legal servitors. In order to understand what renders the law worthy of scorn and aversion in literary depictions, it is important to determine which aspects of legal justice threaten

---

<sup>34</sup> Georgii Fedotov, *The Russian Religious Mind*, vol. 1, *Kievan Christianity, the Tenth to the Thirteenth Centuries* (New York, Evanston and London: Harper & Row, 1960), 278.



or violate those values and customs central to Russian cultural identity. Depictions of the law, as this dissertation demonstrates, often take the form of an implicit or explicit comparison of the relative merits of the law in contrast to some alternative form of judgment. In such comparisons, the law invariably appears inferior to any alternative.

This method of implicit criticism through juxtaposition appears in one of the earliest literary documents in Russian history, the eleventh-century *Sermon on the Law and Grace* (*Slovo o Zakone i Blagodati*, ca. 1050) attributed to Metropolitan Ilarion. This foundational work of Russian literature censures the law (which serves as a metaphor for Judaism) for its dogmatic rigidity and its limitations while it simultaneously commends “Grace,” (representing Christianity) as a superior alternative to the law characterized by spirit and flexibility. The *Sermon* sets up a dichotomous model in which the ideal objective of the law —justification (*opravdanie*) — appears unacceptably inferior to the salvation (*spasenie*) offered by Grace.<sup>35</sup>

Formulations of the law in subsequent texts invoke similar oppositions between a relatively favorable alternative to the law and its objective of justice. Alternatives include judging according to one’s conscience (*po sovesti*) rather than according to procedural logic (*po zakonu*), for instance, or judging through community consensus as opposed to those made by representatives of the legal apparatus. Alternative virtues such as mercy, Christ-like kenoticism, charity, and forgiveness prevail over those of the law: rationalism, fairness, and objectivity. The rational objectivity of legal justice, for instance, appears not fair, but cold and unfeeling in comparison to the flexibility and human understanding afforded by conscience-based judgments. Ideals such as moral justice, spiritual redemption and salvation consistently outshine ideals such as dispassionate fairness and legal vindication. These alternatives, though imperfect, contain

---

<sup>35</sup> Metropolitan Ilarion, *Slovo o zakone i blagodati*, ed. V. I. Deriagin (Moskva: Stolitsa, Skriptorii, 1994), 41.

characteristics that render them more complete, more spiritual, more humane, more righteous, or even more Russian than formal legal justice.<sup>36</sup>

In this chapter, Nikolai Gogol's "The Tale of How Ivan Ivanovich Quarreled with Ivan Nikiforovich" ("Povest' o tom, kak possorilsia Ivan Ivanovich s Ivanom Nikiforovichem," 1834) will serve as the model of a significant nineteenth-century text to use a legal battle as its subject. (Nineteenth-century literary precedents for Gogol's text, such as Vasilii Narezhnyi's *The Two Ivans* (*Dva Ivana*, 1825), are discussed at the end of this chapter.) Gogol was not the first to write about the fatal nature of the consequences of involving the law in disputes among neighbors or acquaintances. Mikhail Vaiskopf finds a likely source for Gogol's tale in Ivan Ivanovich Khemnitser's fable, "The Two Neighbors" (*Dva sosed*a, 1799).<sup>37</sup> In a sort of rewording of a folk proverb, which warns that inviting a third party to intervene in a dispute will result in interminable discord, Khemnitser's fable explicitly warns of the dangers of taking personal disputes to the courts: "It is better to make peace, and gain nothing from it, than to go to the court and win the case by ruining oneself in the process."<sup>38</sup>

The plots of two additional works in two other genres that preceded and also likely influenced Gogol's tale chronicle the dangers of crossing the line from a personal or local matter to a state affair; A.A. Shakhovskoi's 1808 comedic drama, *The Dispute, or Two Neighbors*

---

<sup>36</sup> As we will see, when praising "justice," Russian writers almost always qualify their definition. Fedotov understands Russian culture and the Russian Orthodox value system through a lens in which charity emerges as the predominant value: "justice as an extoled virtue is rarely separated from mercy. Sometimes one gets the impression that only such justice is salutary and Christian which gives support to the weak and poor." See Fedotov, *The Russian Religious Mind*, 278.

<sup>37</sup> Mikhail Vaiskopf, *Siuzhet Gogolia: Morfologiia. Ideologiia. Kontekst* (Moskva: RGGU, 2002) 300-313.

<sup>38</sup> "И лучше до суда, хотя ни с чем, мириться,/Как дело выиграть и вовсе просудиться" /Худой мир лучше доброй ссоры,/Пословица старинна говорит;/И каждый день нам тож примерами твердит,/Как можно не вpletаться в споры;/А если и дойдет нечаянно до них,/Не допуская вдаль, прервать с начала их,/И лучше до суда, хотя ни с чем, мириться,/Как дело выиграть и вовсе просудиться/Хоть виноваты оба были,/Но кстати ль, чтоб они друг другу уступили?/Нет, мысль их не туда;/Во что б ни стало им, хотят искать суда./И подлинно, суда искали,/Пока все животы судьям перетаскали. Khemnitser, Ivan Ivanovich, "Dva sosed" *Polnoe sobranie stikhotvoreniia* (Moskva: Biblioteka Poeta, 1963): 61-62.

(*Ssora, ili Dva Sosedya*), and Vasilii Narezhnii's 1825 somewhat didactic and socially critical comedic novel *The Two Ivans, or a Passion for Litigation (Dva Ivana, ili strast' k tiazhbam)*.<sup>39</sup>

Although Gogol's tale (henceforth "The Two Ivans") revolves around a legal battle, most literary analyses eschew the importance of legal themes in favor of other aspects of the *povest'*, such as its role in the development of Russian Naturalism (Vinogradov, 1926); its grotesque humor and bizarre sexuality (McLean, 1958; Karlinsky, 1976; Alexander, 1981); or its underlying philosophical or spiritual themes (Waiskopf, 1993; Esaulov, 1995; Putney, 2001).<sup>40</sup> Historian Richard Wortman and other legal scholars have addressed the portrayal of the law in the text, but with the limited purpose of illustrating the deplorable state of the provincial courts in the Russian empire prior to the 1864 legal reforms.<sup>41</sup> This narrative about two longtime friends, the neighbors Ivan Ivanovich and Ivan Nikiforovich, whose petty squabble spirals into a solemn defamation suit, does indeed detail the outlandish failings of justice in the provincial district courts. By extending a model that historians use to study the development of legal systems, however, this chapter demonstrates that Gogol's tale presents a much more nuanced engagement with the law than is implied by its reputation as a caricature of the provincial

---

<sup>39</sup> For a detailed look at the points of contact between Gogol's tale and Shakhovskoi's comedy, see I.V. Aleksandrova, "Net povesti pechal'nee" ("Povest' o tom, kak possorilsia Ivan Ivanovich s Ivanom Nikiforovichem" N.V. Gogolia i komediia A. A. Shakhovskogo "Ssora, ili Dva sosedya") eds., M.N. Virolainen and A. A. Karpov, *Fenomen Gogolia: Materialy iubileinoi mezhdunarodnoi konferentsii, posveshchennoi 200-letiiu so dnia rozhdeniia N.V. Gogolia* (Sankt-Peterburg, 2011), 193-204.

<sup>40</sup> See Viktor Vinogradov, "Etiudi o stile Gogolia," *Poetika russkoi literatury: Izbrannye trudy* (Moskva: Nauka, 1976), 233-344; Hugh McLean, *Gogol's Retreat from Love: Toward an Interpretation of Mirgorod* ('S Gravenhage: Mouton, 1958), 240-243; Simon Karlinsky, *The Sexual Labyrinth of Nikolai Gogol* (Chicago: University of Chicago Press, 1992), 67-77; Alex Alexander, "The Two Ivans' Sexual Underpinnings," *Slavic and East European Journal* 25.3 (1981): 24-37; Ivan Esaulov, *Kategoriia sobornosti v russkoi literatury*, 61-82. Christopher Putney has also read the tale as a "florid travesty" of the Christian temptation of the vice of despondency (*unynie*). See Christopher Putney, "Acedia and the *Daemonium Meridianum* in Nikolaj Gogol's 'Povest' o tom, kak possorilsja Ivan Ivanovich s Ivanom Nikiforovichem,'" *Russian Literature* 49. 3 (2001): 235-257.

<sup>41</sup> See Wortman, *Development*, 82, 240. See also Michael Newcity, "Why is there no Russian Atticus Finch?" 276-278. See also Jessica C. Wilson, "Russia's Cultural Aversion," 195-232. While Julia Bekman Chadaga argues that the story is about the role of law in the process of dehumanization, her study focuses on the specific function of the *zertsalo* in this respect. See Julia Bekman Chadaga, "Mirror Writing: The Literary Traces of the Zertsalo," *Russian Review* 61.1 (2002): 73-93.

Russian legal system. Gogol's text describes the mechanisms of the fictional provincial legal structure (the Mirgorod court) as well as informal, peer-generated attempts at mediation (at a housewarming party). An analysis of the relative merits of these methods of resolution reveals an implicit criticism of the law in Gogol's text.

"The Two Ivans" juxtaposes a scene in which characters engage in methods of informal *horizontal law* (a pre-modern justice system) with scenes that describe formal *vertical law* (a bureaucratized legal system involving a representative of the state).<sup>42</sup> By considering Gogol's portrayal of the law in terms of this model of horizontal and vertical systems, this chapter demonstrates that Gogol's story not only denounces formal law as we normally conceive of it, but also expresses surprisingly compelling criticisms of informal mediation as a potential alternative to the formal legal channels. Gogol's text introduces a recurrent theme in the depiction of law and alternatives to it in nineteenth-century works in general: that there is no such thing as true justice on earth.

Gogol was writing "The Two Ivans" during a significant moment in Russia's legal history. In the aftermath of the failed Decembrist revolt of 1825, Nicholas I began to address internal issues of his imperial administration. In 1826 Mikhail Speranskii began the ambitious task to codify the chaotic mass of the laws of the Russian empire, an undertaking that had not been successfully achieved since the establishment of the 1649 Russian Law Code (*Ulozhenie*). Attempts by eleven previous codification commissions (including three separate attempts by Peter the Great and a seven year-long effort by Catherine the Great) had failed.<sup>43</sup> In a significant

---

<sup>42</sup> For more on vertical and horizontal law, see: Kaiser, *The Growth of the Law in Medieval Russia*, 7-15. See also Michael Barkun, *Law Without Sanctions: Order in Primitive Societies and the World Community* (New Haven: Yale University Press, 1968), 162-163.

<sup>43</sup> For a detailed explanation of Speranskii's codification efforts, see William Benton Whisehunt, *In Search of Legality: Mikhail Speranskii and the Codification of Russian Law* (Boulder: East European Monographs, 2001) 38-44.

achievement for Russian legal history, the first collection of the Complete Collection of Laws of the Russian Empire (*Polnoe Sobranie Zakonov Rossiiskoi Imperii*) covering the period from 1649 to 1825, was successfully published in 1830 and volumes continued to be released thereafter on a yearly basis.<sup>44</sup>

While Gogol was composing a fictional juxtaposition of traditional local customs with modern formal law, Russia's head legal administrator was considering an analogous, real-world comparison. Among the problems Speranskii faced in this task was an important decision: whether to formulate Russia's legal code according to the abstract principles of the Western style of legal administration that had been adopted in Europe, or to organize the law code according to historical precedents set forth in the *Ulozhenie*.<sup>45</sup> In the wake of anti-European sentiment (due in part to the recent Napoleonic invasions), Speranskii opted for the home-grown variety of law, choosing to base Russia's legal administration on domestic precedents.<sup>46</sup> The idea that Russia's legal customs originated solely in Russia without inspiration from foreign models is, of course, an oversimplification. The development of Russian law was influenced by heterogeneous foreign sources including Byzantine, Roman, Tatar, Polish, Swedish, German, Dutch, and Lithuanian law, among others. Speranskii himself was eventually forced to turn to foreign models in his efforts to reform the law code as well as in training of his assistants.<sup>47</sup>

---

<sup>44</sup> This second collection included laws from 1825 to 1881. The last installment, covering the period from 1881 to 1913, was released in 1916.

<sup>45</sup> Alexander had appointed Speranskii to reorganize and head the commission to determine the laws of the Russian empire in 1808, at which time Speranskii attempted to model Russia's legal code after the *Code Napoleon*. Karamzin and others attacked Speranskii's reliance on foreign models on patriotic grounds. Despite defending his position by emphasizing the common legal heritage based on Roman law that Russia and France had shared, Speranskii was sent into exile in 1812. By the time Speranskii began the direction of the codification efforts again in 1826, he had come to agree with Karamzin's "nationalistic sentiments for [the] preservation of the Russian legal tradition." See Whisehunt, *In Search of Legality*, 46.

<sup>46</sup> *Ibid*, 50-51.

<sup>47</sup> See William Butler, *Russian Law* (Oxford: Oxford University Press, 2006), 15, 99.

Gogol did not express explicit interest in the changes that Russian legal administration was undergoing during the time of the composition of his tale. Nor would Gogol have been aware of the modern concepts of “horizontal” and “vertical” law. Yet, as Speranskii was compelled to assess the merits of both systems, Gogol’s “The Two Ivans” similarly explores the tensions between two different approaches to legal judgment: one a more modernized, centralized legal system largely based on ideas imported from foreign states, and the other, a less ‘advanced’ yet domestic manner of resolving human affairs. Because Gogol’s narrators tend to exhort bucolic or idyllic pastoral settings, while expressing wariness regarding urban life, it is perhaps unsurprising to sense an apparent preference for the traditional over the innovative in this context as well.<sup>48</sup> Yet Gogol’s hyperbolic praise frequently contains overt irony and multiple layers of meaning, and any apparent preference, therefore, must be scrutinized. As the subsequent analysis demonstrates, Gogol’s depictions of the apparently favorable methods of horizontal law are plagued with critical flaws. The inherent flexibility and human-based judgment of horizontal law, however, in contrast to the rigid procedure of vertical law, render it a preferable alternative means of deciding the fates of individuals. Inherently flawed due to the inherently flawed nature of man, horizontal law nevertheless aspires to ideals of a moral justice, whereas vertical law, with its hollow promises of rational justice, offers nothing other than stagnation and decline.

---

<sup>48</sup> For more on Gogol and the “bucolic idyll,” see Christopher R. Putney, “Nikolai Gogol’s ‘Old-World Landowners’: A Parable of Acedia,” *The Slavic and East European Journal* 47.1 (Spring, 2003): 1-23. Putney characterizes “Old World Landowners,” as appearing ostensibly as a “nostalgia-filled paean,” which, lacking the “customary Gogolian gulf of irony” dividing narrator and subject, succeeds in “teasing out warm feelings from even the most ideologically polarized commentators,” 3. Vasilii Gippius writes that the landowners’ lives are depicted in “idyllic tones.” See Vasilii Gippius, “Tvorcheskii put’ Gogolia” in *Ot Pushkina do Bloka* (Leningrad: Nauka, 1966), 73.

Legal historians use the terms “horizontal” and “vertical” in the analysis of the development of legal systems in order to distinguish pre-modern systems of norm enforcement from the centralized systems of justice administered by state authorities in relatively urbanized societies. Although these terms describe diachronic changes --the way societies use increasingly formalized mechanisms to maintain order--the different judicial approaches often coexist simultaneously, as they do in Gogol’s text. These terms, therefore, are useful in making synchronic comparisons between formalized and informal procedures as well.

Three main factors distinguish these types of law. Whether a process can be considered horizontal or vertical depends upon the individuals who oversee the judicial process, the source of authority that enforces and legitimizes decisions, and the level of formality of the procedures.<sup>49</sup> In horizontal law, also known as a “dyadic” system of “primitive” or “popular” law, community members elect an untrained representative, usually a trusted elder from among the local townsmen of that community, to conduct mediation between disputing parties.<sup>50</sup> Procedures are informal, conducted publicly, and rely on oral testimony. Decisions are made according to the intuition and subjective judgment of the mediator, who may invoke supernatural elements (both from the Christian Orthodox religion as well as pagan rites or beliefs) to assist in deciding judicial outcomes. In historical instances of horizontal law in Rus’ and Muscovy, for instance, sorcerers and priests participated in procedures, outcomes of which were determined by public rituals such as kissing the cross, swearing oaths, and participating in judicial duels.<sup>51</sup>

The outcomes of a case in horizontal law are made in accordance with the traditions and customs of local (usually rural) society, and the legitimization for these decisions derives from

---

<sup>49</sup> Kaiser, *The Growth of the Law*, 63-90.

<sup>50</sup> *Ibid*, 67.

<sup>51</sup> William Butler, “Foreign Impressions of Russian Law to 1800,” in *Russian Law: Historical and Political Perspectives*, ed. William Butler, (Leyden: Sitjhoff, 1977), 65-92, 77. See also Kaiser, *The Growth of the Law*, 96.

community consensus. Horizontal punitive measures take the form of revenge (physical violence) or restitution rather than formal sanctions. Decisions made in horizontal legal structures are enforced by the community. Historically, in extreme cases the most undesirable criminals were banished from the community, occasionally handed over to the Prince or state authorities (i.e., to the realm of "vertical law"). Put simply, horizontal law is justice conducted by and for community members on the same 'horizontal' social stratum in accordance with the interests and customs of that community.

In contrast, vertical law can be understood as justice conducted by the state on behalf of state interests. Vertical law is also known as a "triadic" system or "princely" law. In this modernized system, specially trained officials determine judicial outcomes according to formalized procedures.<sup>52</sup> Decisions derive legitimacy from state authorities in a top-down model. State police enforce judicial outcomes with formal monetary sanctions or incarceration. Vertical law functions according to formulaic categories and is carried out according to formalized procedures that privilege written documentation over oral testimony.

As societies modernize, the 'primitive' judicial methods of horizontal law evolve into vertical law as the behavioral norms and tribal customs enforced informally in rural communities and pre-modern societies gradually develop, formalize, and eventually become inscribed into vertical law in the form of legal codification. In Russia, the transition from horizontal to vertical law happened very gradually. Elements of horizontal law endured for a long time, and persisted long even after the maturation of Russian legal structures, for a period much longer than in other states.<sup>53</sup>

---

<sup>52</sup> Kaiser, *The Growth of the Law*, 67.

<sup>53</sup> Janko Lavrin, *Russia, Slavdom, and the Western World* (London: Bles, 1969), 17.



The reasons for the persistence of horizontal legal practices in the modernization of legal structures in Russia in particular may provide hints as to why horizontal law may appear as an appealing alternative to official law in Russian literary texts. In *Russia, Slavdom, and the Western World*, Janko Lavrin writes that two events in Russia's early history played a crucial role in distinguishing Russia from the West as well as in cultivating a Russian attitude of simultaneous "estrangement from" and "attraction to" Western Europe: the conversion to the Byzantine model of Christianity and the Tatar invasion.<sup>54</sup> The "far reaching" consequences of the first event had lasting political, spiritual, and psychological influence. As Lavrin writes, "in contrast to the active, legalistic and hierarchic Roman Catholicism, Byzantine Christianity was contemplative, passive, more mystical than rationalistic."<sup>55</sup> The "strong group-consciousness" and "Russian acceptance of suffering as something that has to be endured in order to expiate one's personal as well as collective transgressions" are consequences Lavrin attributes to the second event.<sup>56</sup> The communal nature of horizontal legal structures, as well as horizontal law's inclusion of supernatural factors in achieving resolution, suggest a compatibility with traditional cultural values in Russia. The communality of horizontal law and its inclusion of extra-logical factors are among several attributes of horizontal law that may render it more appealing to Russian cultural sensibilities than the external, hierarchically-imposed legal procedures of the state.<sup>57</sup>

---

<sup>54</sup> Ibid, 17.

<sup>55</sup> Ibid, 18.

<sup>56</sup> Ibid, 18.

<sup>57</sup> Fedotov also comments on reasons for the persistence of ancient customs and traditions in Russia: "With [the Russians] the tie between Christian and pre-Christian elements is perhaps still stronger than in most of the nations of the west. Not that Slavic heathendom proved to be exceptionally powerful; rather the contrary is the truth. But Russia did not know either the Reformation or the Counter-Reformation with their cleansing, spiritualizing, and sweeping out of medieval superstitions. The Russian peasant had been living in the Middle Ages through the nineteenth century." Fedotov, *The Russian Religious Mind*, 3.

In Gogol's tale, elements of horizontal law emerge in scenes ostensibly describing vertical legal operations. Due to this persistence of horizontal legal customs, and the permeability of the boundaries that separate horizontal and vertical law, these two legal forms should be understood as conceptual modalities rather than discrete categories. Indeed, this binary breakdown between horizontal and vertical law requires further modification, as there are marked differences between vertical law at the local level in Mirgorod (in which elements of horizontal law appear) and vertical law at the level of state bureaucracy as practiced in the higher courts of the larger urban center of Poltava (absent of horizontal elements).

This chapter proceeds with a comparison of scenes of *vertical law at the local level* (in which Ivan Ivanovich and Ivan Nikiforovich submit formal petitions to the Mirgorod court) to scenes approximating *horizontal law* (when several revelers at a local party attempt informal reconciliation between the Ivans). The analysis then compares both of these local forms of law to *vertical law at the state level*, exemplified by the transfer of the case to the higher courts in Poltava, and signified in the text by the lexical change from informal "request" or "complaint" (*pros'ba*) to the formal suit (*tiazhba*). A brief look at similar tensions between horizontal and vertical legal structures in Pushkin's *Dubrovskii* and other nineteenth-century Russian texts concludes the chapter. Through these analyses, horizontal law can be understood as a flawed or inadequate alternative to the law, due to its reliance on imperfect human motivations. Yet because of its emphasis on flexibility, its local and communal character, and the potential for judging by conscience with the aim of forgiveness, horizontal law is suggestive of the positive attributes that vertical legal structures lack. These implicit comparisons suggest one reason why the law is depicted negatively: its formal rigidity contradicts or precludes ideal objectives and values important in Russian cultural consciousness.

## Vertical Law in Mirgorod

Go to court if you like, but the truth you'll not find.<sup>58</sup>

### *Russian Folk Saying*

“The Two Ivans” begins by describing the celebrated friendship between two Mirgorod neighbors: the corpulent, lethargic, rarely-clothed, and, incidentally, often *horizontal* Ivan Nikiforovich, and his taller, thinner, and more *vertically*-inclined neighbor, the grandiloquent and acquisitive Ivan Ivanovich. One day, in the course of an unsuccessful attempt by Ivan Ivanovich to convince his neighbor to make a trade for the latter’s rusty old gun, Ivan Nikiforovich unwittingly offends Ivan Ivanovich by calling him “a real goose” (206/236).<sup>59</sup> An ensuing series of vengeful actions committed by both parties in turn culminates when Ivan Ivanovich finally submits a complaint to the Mirgorod district court. In doing so, Ivan Ivanovich invites a third party (representatives of the state authority, and therefore, of vertical law or a triadic system) to intervene in what might have otherwise remained a private matter between neighbors (a dyadic system).

The Mirgorod judge, Demi’an Dem’ianovich, and his police chief, Petr Fedorovich, however, are not impersonal bureaucrats in a distant judicial office. They are both as much a part of the two Ivans’ ‘horizontal’ social stratum as they are official members of a ‘vertical’ legal

---

<sup>58</sup> *V sud poidesh, pravdy ne naidesh.*

<sup>59</sup> All page references in the text refer to the Pevear and Volokhonsky translation of “The Tale of How Ivan Ivanovich Quarreled with Ivan Nikiforovich, (modified when necessary), followed by page number from Gogol’s *Polnoe sobranie sochinenii*, e.g. 2:160. References to “How Ivan Ivanovich Quarreled with Ivan Nikiforovich,” found in volume two of the *PSS* will be identified in the text by page number only, e.g. 236. *The Collected Tales of Nikolai Gogol*, trans. Richard Pevear and Larissa Volokhonsky (New York: First Vintage Classics, 1998): 194-241. N. V. Gogol, *Polnoe sobranie sochinenii*, ed. N. L. Meshcheriakov, 14 vols (Moscow and Leningrad: Izdatel’stvo Akademii nauk SSSR, 1937-1952), 2: 219-276.

hierarchy. Even when acting in an official capacity, Dem'ian Dem'ianovich and Petr Fedorovich prefer to relate to the Ivans as friends and fellow townsmen rather than representatives of state authority. When Ivan Ivanovich arrives with his *pros'ba*, for example, Dem'ian Dem'ianovich tries to dissuade him from pursuing litigation, but interestingly, the judge relies not on the authority vested in him by his vertical ties to the state, but appeals instead to Ivan Ivanovich on the basis of their horizontal social ties as a fellow friend, and a fellow Christian. Trying to warn Ivan Ivanovich of the dangers he is courting by attempting to initiate a suit, the judge draws a direct connection between legal petitions and Satan (in one of many allusions throughout Gogol's fiction that link the law to demonic elements): "What are you doing, Ivan Ivanovich! For fear of God, drop this petition, let it perish! (May Satan visit its dreams)" (219/250). The judge then attempts to turn the potential obligation of a lawsuit into the pleasurable prospect of a social occasion: "Better take Ivan Nikiforovich by the hands, and kiss each other, and buy a bottle of Saturin or Nikopolis, or else just make a little punch, and invite me! We'll drink together and forget the whole thing!"(219/250).

Because the Mirgorod officials engage in both horizontal and vertical operations, in effect straddling both realms, they cannot be considered solely as members of a vertical legal system, but rather as participants in a vertical legal structure that is still subject to horizontal social pressures and influences. This distinction between vertical law *at the local level* and vertical law *at the state level* is important to make because of the marked difference of the treatments of the respective scenarios in the text.

In regards to comedy in general, Jan Walsh Hokenson's comments seem uncannily prescriptive for the manner in which Gogol's "The Two Ivans" derides the legal system: "In great comedy, the physical is uproariously confused with the moral, the letter is hilariously used

to murder the spirit, the body comically precedes the soul, [and] human organizations bungle natural laws.”<sup>60</sup> The narrator of “The Two Ivans” presents the characteristics of the modernized, centralized legal system not as signs of progress, but as objects of ridicule. Replete with incompetence, negligence, buffoonery, and corruption, vertical law in the Mirgorod court appears to produce only two bitterly comical outcomes: absurdity or inaction.

Among the markers of development in the transition from horizontal to vertical legal systems is the absence of religious influences in judicial state institutions, a sort of separation of church and state. The Mirgorod court, however, rather than aspiring to an objective embodiment of impartial justice, reveals itself instead to be sacrilegious, breaking not only religious laws but moral standards as well. The narrator ironically praises the Mirgorod court for its splendor while describing its marred physical appearance. The description of physical decrepitude is suggestive commentary on the moral corruption of the court and its members, or, to paraphrase Hokenson, the narrator links “the physical” with “the moral.” The roof, for instance, remains unpainted because the court staff sacrilegiously consume the oil intended to be used for the paint during a period of Lent (231/244). The stairs to the courtroom are littered with the scraps of “gifts” that petitioners bring to the judge in hopes of securing a favorable outcome to their cases (231/245). The courtroom’s interior layout similarly serves as a mockery of justice; the *zertsalo*, the prismatic symbol representing imperial-backed justice, stands in contradistinction to a polished boot adorning an ironbound chest full of lawsuits (214/245).<sup>61</sup>

Those feigning to work at the tables covered with broken inkpots and years’ worth of inkblots are themselves unclean: The well-fed judge Dem’ian Dem’ianovich sports a greasy

---

<sup>60</sup> Jan Walsh Hokenson, *The Idea of Comedy: History, Theory, Critique*. (Madison: Fairleigh Dickinson University Press, 2006), 48.

<sup>61</sup> For more on the *zertsalo* in Gogol’s tale, see Chadaga, “Mirror Writing,” 73-93.

housecoat (214/245); the maidservant, whom the judge accuses of winking at the court clerks, goes barefoot in the court (214/245); the court secretary repeatedly uses his fingers instead of a handkerchief to expel snot from his nostrils (217/248); one clerk swallows a fly (210/251); the court messenger scratches himself under his dirty shirt (210/251); and so much alcohol exudes from the clerks' breath that the courtroom smells like a workman's pub (220/253). Despite the narrator's praises of the courtroom, the impurity of the physically filthy courthouse makes questionable any notion of the court's moral or judicial purity.

To be sure, the Mirgorod court officials behave as negligently toward the fates of their petitioners as they do toward the physical condition of the courtroom. In spite of his characterization of the Mirgorod court judge as a "good-natured" individual, the narrator reveals the surprising depth and breadth of the judge's negligence by describing his behavior in court (229/263). The judge, we learn, would have "undoubtedly" fallen asleep to the monotonous dictation of the cases to be decided if not for the meanwhile "amusing conversation" that he conducts with the court clerk (214/245). The judge diverts his attention from his discussion about birdsongs and vodka varietals only when the secretary requests an order. Startled, Dem'ian Dem'ianovich responds, "You read all of it? Imagine, so quickly! I didn't hear a thing! Where is it? Give it to me, I'll sign it. What else have you got?" (214/246).<sup>62</sup>

Dem'ian Dem'ianovich's behavior is not just a spoof of an apathetic provincial judge; it is also emblematic of a major characteristic of formal (vertical) law that renders it susceptible to criticism. The authority given to the written word in vertical legal structures results in a situation in which Dem'ian Dem'ianovich is able to uphold the letter of the law –he does, after all, sign

---

<sup>62</sup> A.F. Koni writes: "The law itself sanctioned the composition of courts...in which all the judges were illiterate, prescribing that in these cases the decision of the judges must be written down by the secretary...in the early forties, among all the members of the seven Departments of the Senate in Petersburg, only six senators had receive a university education. As quoted in Rosenshield, *Western Law, Russian Justice*, 21,

the case, and in vertical law, written documentation is of supreme importance-- while he simultaneously betrays the spirit of the law by intentionally ignoring the contents of the case. This is the first of many examples in literary legal scenarios in which, to paraphrase Hokenson again, the “letter is used hilariously to murder the spirit.” The narrator implies that this behavior is nothing out of the ordinary; after directing the secretary to begin reading the next case, the judge promptly resumes his conversation.

The actions initiated by members of the Mirgorod court serve purposes of little relevance to the judicial process. Together with the police chief (*gorodnichii*), Petr Fedorovich, the district judge (*povetovyi sud'ia*) Dem'ian Dem'ianovich would have been the most powerful personage in the Mirgorod district.<sup>63</sup> Yet both judge and police chief prove incapable of executing a task with which imperial district courts were mandated: to minimize the burden on the provincial legal system by preventing the submission of superfluous cases to the courts. In the words of Richard Peace, “non-action is the favourite legal procedure” of the Mirgorod court.<sup>64</sup>

Dem'ian Dem'ianovich's court is a “do-nothing” court. After the judge fails to convince Ivan Ivanovich to forget about the offending insult and to drop his accusation, the entire courtroom sinks back into a complacent state of inaction, which the narrator emphasizes through lexical repetition of prefixes of negation. The judge exclaims that he has “heard nothing” (*ne uslyshal nichego*) of the secretary's dictation of cases (214/246). The court's reaction to Ivan Ivanovich's decision to file a petition is one of inaction:

---

<sup>63</sup> The *povetovyi sud* was the Ukrainian analogy to the *uezdnyi sud*, the district court, at the time. For more on the structure of provincial legal administration, see Fedosiuk, *Chto neponiatno*, 64-88. *Gorodnichii* can be, and often is, translated as “mayor.” Whereas Kent uses “police captan,” I follow Pever and Volokhonsky in using “police chief.” See Leonard Kent, *The Collected Tales of Nikolai Gogol*, vol. 2, (Chicago, University of Chicago Press: 1985).

<sup>64</sup> Richard Peace, *The Enigma of Gogol: An Examination of the Writings of N.V. Gogol and Their Place in the Russian Literary Tradition* (Cambridge: Cambridge University Press, 1981), 79.

The judge sat without saying a word [*ne govoria ni slova*]; the secretary took some snuff; the office boys overturned the broken piece of bottle they used as an inkstand; and the judge himself absentmindedly smeared the puddle of ink over the table with his finger.

“What do you say to that, Dorofei Torfimovich?” said the judge, turning to the court clerk after some silence.

“I say nothing [*Nichego ne skazhu*],” replied the court clerk.

“Such goings-on [*Ekie dela delaiutsia*]!” continued the judge (219/251).

The judge’s phrase, “*dela delaiutsia*,” which literally means “things are being done” contradicts the reality of the court, in which nothing is done.

This repetition of negation continues when the portly Ivan Nikiforovich arrives, ready to deliver his own petition, only to become stuck on the courtroom’s threshold: he “could not make a step forward nor back” (*ne mog sdelat’ ni shagu*); the judge cries out “in vain” (*naprasno*) for help from the anteroom, but the only petitioner there “could do nothing” (*nichego ne mogla sdelat’*) (220/251). Once Ivan Nikiforovich manages to be pushed through the doors, the judge declares without further protest that there is “nothing to do” (*nechego delat’*) but to read his petition (221/252). After Ivan Nikiforovich leaves the court, the narrator again repeats: “Nothing could be done” (*delat’ bylo nechego*) (222/252). The overall impression the narrator presents of the Mirgorod court is one in which the reader might presume that the “piles of regional calumny” in the aforementioned ironbound chests likely remain there, undisturbed (214/245).

Yet while nothing gets *done* in the court, many things *happen*, and quite entertaining occurrences at that. In addition to characterizing the court as negligent and ineffectual, Gogol’s narrator injects a considerable amount of slapstick buffoonery into the Mirgorod court atmosphere. Its antics undermine any legitimacy or reverence for the important work of the court system. Comic examples of the physical taking precedence over the moral, or, as Hokenson



characterizes it, of “the body” taking “precedence over the soul” abound in Gogol’s scenes of vertical law at the local level. Upon hearing of Ivan Ivanovich’s feud with Ivan Nikiforovich, the judge “nearly fell off his chair” (216/247). When Ivan Nikiforovich appears suddenly in the courtroom, an even more spectacularly physical commotion occurs:

The front half of Ivan Nikiforovich heaved itself into the office, while the rest remained in the anteroom [...] The judge cried out; the secretary broke off his reading. One office boy in the frieze likeness of a half-tailcoat put a quill in his mouth; the other swallowed a fly. Even the invalid who fulfilled the functions of both messenger and watchman [...] gaped and stepped on somebody’s foot (220/251).<sup>65</sup>

The already ludicrous scene intensifies as the court servitors determine that, having become firmly lodged in the doorway, Ivan Nikiforovich can be extricated only with surprise physical force.

One of the office boys, with fat lips, broad shoulders, a fat nose, and torn elbows, his eyes glancing about slyly and drunkenly, went up to the front part of Ivan Nikiforovich, folded his arms crosswise as if he were a child, and winked to the old invalid, who placed his knee against Ivan Nikiforovich’s belly, and despite his pitiful moans, squeezed him out into the anteroom (220/251).

Seeming more like a slapstick sideshow than a courtroom, an even more outrageous event occurs shortly after Ivan Nikiforovich submits his own petition against Ivan Ivanovich. As the staff members are distracted by busily filling their sacks with the day’s spoils received from various petitioners, a brown sow (belonging, incidentally, to Ivan Ivanovich) steals into the courtroom and snatches, of all things, Ivan Nikiforovich’s petition. The sow runs off “so quickly that none of the officials could catch her, despite the hurling of rulers and ink bottles” (223/255). The

---

<sup>65</sup> Note the emphasis on the physical aspects of Ivan Nikiforovich that the narrator achieves by attributing active verbs to fragmented parts of Ivan Nikiforovich: his “front half..heaved itself;” (*peredniaia polovina...vysadilas*) “the rest remained”(ostal’naia ostavalas’).

narrator's emphasis on physical crudity in the Mirgorod courtroom undermines any perception of it as a dignified judicial institution. In keeping with the court's policy of non-action, and underscoring the absence of the judge in court responsibilities, the narrator reports that, "after much debate, the judge, that is, his secretary and the court clerk," decide to transfer the matter to the police chief, as the theft is deemed to be a police matter rather than a matter of the court (196/255). It is hardly surprising that the only relevant action the Mirgorod court takes is to transfer the responsibility to a different section of legal administration.

In addition to adding to the undignified atmosphere of local vertical law, the efforts of the police chief, Petr Fedorovich, demonstrate another feature of vertical law in "The Two Ivans:" the absurdity that results from the inflexibility of legal logic. This scene demonstrates yet another way that Hokenson's formula for "great comedy" is operative in Gogol's text; Petr Fedorovich's actions illustrate how "human organizations bungle natural laws."

Petr Fedorovich, whose foremost concern as police chief is evident in his daily inquiry about the whereabouts of the button missing from his uniform, cuts just as ridiculous a figure as his counterpart in the courtroom who spends his time discussing birdsongs and vodka. The court charges Petr Fedorovich, the head of the enforcement branch of the local vertical legal structure, with two tasks: to convince Ivan Ivanovich to hand over the guilty sow to the court, and to drop the lawsuit against his neighbor.<sup>66</sup>

Continuing the slapstick physicality of the courtroom, Petr Fedorovich creates a spectacle out of his outlandish entrance to the estate of Ivan Ivanovich, walking extremely quickly, and flailing his arms. With his bright uniform, prominently missing a button, and his wounded left

---

<sup>66</sup> In the Russian legal system, there was no strict separation between judicial, police, and governmental administrative bodies. See: "Zemli i vlasti" in Fedosiuk, *Chto Neponiatno*, 64-86. See also John LeDonne, *Absolutism and the Ruling Class*, 4.

leg, the police chief hobbles furiously toward the estate, “storming” the porch steps (224/256). Recalling the physical commotion in the Mirgorod, with every step the police chief kicks his left leg so far out to the side that it almost cancels out all the work done by the right leg: “The more rapidly the police chief advanced his march, the less it advanced” (224/256). When Ivan Ivanovich offers Petr Fedorovich a seat, mentioning the latter’s wounded leg, it affects the police chief’s pride. Petr Fedorovich attempts to prove his agility by stomping his wounded foot on the floor, but this “display of valor” only results in more physical comedy: it “cost him dear, for his whole person lurched forward and his nose pecked the railing.” In order to preserve appearances, “the wise guardian of order” immediately straightens himself and pretends to search in his pocket for his snuffbox (224/257).

The police chief’s comedic physical inflexibility is mirrored by his use of rigid legal logic. Rather than appearing as an asset to modernized legal structures, the rational logic and formulaic procedure of vertical law represented by Petr Fedorovich’s efforts appear simply ridiculous. Adopting a pseudo-Socratic style of interlocution, the police chief attempts to out-reason Ivan Ivanovich, who remains unwilling both to reconcile with his neighbor and to hand over possession of the sow to the police. Petr Fedorovich employs the passive bureaucratic language used in written legal regulations: “It is, beyond any doubt, known to you, that, according to the official rules, it is forbidden for unclean animals to walk about the town [...] You must agree: it’s forbidden” (225/258).

Moreover, the chief continues, the pig has stolen a “very important official document,” and is therefore “guilty” (*vinovnyi*) of two criminal offenses (227/260). Ivan Ivanovich questions how an animal can be found guilty of a criminal offense, as an animal is “God’s creation”

(*tvorenie Bozhiie*) (227/260).<sup>67</sup> Petr Fedorovich concedes that he is not a learned man, knows nothing of the sciences, and only learned to write at the age of thirty. Nevertheless, the police chief insists that his “duty is to obey the demands of government,” which state that anyone who “steals an official document in a court of law is subject to criminal prosecution, the same for any other crime” (227/260).<sup>68</sup> Again Ivan Ivanovich reiterates that the police chief’s logic may apply to people (*tak govoritsia o liudiakh*) but that a pig cannot be guilty of such offenses (226/260). Petr Fedorovich, though, insists on adhering to the vertical legal directive to apply the *letter* rather than interpret the *spirit* of the law:

That’s all very true, but the law says [*zakon govorit*] ‘guilty of theft...’ I beg you to listen attentively: *guilty!* Here neither species, nor sex, nor rank is mentioned –that means an animal can also be guilty. Say what you will, but before being sentenced to punishment, the animal must be presented to the police as a violator of order (226/260).<sup>69</sup>

Ivan Ivanovich, however, immediately dismisses the police chief’s absurd attempts to charge an animal for violating a governmental order by responding simply, “That will not be!” (*Etogo-to ne budet!*) (227/260). The police chief resigns himself to defeat, and effectively resumes his role as a fellow member of the local horizontal society to which Ivan Ivanovich belongs. He tells Ivan Ivanovich, “in that case, if you don’t want to present her to the police, make whatever use of her you please,” adding, “Only, if you’re going to make sausages, I’ll ask you to send me a couple of

---

<sup>67</sup> Volokhonsky and Pevear render this more literally: “a creation of God.” Gogol may be referencing the historical trials of beasts and insects conducted during the middle ages. For more on this strange practice, see Hampton L. Carson, *The Trial of Animals and Insects: A Little Known Chapter of Mediaeval Jurisprudence* (Philadelphia, 1917). See also Edward P. Evans, *Criminal Prosecution and Capital Punishment of Animals* (Sligo: Hardpress Publishing, 2013).

<sup>68</sup> Volokhonsky and Pevear use “purloins” instead of “steals;” I have added “of law.”

<sup>69</sup> Again, I use “theft” instead of Pevear and Volokhonsky’s “purloining.”

the ones your Gapka is so good at making...my Agrafena Trofimovna likes them very much” (227/260).

With his bureaucratic bungling of ‘ordinary’ reasoning, Petr Fedorovich can function as a commentary on the limitations of vertical law. But his incompetence also reflects his reluctance to serve as a member of the vertical legal hierarchy; he is clearly more comfortable in the role of a friend and fellow townsman of his compatriots. Petr Fedorovich reveals this preference to act as a member of Mirgorod society over an official representative of state government; he pretends to ignore the fact that Ivan Ivanovich’s roof is a foot higher than legal regulations allow. He likewise deflects his own personal complicity in his attempt to hold his “gentle friend and benefactor” Ivan Ivanovich accountable for the sow’s criminal violations, insisting to him “for my part, I...please consider, it’s nothing to me, but governmental considerations, governmental considerations require it” (225/257). Attesting to the personal, rather than professional, nature of their relationship, Ivan Ivanovich takes personal offense at the legal charges lodged against him. Petr Fedorovich again attempts to depersonalize the situation and distance himself from it, claiming resignedly, “Authority wills, we must obey” (*nachalstvo khochet –my dolzhny povinovat’sia*) (226/258). When attempting to convince Ivan Ivanovich to make amends with his neighbor, Petr Fedorovich cites both local (horizontal) authority, as well as vertical legal authority to legitimize his request: “I am charged by the judge, as well as by all our acquaintances, to reconcile you” (227/260).

But the pertinacious Ivan Ivanovich refuses to change his mind. Meanwhile, Ivan Nikiforovich, spurred on by his housemate Agafia Fedoseevna, submits a second petition (*pros’ba*) to the Mirgorod court. All the attempts to prevent the Ivans’ feud from becoming a

legal state matter fail, and the court has no recourse but to submit and file the petition. In his final words in the scene of vertical law, the narrator emphasizes the court as a locus of inaction:

The matter then progressed with the unusual rapidity for which the courts are so commonly praised. The document was marked, recorded, assigned a number, filed, signed, all in one and the same day, and then laid on a shelf, where it lay, and lay, and lay a year, and then a second, and a third. Many brides were married; a new street was laid [...] and the case went on lying, in the very best order, on the shelf, which ink blots had turned to marble. (230/263)

In “The Two Ivans,” generalizing phrases like “for which the courts are so commonly praised” in the excerpt above encourage readers to consider the fictional court of Mirgorod as a metonymical representation of provincial judicial system in Russia. The court secretary’s habit of expelling nasal mucus with only his fingers is something, for instance, that readers are told that “all court secretaries do.” Even without these suggestive remarks, a contemporary reader would have likely recognized many aspects (and perhaps shared many criticisms) of vertical law at the provincial level in Gogol’s depiction.

Gogol’s tale is indisputably a non-mimetic work of fiction, yet the problems plaguing the provincial judicial administration, as caricatured in Gogol’s tale, were deeply rooted in, and widespread throughout Russia’s judicial history. The disordered state of the courts, the lack of professionalism and proliferation of bribery and favoritism among an uneducated staff, the policy of applying the law rather than interpreting it, and the outrageously inefficient legal processes depicted in Gogol’s text were not solely the product of the author’s own imagination. Historical documents offer testimony that suggests that provincial courts were indeed worthy of such criticism.

Foreigners visiting Russia in the seventeenth century, for instance, documented the chaotic state of provincial courtrooms, the confusion caused by overlapping jurisdictions of various departments administering justice, and the generally undeveloped state of Russian jurisprudence and the lack of education of Russian judges and judicial clerks. One mid-seventeenth-century visitor commented that court clerks “write their [acts] in Rolls [sic] of paper pasted together, till they are 25 or 30 ells in length, of which their offices are full.”<sup>70</sup> Foreign visitors noted the lack of sophistication of the clerks, whom they described as “always kneeling, notwithstanding they have tables before them;” as well as their unscrupulous behavior: “judicial clerks leave a great space between each line, to waste Paper of which prodigious quantities are consumed,” with the implication that fees collected depended upon the length of the written record.<sup>71</sup> These sentiments were echoed by a later visitor, traveling in the late 1800s, who wondered whether “litigation blots more paper [in any other European country] than in Russia.”<sup>72</sup>

The lack of organization of the provincial courts affected the poet Derzhavin, who, when serving as the governor of Saratov in 1785, could not locate a single book of laws in the entire province.<sup>73</sup> This state of disarray was still an issue in the middle of the nineteenth century. In his historical study, “Courts, Lawyers and Trials under the Last Three Tsars,” Kucherov relays an anecdote from the memoirs of N.M. Kolmako, a functionary of the prereform Ministry of Justice:

Once Count V.N. Panin, Minister of Justice, came into the court in St. Petersburg.

Entering the courtroom, he found there only a man in underwear with a broom in his

---

<sup>70</sup> Butler, “Foreign Impressions,” 76.

<sup>71</sup> *Ibid*, 76.

<sup>72</sup> *Ibid*, 77.

<sup>73</sup> Wortman, *Development*, 17.

hands. To the Minister's question of where the judge was, he answered that the judge was absent, and to the question: "Where is the assessor?" he replied, "I am the assessor."<sup>74</sup>

Judicial staffers in Russia lacked general education, not to mention professional legal training; their work was menial, and did not confer respected social status.<sup>75</sup> They came from the lower classes, forming an "isolated caste without a sense of its own importance or dignity."<sup>76</sup> Before the reign of Nicholas I, training in the law was rudimentary, involving little more than "learning to copy and fulfill chancellery formalities."<sup>77</sup> Lord Macartney, the British Envoy-Extraordinary to Russia, remarked in 1768 that "the law is not a profession here."<sup>78</sup> As opposed to the rigorous standards in Western European states already in place by the late eighteenth century, according to which candidates for judicial positions needed to pass university and State Board examinations, Russian jurisprudence lacked regulation. It continued to lag behind the West and only began to impose such strict standards upon the legal profession as late as the end of the nineteenth century.<sup>79</sup> The position of courtroom judge was often held by men with military backgrounds, who came to judicial service with little knowledge of the law and little experience in the courts; they preferred informal methods, and relied heavily on the judicial clerks, who acted as the "repository of knowledge of the law and bureaucratic routine."<sup>80</sup> These clerks, who came from the lower social classes, would often prepare the cases and sometimes even the decisions for the judges to sign, as happens in Mirgorod.<sup>81</sup> The abysmally low salaries in

---

<sup>74</sup> Samuel Kucherov, *Courts, Lawyers and Trials under the Last Three Tsars* (New York: F.A. Praeger, 1953), 4.

<sup>75</sup> *Ibid*, 4.

<sup>76</sup> Wortman, *Development*, 22.

<sup>77</sup> Butler, "Foreign Impressions," 73.

<sup>78</sup> *Ibid*, 73.

<sup>79</sup> Wortman, *Development*, 4.

<sup>80</sup> *Ibid*, 4.

<sup>81</sup> *Ibid*, 22.



provincial administration were so depressed that in 1816 the ministries of Internal Affairs, Justice, and Police convened to address the problem; later, at the request of Alexander I, the governors general took up the problem, achieving an approval for substantially increased salaries, which was only to be rejected by the treasury.<sup>82</sup>

As often occurs in cases in which individuals have some power but no status, bribe-taking plagued the courts since their inception. The very first article of the 1497 *Sudebnik* bars judges and secretaries from accepting bribes and using the position in the court to promote personal friendships, as Dem'ian Dem'ianovich and Petr Fedorovich appear, indirectly, to do.<sup>83</sup> Eight separate chapters of the 1649 *Ulozhenie*, the legal code upon which Speranskii was modeling his attempt at codification, inveigh against judicial partiality on the basis of friendship or bribes.<sup>84</sup>

Even Petr Fedorovich's strict adherence to the letter of the law has historical precedence. Judicial staff were instructed to refrain from any activity that resembled interpretation of the law; they were directed only to apply and enforce the law. Article 184 of Catherine the Great's Provincial Reform of 1775 makes this explicit: "the decision of every case is reached not otherwise than on the strength of laws and according to the words of the law" (*po slovam zakona*).<sup>85</sup> Richard Wortman explains that the arguments of judicial staff were limited to "so

---

<sup>82</sup> Frederick Starr, *Decentralization and Self-Government in Russia, 1830-1870* (New Jersey: Princeton U Press, 1972), 21.

<sup>83</sup> Horace Dewey, *Muscovite Judicial Texts, 1488-1556* (Ann Arbor: University of Michigan, 1966), 7-21.

<sup>84</sup> Specific articles addressing an assortment of circumstances of judicial bribery appear repeatedly throughout Chapters 7, 10, 12, 21, and 25 of the *Ulozhenie*. *The Muscovite Law Code (Ulozhenie) of 1649* trans. Richard Hellie (Irvine: C. Schlacks Jr, 1988).

<sup>85</sup> Article 14392, *Polnoe sobranie zakonov rossiskoi imperii s 1649 goda, tom 20, 1775-1780*, (St. Petersburg, 1830), 7 November 1775, Vol 20, p. 215. The original reads: "Понеже всякое решение дела не инако да учинится, как точно в силу узаконений и по словам закона." Richard Wortman translates this as "the decision of a case is reached not otherwise but on the strength of laws and according to the words of the law." For more on Catherine's attempts to curtail the powers of provincial judges, see Wortman, *Development*, 11.

speak the laws”.<sup>86</sup> In Gogol’s text, when Petr Fedorovich argues that the sow should be tried for theft because “the law says” so (*zakon govorit*), he parodies the restricted options that real-life judicial staff had at their disposal in deciding cases. Even after Ivan Ivanovich explains that natural logic makes trying an animal for a human crime absurd, Petr Fedorovich has no other recourse but to reiterate what the law says; rather than use other means at his disposal, he merely repeats what is written in the law: “But the law says ‘guilty of theft...’ I ask you to listen attentively: *guilty!*” (227/260).

Finally, the narrator’s ironic mention of the “extraordinary rapidity” for which the Little Russian provincial courts “are so commonly praised” is also not without historical precedence in the Russian legal system (230/263). As mentioned in the introduction, several scholars have suggested that for many of Russia’s peasants and average inhabitants, the Russian legal system did, in fact, work in an efficient and honest manner. Yet complaining about the inefficiency or inaction of the court system was common among the nobility. In his *History of Russia*, Kliuchevskii noted that throughout a period of twelve years, the conscience court of Ufa accepted only twelve cases.<sup>87</sup> In the late eighteenth century, noblemen of Riazhsk district pointed out that the local court had not settled a single suit in fifteen years.<sup>88</sup>

There were precedents for the notion of the interminable legal process in previous literature as well as in Gogol’s personal life. In the early nineteenth-century, endless lawsuits between members of the gentry was a relatively common topic in literature. Examples can be found in Aleksandr Shakhovskoi’s drama *The Dispute, or Two Neighbors*, (*Ssora, ili dva sosed*a, 1808), Vasilii Narezhnii’s novel *The Two Ivans, or a Passion for Litigation* (*Dva Ivana, ili*

---

<sup>86</sup>Wortman, *Development*, 22.

<sup>87</sup> Vasilii Kliuchevskii, *Kurs lektsii po russkoi istorii*. (Moskva: Gosudarstvennoe sotsial'no-ekonomicheskoe izdatel'stvo, 1937).

<sup>88</sup> Wortman, *Development*, 21.

*strast' k tiazhbam*, 1825), and Ivan Kulzhinskii's ethnographical publication of 1827, *The Little Russian Village (Malorossiiskaia derevnia)*. A seemingly interminable lawsuit even affected Gogol personally; in a letter to his mother dated April 30, 1829, Gogol conveys a greeting to his uncle, I.M. Kosiarovskii, and inquires about his legal affairs: "Tell me, please, about his lawsuit. Will it ever end? [*imeet li konets*]"<sup>89</sup> Clearly, the specific aspects for which formal legal structures could be criticized had a degree of basis in the real world.

By juxtaposing elements of vertical law with elements of horizontal law, however, Gogol's text goes farther than merely criticizing the faults of the formal legal system. By contrasting vertical and horizontal law, Gogol's text suggests that not only the methods, but also the objectives, of vertical law are inferior to those in horizontal law. As we have seen, vertical law's methods of rigid logic and inaction result in inaction or deferment. As the following analysis will demonstrate, its objectives—legal justice or fairness—equally fail to appear as virtuous as the objectives of horizontal law (forgiveness or reconciliation).

---

<sup>89</sup> See commentary to "*Kak possorilsia Ivan Ivanovich s Ivanom Nikiforovichem*," Gogol, 2:754. My translation.

## Horizontal Law in Mirgorod

Any to whom you give forgiveness, will be made free from their sins; and any from whom you keep back forgiveness, will still be in their sins.

*John, 20:22-23*

Justice has moral value only if exercised for the benefit of the poor and the oppressed, and this returns us to the same caritative element. A particularly Russian aspect of Christian charity is its connection with the ethics of the clan or *rod*. Russian charity not only finds its strongest expression in the love between brothers or blood relatives, but it attempts to embrace, in a fictional kinship, all fellow men...

*Fedotov, The Russian Religious Mind*

Gogol's scene approximating horizontal law is not an instance of horizontal law as defined by legal historians. However, the attempt by community members to reconcile the Ivans at the police chief's party includes many of the elements of informal mediation. Moreover, thematic and structural parallels link this scene approximating horizontal law and the scene of vertical law in the Mirgorod court, inviting comparison between the two approaches to ending the Ivans' feud. While aspects of horizontal law aspire to ideals valued in Russian culture, the methods and ulterior motives betrayed by the individuals who attempt to bring about resolution render horizontal an imperfect alternative to just resolution. Ultimately, horizontal efforts at resolution fare no better than those of the Mirgorod court officials to resolve the conflict. Yet the inclusion of concepts such as judging according to one's conscience (*po sovesti*), calling upon the authority of a spiritual brotherhood (*sobornost'*), and promoting the objective of forgiveness, demonstrate by contrast the rigidity, spiritual emptiness, and hollowness of judicial fairness.

The analysis in this section demonstrates the ways in which elements of the episode at the police chief's party resemble those of horizontal legal procedures as conducted in Russia's past. This episode also contains structural and thematic parallels that both link and contrast this episode to the scenes of vertical legal procedures described above. Though, through these affiliations with positively charged notions, this scene of attempted resolution may appear to portray the horizontal approach to justice as a more promising avenue for justice, these links prove superficial. Ultimately, the potentially redemptive features that characterize Gogol's scene of horizontal law (the public, communal, intuitive, informal, unscripted nature of the forum) only serve to hasten the failures of the approach, and exacerbate the bitter feud.

The attempts of the Mirgorod court to resolve the Ivans' dispute, as described above, correlate to the description of vertical law: the procedures are relatively formal (they rely on official written testimony); they are carried out by functionaries employed by the state; finally, their actions are legitimized by state authority. The scenes of attempted reconciliation begun at the police chief's party similarly correspond to the characteristics of horizontal law: the procedures are spontaneous and informal (they rely on oral conversation and tactics of mediation); they are carried out by individuals who belong to the same social stratum as the disputing parties in a leisurely social setting; finally, they appeal to community consensus and religious values for legitimizing authority and enforcement.

After Ivan Nikiforovich's second lawsuit has been submitted, filed, and promptly forgotten, life in Mirgorod continues as before, with the exception that Ivan Ivanovich and Ivan Nikiforovich now maintain separate lives in place of their former camaraderie. Several years pass in this fashion until the day the police chief hosts a party. Among the attendees is a notorious jokester also by the name of Ivan Ivanovich. This second Ivan Ivanovich, known by

his nickname “Ivan of the blind [*krivoi*] eye” (*krivoi* is a somewhat ambiguous term, meaning “blind” when referring to vision, but also meaning “crooked” or “corrupt”) proposes a scheme to his fellow partygoers: a plan to reconcile the Ivans (231/265). In the first example of a decision made by community consensus, the crowd gathered at the party unanimously agrees to Ivan’s proposal. Because Ivan Nikiforovich has refused to attend the party in order to avoid his “implacable enemy,” the crowd delegates a representative to retrieve him (233/267). This delegate is the town fool of sorts, Anton Prokof’evich Golopuz.

Parallels between the visit by Petr Fedorovich to Ivan Ivanovich and that of Anton Prokof’evich to Ivan Nikiforovich invite comparisons between the attempts to resolve the dispute by representatives of vertical and horizontal law, respectively. In the scenes of local vertical law discussed in the previous section, a legal functionary (Dem’ian Dem’ianovich) authorized by state authority dispatches another member of the state apparatus (Petr Fedorovich) to the estate of Ivan Ivanovich in order to fulfill an official directive. Conversely, in the ‘horizontal’ process at the party, the crowd spontaneously, unanimously, and informally elects a representative from among the local community (Anton Prokof’evich) to visit the estate of Ivan Nikiforovich to fulfill a task on behalf of the interests of the gathered partygoers.

Specific details both link and demonstrate contrasts between the two emissaries of vertical and horizontal law. As noted above, Petr Fedorovich wears a uniform rendered comically defective by a conspicuously missing button. Anton Prokof’evich sports a similarly flawed outfit consisting of a brown-sleeved jacket with a mismatched blue breast. Petr Fedorovich suffers from a wounded leg that cause him to stumble toward the bemused Ivan Ivanovich. Anton Prokof’evich suffers wounds to his legs caused by the dogs of the amused Ivan Nikiforovich (234/267). The narrator offers the humorous explanation that the dogs have

targeted Anton Prokof'evich because he had unfortunately happened to have put on his trousers with the "strange quality that, when he was wearing them, dogs always bit him on the calves" (233/267). As a result, Anton Prokofievich's slapstick entrance to Ivan Nikiforovich's estate mimics the police chief's stunted march toward the estate of Ivan Ivanovich.

While Petr Fedorovich and Anton Prokof'evich both appear foolish in their missions, only the latter truly resembles the archetypal figure of the "fool" in its incarnations in Russian cultural and literary tradition. Neither the narrator nor any character directly calls Anton Prokof'evich Golopuz the town fool, but that he figures as such is intimated by many details that link him in some ways to the holy fools (*iurodivye*) revered in Russian culture, and, in others, to the folktale hero Ivan the Fool (*Ivan-Durachok*). This connection to folklorish or holy foolishness allows for a subtle commentary on the artlessness associated with horizontal law in comparison to the artificiality of formal vertical structures. By choosing a delegate from the lowest position in society, the community-based attempts at reconciliation directly oppose the strategies of vertical law by subverting the hierarchical order and ridiculing the rigidity and formality of its logic.

According to Andrei Siniavskii's 1991 study, *Ivan the Fool: Russian Folk Belief: a Cultural History*, the fool "occupies the lowest rung on the social ladder and the human ladder in general."<sup>90</sup> Although the fool is "the most popular and colorful folktale character," Siniavskii continues, "everyone despises the Fool, everyone laughs at him, everyone curses him, even thrashes him."<sup>91</sup> The narrator remarks that "no one" in the town ever speaks to Anton Prokof'evich "except jokingly;" he rarely becomes vexed, even when the judge and police chief

---

<sup>90</sup> Andrei Siniavskii, *Ivan the Fool: Russian Folk Belief: A Cultural History*, trans. Joanne Turnbull and Nikolai Formozov (Moscow, Glas: 1990), 36.

<sup>91</sup> *Ibid*, 36.

torment him by placing “burning paper on his head,” for their own enjoyment. Anton Prokof’evich is a popular and colorful character, yet suffers much abuse, as he regularly thanks gentlemen who “flick him on the nose” as readily as he thanks those who offer him “a handkerchief or an undergarment” (232/266).

Like the folktale fool, whose actions are always “out of place, embarrassing, impractical, and senseless,” Anton Prokof’evich wears a winter coat in summer, and a summer coat in winter. In the same manner in which the folktale Fool, whose own “fairly harmless” vices further humiliate him in the view of society, Anton Prokof’evich’s passion for impractical bartering has rendered him a homeless vagrant with only one remaining possession: an elaborate miniature purse, or, to be exact, a gold brocaded tobacco pouch (*kiset saf’iannyi s zolotom*) (233/266). The narrator’s description of Anton Prokof’evich’s sole possession is no accident; it links Anton Prokof’evich with the idiomatic folk-saying “to run about like a fool with a fancy purse” (*nositsia, kak duren’ s pisanoiu torboi*), which is used to indicate a person’s stupidity or foolishness. Roaming the town with his pouch, Anton Prokof’evich literally embodies the idiomatic insult with which Ivan Ivanovich abuses Ivan Nikiforovich after the latter refuses to exchange *his* gun for Ivan Ivanovich’s sow. Ivan Ivanovich calls Ivan Nikiforovich ‘a fool with the fancy purse,’ (“*duren’ s pisannoiu torboiu*”) which in turn prompts the utterance of the offending term ‘goose’ (206/236). Siniavskii writes that though the folk-hero fool is despised for his vices, he nevertheless arouses sympathy; we begin to sympathize with the fool because he is so simple. He is the “victim of his own openheartedness,” and this is why, at a turning point in folk-stories that feature him, “the Fool’s luck suddenly turns and he becomes an extraordinarily successful person.”<sup>92</sup>

---

<sup>92</sup> Siniavskii, *Ivan the Fool*, 38.



Several characteristics describing Anton Prokof'evich also link him to the figure of the *iurodivye*, or holy fools, who “re-traverse Christ’s path” by voluntarily humiliating themselves.<sup>93</sup> As David Bethea explains, in Russian literature, holy fools traditionally “reveal the workings of divine wisdom” through “antics” that “celebrate the carnival logic of role-reversal, laughter, and folly.”<sup>94</sup> The humiliation Anton Prokof'evich endures links with the sufferings of Christ. In Russian tradition, this voluntary humiliation lends the holy fool an aura of holiness or magic that not only distinguishes him from ordinary folk, but also sets him as far apart as possible from an officially-sanctioned representative of the secular state legal system.

While the homeless, passive, humiliated Anton Prokof'evich may resemble a holy fool or the folkhero fool in form, many of his actions and characteristics contradict essential features of the sacred holy fool figure and the folk hero figure. Indeed, Anton Prokof'evich actually represents more of a parody or a travesty of the holy fool –an ‘unholy fool’ of sorts. While the *iurodivye* often voluntarily divest themselves of material possessions to embrace a nomadic spiritual pilgrimage, Anton Prokof'evich’s homelessness is a result of reckless acquisitiveness. While the holy fool’s socially inappropriate behavior reveals divine wisdom, Anton Prokof'evich makes sacrilegious exclamations. The narrator implies that it is well known that Anton Prokofievich’s oaths are not to be trusted, as Anton Prokofievich, the ‘unholy’ fool, is ready to swear an oath to anything at any given moment. While the Ivan-Durachok folkhero fool achieves success in his endeavors despite (or because of) his own cheerful ignorance; Anton Prokof'evich, on the other hand, relies on deception. The narrator remarks that Anton Prokofievich, whom he ironically calls a “wholly virtuous man in the full sense of the word” is in fact “rather clever”

---

<sup>93</sup> David Bethea, “Literature and the Arts,” in *Cambridge Companion to Modern Russian Culture*, ed. Nicholas Rzhevsky (Cambridge: Cambridge, 1991), 175.

<sup>94</sup> *Ibid*, 175.

(*dovol'no khitryi*) in some ways: “he knew very well when he should pretend to be a fool (“*prikinut'sia durakom*”), and sometimes proved resourceful in circumstances and on occasions when an intelligent [“*umnyi*”] man would scarcely have been able to wriggle his way out” (232/266).

Anton Prokof'evich represents a distorted manifestation of the kenoticism and Christ-like humiliation of the holy fool, as well as the guileless folkhero fool. Yet the methods that Anton Prokof'evich employs as a representative of horizontal law are relatively more successful and aspire to higher ideals that would appeal to the folk mentality rather than the tactics of absurd logic employed by Petr Fedorovich. That the police chief and Anton Prokof'evich occupy positions at opposite ends of the socio-economic spectrum is clear: Petr Fedorovich has a rank and salary that afford him the privilege of hosting a party in honor of his house, a grand housewarming party that the narrator calls “an extremely important event for the whole of Mirgorod” (*dlia vsego Mirgoroda*), while Anton Prokof'evich, a social outlier, has neither rank nor home. While Petr Fedorovich, in his conversation with Ivan Ivanovich, reveals that he has one foot in each realm of horizontal and vertical relations, Anton Prokof'evich is decidedly outside any connection to state hierarchy. Anton Prokof'evich attempts to convince Ivan Nikiforovich to attend the party by relying on tactics associated with horizontal law. Petr Fedorovich relies on the impersonal, passive constructions of bureaucratic language to convince Ivan Ivanovich to comply with his request, (“the law says”...“it is forbidden,” etc.). In contrast, Anton Prokof'evich employs the informal language and affectionate mockery that, according to Mikhail Bakhtin, is characteristic of the unofficial sphere of communication.<sup>95</sup> While Petr

---

<sup>95</sup> Mikhail Bakhtin, *Rabelais and his World*, trans. Helene Iswolsky, (Bloomington: Indiana University Press, 1984), 16.

Fedorovich cites his position in the legal vertical apparatus as his reasons for his visit (“it is my duty”), Anton Prokof’evich couches his request in the form of a favor on behalf of a mutual friend (his horizontal social ties). Petr Fedorovich attempts to use legalistic logic in his efforts to convince Ivan Ivanovich to comply on the grounds of the literal wording of the law, (“neither species, nor rank is mentioned,”) whereas Anton Prokof’evich tempts Ivan Nikiforovich with emotions and the senses, urging him to oblige his friends (“Foma Grigor’evich is there, too!”) and enjoy the delicious food awaiting him (“what sturgeon, what fresh caviar [...] has been sent!”) (234/268). Petr Fedorovich similarly invokes official state authority as the legitimizing force behind his request, (“Authority wills—we must obey”), whereas Anton Prokof’evich, in keeping with the inclusion of supernatural authority in horizontal legal processes, legitimizes his actions by citing divine authority in a series of zealous but false oaths. He swears, for instance, “to all that is holy” that Ivan Ivanovich is not, in fact, at the party, declaring blasphemously, “May my father and mother and I myself never see the Kingdom of Heaven” if Ivan Ivanovich is at the party (235/269).<sup>96</sup> Like the folk-hero Fool, whose function, according to Siniavskii, is “to show us – in his behavior, his appearance, his fate – that nothing depends on one’s intellect, erudition, diligence, or will,” Anton Prokofievich rejects the control of reason, as the fool “believes, like no one else, in a higher power.”<sup>97</sup>

The particular choice of the town fool to represent the microcosmic community gathered at the party emphasizes the unofficial, ‘horizontal’ nature of the methods of reconciliation

---

<sup>96</sup> In the 16<sup>th</sup> century, elements of horizontal law played a central role in primitive vertical legal structures. In disputes, a presiding arbiter would ask the party “he thinketh good” whether that party would kiss the cross “upon that which is avowed or denied.” This oath-taking ceremony was performed in a church before an icon. If both parties were willing to perform the cross-kissing oaths, they cast lots in order that “Divine justice” would determine the outcome. Some litigants were able to cheat the system by making false claims. See Butler, “Foreign Impressions,” 78.

<sup>97</sup> Siniavskii, *Ivan the Fool*, 40-41.

attempts initiated by the community members. And, indeed, Anton Prokofievich succeeds where his vertical-legal counterpart fails. Gogol's 'unholy' fool, the wily, misleading, yet ludicrous Ivan-Durachok figure, succeeds in his task by using methods opposite to the pretensions reason and rationalism used by the emissary on behalf of local vertical law, and, to the delighted surprise of the gathered crowd, Ivan Nikiforovich arrives at the party.

That the attempted reconciliation takes place in a festive atmosphere is also of importance. In his essay *Rabelais and his World*, Bakhtin explains that "as opposed to the official feast," the medieval carnival celebrated "temporary liberation [...] from the established order; it marked the suspension of all hierarchical rank, privileges, norms, and prohibitions," which allowed for the uninhibited exchange of "truly human relations" between people who were, temporarily "all considered equal"<sup>98</sup>. This 'carnavalesque' atmosphere signifies that the relations between characters in this episode function according to rules different from those possible in relations conducted in the bureaucratic sphere. Bakhtin explains that clowns and fools are an essential character-type in the carnivalesque setting; fools embody the liberation, profanity, vulgarity, theatricality, subverted hierarchy, comedy, and grotesque physicality of the carnival atmosphere."<sup>99</sup> The carnivalesque focuses on the "lower stratum of the body" including the life of the "belly;" as the spirit of the carnivalesque scene of horizontal law, Anton Prokofievich's surname, Golopuz, (meaning "bare-belly") and his focus on the gastronomical features of the party, reflect those priorities.<sup>100</sup>

---

<sup>98</sup> Bakhtin, *Rabelais and His World*, 8-10.

<sup>99</sup> Ibid,

<sup>100</sup> See Bakhtin, *Rabelais and His World*, 21. Anton Prokofievich is first introduced with the surname "Pupopuz," a tautological sounding name meaning "naval belly" (225), but thereafter the narrator refers to him as "Golopuz," meaning, "bare-belly". Robert Maguire considers the discrepancies in the name an "intentional" mystification on the part of Gogol, who did not amend the discrepancy when he had the chance to do so for the 1842 edition of the publication. See Robert Maguire, *Exploring Gogol* (Stanford: Stanford University Press, 1994), 47.

In the carnivalesque setting, according to Bakhtin, fools take on a comic aspect, and contribute to the sense of play that colors the carnivalesque with the aura of the spectacle. In the carnivalesque, unlike the play, however, “the carnival does not know footlights;” everyone participates in the spectacle as much as he or she observes it.<sup>101</sup> Because fools, according to Bakhtin, embody the carnivalesque inversions not only at the carnival, but also outside the confines of the carnivalesque spatio-temporal limits, fools, as eternal objects of spectacle, are the “constant, accredited representatives of the carnival spirit.”<sup>102</sup>

The shallow motives underlying the theatricality of Anton Prokofievich’s endeavor to carry out his task, and the chaotic, spectacular, and insincere nature of the gathered crowd’s attempts to reconcile the Ivans contribute to the ultimate failure of the reconciliation attempts. At the initial suggestion to reconcile the Ivans, made by the town’s most notable entertainer, Ivan of the Blind Eye, it is clear that what the partygoers anticipate is not, as the narrator states, a sincere reconciliation between two former kindred spirits, but rather, the outrageous diversion that this confrontation promises to produce. Anton Prokof’evich tricks the partygoers by telling them that Ivan Nikiforovich will not come, heightening the dramatic surprising effect of Ivan Nikiforovich’s unexpected arrival. His entrance resembles that of a shocking scene in a stage drama: “If it had been Satan himself or a dead man, it would not have produced such amazement in which Ivan Nikiforovich’s entrance plunged the entire crowd” (236/270). The comic fool, Anton Prokof’evich exhibits his amusement by doubling over in joy at the joke he has played upon the whole company.

---

<sup>101</sup> Bakhtin, *Rabelais and His World*, 7.

<sup>102</sup> *Ibid.*, 8.

The ensuing scene in which the townsmen create a public spectacle out of the attempt to reconcile the two Ivans is characterized by crude physical force. In addition to the public, communal, intuitive characteristics previously mentioned, the physicality of this scene also hearkens back to traditional horizontal legal methods. Pre-modern Russian judicial customs were carried out publicly, relied on oral testimony delivered before third parties, invoked supernatural elements of Christian and pagan origin, and involved a good degree of physical violence, both during the judicial procedure, as well as afterwards as a punitive measure.

This clownish or foolish behavior on the part of Anton Prokof'evich and the emphasis on theatricality signals the sharp contrast in the predominant ethos of the scene at the party, which temporarily erase rank and therefore create an equalized, horizontal mode of relations, as opposed to that at work in the realm of local vertical law. This opposition resembles the “two-world condition” in Bakhtin’s formulation of medieval society in which “serious official, ecclesiastical, feudal and political cult forms and ceremonials” were parodied with “ritual laughter” during occasions such as “feasts of fools” and other “carnavalesque” gatherings that offered a “completely different, nonofficial, extraecclesiastical and extrapolitical aspect” of human relations.<sup>103</sup>

The police chief and the judge, whose formal roles are temporarily suspended in the carnivalesque atmosphere, act rather in accordance with the “general wish” (*vseobshchee zhelanie*) of the collective and initiate the informal attempt of reconciliation between the Ivans (235/270). In a moment that draws specific comparisons between this scene of horizontal law to a moment from the scene of vertical law at the Mirgorod court, in which a chancellery clerk winks (“*mignul*”) (220/252) at the invalid soldier with a blind eye (“*krivoj glaz*”) (229/262), who

---

<sup>103</sup> Ibid, 5.

approaches Ivan Nikiforovich from the *front* and proceeds to shove him backwards toward a female bystander waiting in the anteroom, at the party, the police chief winks (“*mignul*”) (237/272) at Ivan Ivanovich of the blind eye (“*krivym glazom*”) (237/272), who approaches Ivan Nikiforovich from *behind*, in order to shove him toward his former friend. Intoxication factors in both scenarios; in the courtroom, the invalid and the chancellery clerk exert themselves so thoroughly that their heavy breathing fills the room with alcoholic effusions; at the party, the narrator blames the vast selection of various liqueurs for the faulty aim of the police chief’s push, which sends Ivan Ivanovich tumbling onto a different female bystander who ventures too close to the action.<sup>104</sup>

At this moment the narrator indicates a superstitious sense of foreboding, which subtly links Gogol’s scene to horizontal law as it was conducted in Russia’s past, in which sorcerers and supernatural elements influenced the outcome of judicial endeavors. When the Ivans first notice each other at the party, the other’s face appears to both as something terrifying, like a “bad omen” (*nekhoroshee predznamenovanie*) (237/271). When Ivan Ivanovich then tumbles onto the curious female onlooker who had inserted herself in the confrontation, the narrator portends that such an omen does not bode well (*takoe predznamenovanie ne predveshchalo nichego dobrogo*) (238/272). Perhaps this unpleasant sensation derives from an understanding that this confrontation has been orchestrated primarily for entertainment, while the possible reconciliation is only of secondary importance. Regardless, the dramatic effect of the spectacle continues, as “the people present, all who were at the table, turned mute with attention and could not tear their eyes from the former friends [...]. Everything became hushed” (237/271). The narrator then

---

<sup>104</sup> Drinking and feasting are also common characteristics of the cultural and literary topos of the “carnival.” See Bakhtin, *Rabelais and His World*, 20

describes the typical way that horizontal reconciliation is conducted in Mirgorod: as a crudely physical spectacle, a game of sorts.<sup>105</sup>

To put things right, the judge took the police chief's place and, sucking all the snuff from his upper lip into his nose, pushed Ivan Ivanovich in the other direction. This is the usual means of reconciliation in Mirgorod. It's something like playing ball. As soon as the judge pushed Ivan Ivanovich, Ivan Ivanovich of the blind eye took the firmest stand and pushed Ivan Nikiforovich, from whom the sweat poured down like rain off a roof. Though the two friends put up a strong resistance, they were nevertheless pushed together, because the two acting sides received significant reinforcement from the other guests. Then they were surrounded tightly on all sides and were not leg out until they resolved to shake hands with each other. (238/272)

While the physical force applied to dislodge Ivan Nikiforovich from the courtroom entrance in the scenes at the Mirgorod courtroom appears as just one of many manifestations of the court's lack of professionalism, the physical force in the scene of horizontal law figures as a main method of the efforts to bring about resolution.

Up until this moment, the attempt to bring the two Ivans together appears to have been orchestrated to create the maximum possible entertainment value for the benefit of the guests. But as the physical comedy reaches a point of climax, a surprising and potentially meaningful moment arises. The crowd collectively calls upon the two Ivans to forgive one another: "God be with you, Ivan Nikiforovich and Ivan Ivanovich! Tell us in all conscience [*po sovesti*], what did you quarrel about? Wasn't it over a trifle? Aren't you ashamed [*ne sovestno li vam*] before

---

<sup>105</sup> Indeed, in historical circumstances, physical force was an integral part of early judicial processes in which horizontal methods still prevailed; in the sixteenth century, initiating a lawsuit involved much physical violence. Before the maturation of vertical legal structures, plaintiffs obtained a surety or a pledge from a defendant, who, while being escorted to the court, was beaten. Beating only ceased if and when the charge was denied upon oath, after which the case would be further tried through a judicial duel or casting of lots or some other form. If the matter was not carried out in accordance with the judge's orders, the defendant would be beaten badly. See Butler, "Foreign Impressions," 78.



people and before God?” (238/273). Although this is not the first time that the term, “conscience” (“*sovest*”) is uttered in the text, this instance marks the first time that the term is used as a call to the Ivans to in order to forgive one another.

This particular word, *sovest*, is a highly-charged term in respect to the law, and in judgment in general, in Russian culture. The term *sovest*, frequently paired antithetically with the term *zakon*, calls forth the many different ways in which the failures of Russian law were, and would continue to be, measured against various alternative methods of judgment in Russian cultural history. To name but a few of these dichotomies: the opposition of law versus grace in Ilarion’s *Sermon*; that between mercy or *blagodat* and justice or *spravedlivost* (as illustrated in Pushkin’s *Captain’s Daughter*—to be discussed in Chapter Two); between Russia’s *internal* truth (religion, tradition, conscience) and the West’s *external* truth (formal principles and rationalization) as articulated in the later Slavophile movement, and between judgments according to the law (*po zakonu*) as opposed to according to one’s conscience (*po sovesti*), a common binary in Russian culture in general that remains in use to this day.<sup>106</sup> In horizontal legal customs in Russia’s early legal history, the arbiter used his own judgment, often aided by supernatural or divine factors, to determine who appeared to be in the right, before people and God, according to his own conscience. In Gogol’s scene, horizontal law allows for the possibility for the Ivans’ dispute to be resolved not according to legal justice (*po zakonu*), but according to higher ideals (*po sovesti*) that aspire to a justice that involves one’s responsibility not just to the law, but to one’s fellow men and God, and therefore has a moral component lacking in legal justice.

---

<sup>106</sup> For the Slavophile binary, see S.K. Aksakov, “On the Internal State of Russia” in Marc Raeff, ed., *Russian Intellectual History: An Anthology* (New York: Harcourt Brace, 1966), 231-251.

In the Russian context, judging according to one's conscience does not mean merely to heed one's instincts; the word *sovest'* contains a complex of rich signification. It means both "the voice of God" within oneself; it represents spiritual knowledge and wisdom; and it also functions as a synonym for shame—the element that facilitates the recognition of one's own sins.<sup>107</sup>

According to the late nineteenth-century philosopher Vladimir Solov'ev, the concept of "conscience is simply a developed sense of shame" (*sovest' est' tol'ko razvitie styda*).<sup>108</sup> Both meanings are reflected in the quote cited above, in which two instances of the word *sovest'* are rendered as "conscience" and "shame," respectively.<sup>109</sup>

The English rendering of the second use of *sovest'* into "shame," however, does not capture the importance to which the word has been ascribed in the Russian cultural context. Solov'ev explains that "shame" and "conscience" essentially refer to the same thing, but elaborates, explaining that shame becomes conscience when relating to others and to God:

In the case of man, this knowledge of good and evil is given immediately in the feeling of shame [*chuvstve styda*] that is distinctive of him, and, gradually developing from this first root and refining the concreteness and sensuousness of its form, it embraces the whole of human conduct in the form of conscience [*sovest'*]. . . . When from the relation to oneself as a separate individual and a member of a genus, we pass to those relations between ourselves and other people, or between ourselves and God—relations infinitely more complex, varied, and changeable, —the moral self-valuation can no longer remain a

---

<sup>107</sup> For a sophisticated lexical history of the term *sovest'*, see M.V. Rukavishnikova, "Sovest' kak mnogogrannii fenomen: etimologicheskii i leksicheskii analiz: Filosofiiia. Kulturologiia, *Vestnik nizhegorodskogo universiteta im. N.I. Lobachevskogo: seriia sotsial'nye nauki* (2009): 121-126.

<sup>108</sup> Solov'ev elaborates: "Стыд и совесть говорят разным языком и по разным поводам, но смысл того, что они говорят, один и тот же: *это не добро, это недолжно, это недостойно*. Такой смысл уже заключается в стыде; совесть прибавляет аналитическое пояснение: сделавши это недозволенное или недолжное, ты виновен во зле, грехе, в преступлении. . . . совесть есть только развитие стыда." See Vladimir Solovyov, *Opravdanie dobra: Nравственnaia filosofiiia*. 2<sup>nd</sup> ed. (Moskva, Respublika: 1899), 85.

<sup>109</sup> Leonard J Kent translates *po sovesti* as "truthful": "Tell us truthfully now [...] Aren't you ashamed before men and before God!" See Leonard Kent, *The Collected Tales of Nikolai Gogol*, 211. Richard Pevear and Larissa Volokhonsky translate *po sovesti* as "conscience": "Tell us in all conscience [...] Aren't you ashamed before people and before God?" Pevear and Volokhonsky, *The Collected Tales*, 238.

simple concrete sensation. It inevitably passes through the medium of abstract thought and assumes the new form of conscience [*sovesti*].<sup>110</sup>

The fact that the phrase, “Aren’t you ashamed before people and before God?” is not attributed to a particular person, but rather is presented as yet another expression of the crowd’s “collective desire” is significant. It refers to another important concept in Russian culture: the notion of *sobornost’*, a sense of spiritual unity or communal spiritual brotherhood.<sup>111</sup> As one united entity, the crowd calls upon the Ivans to heed the inner presence of conscience, to heed the ‘voice of God’ within each of them, which means to recognize their own sins before each other, and before God, and to open the path for honest forgiveness and reconciliation.<sup>112</sup> If the Ivans were able to recognize their own complicity and their own sins, and thus be able to empathize with the other and forgive him, this call to conscience would have succeeded where vertical law had failed: to move from simply *forgetting* the mutual offenses of the past, and reach a place of *forgiving* those indiscretions. In the vertical attempts, no effort is put forth to bring the Ivans together to forgive one another; the judge entreats Ivan Ivanovich simply to “forget everything”: “*pozabudem vse!*” (219/250). This aspiration to collectivism and the urge to use conscience as a conduit for reaching forgiveness – to solve the conflict rather than to forget about it — is what truly distinguishes the horizontal strategies from the vertical legal strategies in the tale.

In emphasizing community consensus and the spiritual union between men encapsulated by the concept of *sobornost’*, this episode underscores the connection between horizontal law and Russian Orthodox tradition in stark contrast to Western Christian traditions, from which

---

<sup>110</sup> Vladimir Solovyov, *Opravdanie dobra*, 85. Modified translation taken from: Vladimir Solovyov, *The Justification of the Good: An Essay on Moral Philosophy*, trans. Nathalie Duddington (London: Constable and Co: 1918), 38.

<sup>111</sup> Nicolas Berdyaev, *The Russian Idea*, trans. R.M. French (Boston: Beacon Press, 1962), 163.

<sup>112</sup> In his “Sermon on Royal Authority and Honor,” Feofan Propokovich calls conscience “the seed of God.” Quoted in Raeff, *Russian Intellectual History*, 20.

rationalistic doctrines of vertical, bureaucratic law grew. In Ilarion's "Sermon on the Law and Grace," one of the prime analogies links the law (*zakon*) to bondage and grace (*Blagodat*) with freedom.<sup>113</sup> Dmitrii Likhachev writes that with its "limitations," the old Testament ('the law') made men "bound by the law and therefore slaves," while the "grace" of the New Testament, with its "ecumenical, universal nature," freed them.<sup>114</sup> In *Kategoriia sobornosti*, Esaulov describes the grace of God as the seed of *sobornost*, which represents the antithesis of the "slavish submission" upon which the law is founded.<sup>115</sup> In one of the many binaries in the *Sermon*, the Jews, as slaves to the law, are to be dispersed, while the Grace of Christ unites men.<sup>116</sup> The democratizing space of the party means that no one at that moment is subject to the official laws of the ordered hierarchy; normal rules of stratification do not apply. The party scene is an equalizing moment in which the crowd acts as one body, one soul (*edinodushno*); Bakhtin also emphasizes the utopian and universalizing spirit of the features of the carnivalesque, an atmosphere that unites and represents "all the people."<sup>117</sup>

Gogol's narrator uses lexical repetition to underscore the unanimous spirit at the party. The event itself is called an extremely important event for "the whole of Mirgorod" (*dlia vsego Mirgoroda*) (230/264); to see the neighbors reconciled is the crowd's "collective desire" (*vseobshchee zhelanie*) (235/270); the decisions to initiate a reconciliation and to appoint Anton Prokof'evich as emissary are both decided "unanimously" (*edinodushno*: literally, "as one united soul") (231/266); the entire party surrounds Anton Prokof'evich upon his return (*obstuplen vsemi*) (238/270); Ivan Nikiforovich's entrance plunges the "entire company" into amazement

---

<sup>113</sup> Ilarion, *Slovo*, 35.

<sup>114</sup> Dmitrii S. Likhchev, *The Great Heritage*, trans. Doris Bradbury (Moscow: Progress, 1981) 33.

<sup>115</sup> Esaulov, *Kategoriia sobornosti*, 16. My translation.

<sup>116</sup> Ilarion, *Slovo*, pp 39-41.

<sup>117</sup> Bakhtin, *Rabelais and his World*, 19.

(“*na vse obshestvo*”) (238/270); this surprises “everyone” (*neveroiatno dliq vsekh*) (238/270); the “entire company” expresses interest in Ivan Nikiforovich’s health (“*vsia publika priniala uchastie*) (238/270)”; “everyone” streams into the dining hall (*vse povalili* [238/270]); upon seeing the Ivans facing each other at the dinner party “all” present watch them intently (*vse onemeli ot vnimaniia*) (237/271); “everything” becomes hushed (*vse stikhlo*) (231/271); then partygoers “from all sides” join forces to physically force the Ivans together to reconcile them: (*obstupili ikh so vsekh storon*) (238/272-3). It is interesting to note the contrast between the narrator’s lexical repetition used to characterize the court in Mirgorod – various terms of negation (*nechego, nichego, ne, ni*, etc.) – and the repetition of words meaning “all” (*vse*) that characterizes the scene of horizontal law.

These allusions to communal spirituality further distance the methods and objectives of horizontal law from those of vertical law. Projecting from Sergei Bulgakov’s dictum that “*sobornost*’ is the “soul of Russian Orthodoxy,” Esaulov posits that literary texts engage with values of Russian Orthodoxy by means of literary representations of *sobornost*’.<sup>118</sup> The early twentieth-century philosopher Nikolai Berdiaev writes that “the idea of *sobornost*, of spiritual community, is a Russian idea,”<sup>119</sup> adding that “*sobornost* is opposed both to Catholic authoritarianism [*avtoritarnosti*] and to Protestant individualism [*individualizmu*];”<sup>120</sup> The quasi-

---

<sup>118</sup> Esaulov, *Kategoriia sobornosti*, 13. Bulgakov writes: “Здесь мы подходим к самому существу православного учения Церкви, в котором вся сила православной экклезиологии. Без уразумения его нет пути к пониманию Православия, которое иначе представляется эклектическим компромиссом, ищущим середины между католичеством и протестантизмом. Душа православия есть соборность. По справедливому замечанию Хомякова, <одно это слово соединяет в себе целое исповедание веры>. Русское церковное словоупотребление и русское богословие употребляют это выражение в таком обширном смысле, какого оно не имеет в других языках, причем оно выражает собой самую силу и дух православной церковности.” Sergei Bulgakov, *Pravoslavie: Ocherki ucheniia pravoslavnoi tserkvi* (Moskva, Terra: 1991), 145.

<sup>119</sup> Nicolas Berdyaev, *The Russian Idea*, 163.

<sup>120</sup> Ibid, 164. See also: Nikolai Berdiaev, *Russkaia Ideia: osnovnye problem russkoi mysli xix veka I nachala xx veka*. (Parizh: YMCA: 1946) 141.

143. Berdiaev’s discussion of *sobornost* here is primarily in the context of explaining Khomiakov’s understanding of *sobornost*’. Berdiaev adds that there was “some truth” in criticism that charged that Khomiakov’s understanding

spiritual communality of the gathering crowd's efforts culminates in the scene in which the two are called upon to reconcile by shaking hands in forgiveness. This moment of horizontal law, in which the participants are united in a common pursuit, can be viewed as a truncated or failed aspiration toward these sacred Russian Orthodox values. Georgii Fedotov writes that from ancient times, justice based on lofty principles was an original ideal, the "lofty principle" of Russian politics: "Speaking roughly," he writes, "not law, but love" was supposed to govern the affairs of Russian lands.<sup>121</sup>

Lofty though it may seem, this appeal to conscience by the townspeople falls on deaf ears, or rather, on blind eyes, as the Ivans prove incapable of seeing their own sins; and without a sense of shame at one's own sins, one's conscience remains dormant, and forgiveness, the key to reconciliation, becomes impossible. Moreover, if we read this scene as belonging to the Bakhtinian category of the carnivalesque, it follows that, in such a setting, any reverent objectives are impossible. While the carnivalesque liberates individuals from the hierarchical rank that separates them, allowing for individuals to relate to one another on a new level of purely human relations, this setting precludes those relations from attaining earnest significance; the suspension of hierarchy and official rules *also* signals the suspension of religious and spiritual ritual. The carnivalesque setting is the place where such serious rituals are mocked, and replaced by the universalizing laughter of folk culture, which is ambivalent, and has no specific purpose or aim. "The basis of laughter which gives form to carnival rituals frees them completely

---

of *sobornost'* was an invention of Khomiakov's. (See Berdyaev, *The Russian Idea*, 165) "Общение в любви, соборность есть критерий познания. Это принцип, противоположный авторитету. Это также путь познания, противоположный декартовскому cogito, ergo sum [...] Не я мыслю, мы мыслим, т.е. мыслит общение в любви, и не мысль доказывает мое существование, а воля и любовь." In discussing the Khomiakovian idea of *sobornost'*: "Западные христиане, и католики и протестанты, обыкновенно с трудом понимают, что такое соборность. Соборность противоположна и католической авторитарности, и протестантскому индивидуализму, она означает коммунальность, не знающую внешнего над собой авторитета, но не знающую и индивидуалистического уединения и замкнутости." See Berdyaev, *Russkaia Idea*, 142-145.

<sup>121</sup> Fedotov, *The Russian Religious Mind*, 390.

from all religious and ecclesiastic dogmatism, from all mysticism and piety.”<sup>122</sup> According to Bakhtin, the ambivalence of the people’s festive laughter, though it may be oriented toward the philosophical, the universal, and the utopian, nevertheless remains circular, and self-directed. In Russia’s legal history, horizontal legal procedures, although not *formalized*, nevertheless belonged to the official sphere; the presence of an attempt at horizontal law in the setting of the carnivalesque nullifies the trajectory of potential justice; it can only serve as a parody of an official ritual, not an alternative to one. A just reconciliation, therefore, is not possible in a Bakhtinian carnivalesque setting.

It is hardly surprising to the reader that, when Ivan Nikiforovich repeats the offending term “gander” (*gusak*) at the very moment in which the two Ivans are on the brink of reconciliation, the effort collapses; in a subversion of the previous nine instances of the use of “all” or “everyone” (*vse*) mentioned above, which reflect common goals, the last use of the word “all” in this scene represents the failure of that goal: “Everything went to the devil!” (*vse poshlo k chertu*) (239/273). The humiliation of being reminded of the insult, this time amplified by the presence of numerous bystanders, sends Ivan Ivanovich rushing home to his estate.

The ultimate difference between horizontal and vertical law in Gogol’s story appears to be action versus inaction. Neither method proves successful, but horizontal law at least carries the promise of forgiveness, or an aspiration to such higher ideals, whereas vertical law at the local level promises only that nothing will be done.

Of course, this scene of horizontal law can be faulted for one final reason: its failure serves as the impetus for Ivan Ivanovich to make the fateful and irrevocable decision to transfer the case to the higher courts at Poltava. After one month Ivan Ivanovich unearths his ancient

---

<sup>122</sup> Bakhtin, *Rabelais and His World*, 7.

ancestral rubles and sacrifices them to the “stained hands of the ink-slingers,” in order to have the case transferred. This transfer signifies the shift of the jurisdiction of the case from the vertical legal level in the town to vertical law at the level of the state. This shift is signified as well by the language used to describe the case; the narrator and Ivan Ivanovich refer to the legal actions with the term *proshenie* (rendered in English as a “claim” and a “petition”) (213/243; 217/248), as well as a *pozov* (rendered in English only as a “claim”) (216/247). From then on the narrator and the other characters refer to the suits as either petitions or claims (“*pros’ba*”) (222/252). Finally, the formal word for “lawsuit,” *tiazhba*, occurs only once in the entire text, and significantly, only *after* the case has been transferred to Poltava (240/275).

The stark changes in the tone of the narration and the fates of the Mirgorod inhabitants illustrate the difference between the consequences of engaging with vertical law at the local level and at the level of the state: while “nothing” happens to the case or the neighbors while the case is in the hands of the local Mirgorod court, the transfer of the case to Poltava portends an accelerated decline of not just the Ivans, but the entire town.



## Official Vertical Law in the big City of Poltava

Given his situation, the man from the country does not know the law which is always the city's law, the law of cities and edifices protected by gates and boundaries, of spaces shut by doors.

-*Jacques Derrida*, "Before the Law"

When Ivan Ivanovich transfers control of his case from the local authorities in Mirgorod to the unknown officials in Poltava, the depiction of law in the text shifts irrevocably to a realm of vertical law that is stripped of any lateral social influence. As opposed to the formal submission of the Ivans' petitions to the Mirgorod court, where they remain untouched, crumbling, and forgotten in the courtroom's ancient chest, the transfer of the case to Poltava marks a dramatic shift with real consequences.

Historically, in the Russian legal system, the transfer from the horizontal to the vertical realm was something reserved for the most undesirable offenders in a community. The *Expanded Pravda* (*Prostrannaia Pravda*, likely compiled in the twelfth or thirteenth century) reveals this as one of the ways in which vertical law and horizontal law overlapped in the pre-modern period of Russian legal history.<sup>123</sup> According to the *Pravda*, it was possible for rural communities to pay a fine (*dikaia vira*) of forty *grivny* if the community was unwilling to surrender a murderer wanted by the prince. In those cases in which local punishment through composition was deemed insufficient, communities were also allowed to hand over to the prince the most undesirable

---

<sup>123</sup> Kaiser, *Growth of the Law*, 34.

criminals (especially threshing-floor arsonists, horse thieves, and recidivists).<sup>124</sup> The shift from horizontal to vertical was a serious affair.

The structure of Gogol's tale underscores the shift from the horizontal and local realms to those of vertical law and the state. Stark contrasts in the narrator's tone, use of figurative language, verb use, punctuation, and descriptive imagery illustrate the results of Ivan Ivanovich's fateful decision to have the case transferred. The colorful atmosphere, fecundity, and prosperity with which the narrator initially characterizes his Mirgorod tale become replaced with the atmosphere of a colorless, decaying wasteland.

It is no coincidence that these changes coincide with shifts in the jurisdiction of the lawsuit. Consider the state of Mirgorod and the wellbeing of its inhabitants at three different stages: before Ivan Nikiforovich's petition is submitted to the local courts (chapters 1-6), after the petition is submitted to the local courts (beginning of chapter 6), and after the lawsuit is transferred to Poltava (untitled epilogue added to chapter 7). Before Ivan Nikiforovich submits his petition to the Mirgorod court (chapters 1 and 2), the Ivans are on the verge of forgetting the feud and moving on. After its submission, despite the drama and dismay, nothing much happens at all (chapters 3-6). In fact, with the notable exception that the Ivans are no longer speaking to one another, life in Mirgorod appears to go along more or less as usual. As the narrator explains, in the interim between the submission of the petition and the police chief's party, "a host of brides" manage to get married; Ivan Ivanovich has "more children running around the yard than ever;" a new street is laid; Ivan Nikiforovich constructs a brand-new goose pen (230/263). True, the judge loses a few teeth, but overall, the impression is that there are no real consequences for submitting the case to the local Mirgorod court. Compare these events to the consequences of the

---

<sup>124</sup> Ibid, 68-69.

transfer of the case to Poltava: instead of birth, renewal, and creation, the narrator describes only loss. “Many” notable people “have died,” including Dem’ian Dem’ianovich and Ivan of the Blind Eye. While the Ivans’ case remains in the hands of vertical law at the *local* level in Mirgorod, it’s as though life simply goes on. After the affair is squarely in the hands of vertical law, however, the only thing ‘going on’ appears to be death and decay.

After the case is transferred to Poltava, the narrative tone undergoes an abrupt change, which remains to the end of the tale. This section is separated from the previous text of chapter 6 by a line, as well as a significant period of time. In this final section the narrator describes passing through Mirgorod for the first time in twelve years. The opening paragraphs of the tale differ greatly from those of the tale’s conclusion. Beginning with the cheerful declaration, “A fine bekeshia Ivan Ivanovich has! A most excellent one! And what fleece!” the opening continues with such exclamation upon exclamation, totaling thirteen exclamatory sentences in a row. These are followed by numerous exclamations, all of which express enthusiastic awe and admiration for Ivan Ivanovich and his glorious estate. The narrator repeats three times, “A wonderful man, Ivan Ivanovich!” and “What a house he’s got in Mirgorod!” (194/223).

In contrast, the exclamatory remarks of the final episode express only surprise, anguish, and disconsolation. Following six declarative sentences, the narrator’s first exclamation in the final episode is: “God, how many memories!” (240/274). The remaining exclamations reveal the narrator’s astonishment at the state of decline of the Mirgorod inhabitants. “And how many notable people had died!” (240/274). Upon seeing Ivan Nikiforovich, the narrator exclaims, “But how changed he was!” and remarks to him, “Are you well, Ivan Nikiforovich? You’ve aged so!” (240/275). The final exclamation, “It is dull in this world, gentlemen!” concludes the tale with an abruptly unsettling shift from the wryly comical tone of the previous six and a half chapters

(241/276). Instead of surprise at the admirable quality and prosperity of Ivan Ivanovich, the narrator's exclamations express surprise at the unexpectedly hastened deterioration of the wellbeing of the Ivans and their town.

The color and imagery used by the narrator in his descriptions of the introductory and concluding paragraphs accentuate the profound deterioration that appears to begin with the point in the text at which the lawsuit is transferred to Poltava. In the beginning of the tale, the narrator's multi-sensory description create the impression of life, growth, variety, and abundance. The first paragraph describes Ivan Ivanovich's coat with such multisensory description: "And what fleece! [...] it's simply delicious! [...] velvet! silver! fire! Lord God!" (194/223) and then begins to praise the estate:

What a house he's got in Mirgorod! A gallery [...] with benches along it everywhere [...] What apples and pears he's got right under his windows! Just open the window—the branches burst into the room. That's all in front of the house; but you should see what he's got in his garden! What hasn't he got in it! Plums, cherries, black cherries, all kinds of vegetables, sunflowers, cucumbers, melons, beans... The roofs are all thatched with rushes; a willow, an oak, and two apple trees lean on them with their spreading branches. Small windows with whitewashed openwork shutters flash between the trees and even run out to the street. (194/223)

The narrator's list of the specific varieties of flora in Ivan Ivanovich's garden creates an impression of abundance. The personification of the branches, which "burst into" or "thrust themselves into" the room, and the windows, which "run out" to the street, and the branches, create an impression of living movement (194-195/223-224). The list of specific produce varieties evokes not only the sensation of a multitude of colors and shapes, but also of the tastes

produced by the garden. The narrator describes Ivan Ivanovich eating melons, and even likens the roofs of Ivan Ivanovich's estate to a "plateful of pancakes" (195/224).

Finally, the narrator's introductory description occurs in summer, a time of plenty and harvest, and a hospitable season. The narrator describes how, when it gets too hot, Ivan Ivanovich undresses and relaxes on the gallery, while Gapka's children run about in the yard. Gapka is also introduced in the opening paragraphs, and with her "fresh calves and cheeks," the "healthy girl" emblemizes the atmosphere of relaxation and vitality described in the text (195/224).

In contrast, the narrator begins his description of a post-lawsuit Mirgorod with mention of the inhospitable weather. In this part of the text, the colors are drab and the sensations are unpleasant. The exciting variety of objects, people, and forms of vegetation on Ivan Ivanovich's estate contrast sharply with the dullness of the "monotonous" (*odnoobraznyi*) rain (240/275). Upon his return to Mirgorod, the narrator mentions three prominent colors: grey, black, and "unnatural" green: "grey mass of mud" (*seruiu massu griazi*); the field, which is in places black and in places green (240-241/274-275).

It was autumn, with its damp, melancholy days, its mud and mists. Some sort of unnatural [*nenatural'naia*] green—the creation of dull, ceaseless rains—covered the fields and meadows with a thin net [*set'iu*], which was as becoming as pranks to an old man or roses to an old woman. (240/274)

In place of the introduction's appealing simile of nourishing pancakes stacked on a plate, combined with its images of the life and movement of children and abundant growth of foliage, the metaphor used here is that of a net—something that *restricts* movement and life. Compared with Gapka's healthy cheeks and the color and fecundity of Ivan Ivanovich's estate, the narrator's later description of Mirgorod is suggestive of malaise and stagnation.

The narrator expresses his contemplative and nostalgic tone with first-person narration, heretofore unutilized. He admits that such weather strongly affected him, making him “dull” (*skuchal*) (240/274). He arrives to Mirgorod with anticipation, but the signs of progress and change he observes are as depressing as the weather. Here, unlike in the opening paragraphs of the tale, the narrator uses personification not to emphasize vitality and abundance but to create an atmosphere of pervasive despondency. The narrator reports that, apparently to make way for a new project, several cottages had been demolished. “The remnants of palings and wattle fences stuck up dejectedly” (*unylo*) (240/275). The candles burning on this “bleak and sickly” (*bol’nom*) day seem strangely unpleasant (240/275); the dark corridors and the town gate are both “melancholy” (*pechal’nye*) (240-241/275-276); and, most vividly, the church windows become covered with “tears of rain” (*oblivalis’ dozhdlivymi slezami*) under a “tearful” (*slezlivo*) sky “without a bright spot.” (*bez prosvetu*) (240-241/275-276).

Where the first paragraphs of the tale introduce the reader to a host of characters (Ivan Ivanovich, Agafia Fedoseevna, Gapka, her children, the Poltava commissar, the archpriest, etc.), on his second visit, the narrator emphasizes the absence of people in Mirgorod, not only with his exclamation regarding the number of people who died, but also by noting those who are physically absent in the church on a holiday when it would normally be full. “I went in quietly so no one [*nikto*] turned around. True, there was no one [*nekomu*] to do so. The church was empty [*pusta*]. Almost no people [*pochti nikogo*]” (240/275).

There are few of the introductory paragraphs’ signs of life. Ivan Nikiforovich has aged considerably. The narrator is surprised to learn that the old man with grey hair whom he sees in the church is none other than Ivan Nikiforovich. The narrator is so shocked at how much Ivan Nikiforovich has aged that he inquires after the latter’s health. The narrator then observes a

“skinny” figure in the face, an elderly man with whitened hair and a face “covered in wrinkles,” whom he realizes is Ivan Ivanovich (241/275). The last Mirgorod inhabitants to be mentioned in the closing scene by the narrator are an invalid mending his grey armor and a few wet, black crows and ravens –birds archetypally linked to death by their proclivity for feeding on the corpses of other animals (241/276). This imagery connotes despondency, death, and decline.

The narrator’s brief dialogues with the respective Ivans suggests that this atmosphere of pervasive despondency, death, and decline is connected to (and perhaps a result of) the transfer of the case to Poltava (the shift to the realm of vertical law). When the narrator expresses his concern for Ivan Nikiforovich with a heavy sigh, the latter replies, “Don’t worry! I have definite information that the case will be decided in my favor next week” (24/275). The narrator understands that this enthusiasm is misplaced, however.

Ivan Ivanovich, the reader learns, is similarly deluded. He relays the “pleasant news” to the narrator that his case “will be decided tomorrow without fail” (241/275). The narrator recognizes that these promises are false, and that the conclusion of the case, which the Ivans consider imminent, will likely never come. The narrator notes that, after transferring his case to Poltava, Ivan Ivanovich had soon “received the joyful news that [the case] was to be decided the next day.” This prompts the narrator’s exclamation: “Alas! Since then, the court has informed him daily for the past ten years that the case would be concluded the next day!” (240/274). The narrator ends the tale dejected and disillusioned by the degeneration of a friendship, once the warmest in Mirgorod, which has been caused by the interminable deferment of a legal resolution initiated by the fatal irrevocable invitation of state interests in a personal matter. The famous ending of existential despair, “It is dull in this world, gentlemen!” may warn against the sin of despondency, as several critics have suggested, but it is important not to neglect the role of the

law as an active and destructive agent this story.<sup>125</sup> In the words of a Russian proverb, “the court loves tedium” (*sud dokuku liubit*).”<sup>126</sup>

There are a few other moments in which imagery and foreshadowing used by the narrator suggest the destructive role of vertical law. These images are associated with the themes of movement (and, by extension, progress and freedom) and stagnation (and, by extension, deterioration or restriction) mentioned above. Consider the depictions of various types of movement in the text. Not a single depiction of movement in the text could be described as graceful or efficient. Dem’ian Dem’ianovich almost falls off a chair; Petr Fedorovich hobbles furiously with a clumsy gait; Ivan Ivanovich accidentally stumbles on top of a woman at the housewarming party, etc. In Mirgorod, the movement is awkward, frenetic, unproductive, yes, but at least there is some sort of movement, some signs of life. This is linked to the implicit comparison of the types of law in the text. Yet, as noted above, once the case is transferred to Poltava, there ceases to be any sign of life or movement in Mirgorod. The antimonial pairing of movement with stagnations in Gogol’s text has an important role in the first Russian text to decry the faults of “the law” while praising the merits of an alternative: Ilarion’s “*Sermon on the Law and Grace.*”

Writing about modern-day Russian attitudes toward the law, Konstantin Kustanovich explains that *dvoeverie* (the coexistence of pagan and Christian Orthodox beliefs and rituals) and the “underdevelopment of theological and philosophical thinking” in Russia resulted in “shaping a consciousness in which Dionysian elemental emotionalism and unruliness dominate over

---

<sup>125</sup> See Peace, *The Enigma of Gogol*, 89-93. See also Esaulov, *Kategoriia Sobornosti*, 61-82.

<sup>126</sup> Iakinf Illiustrov, *Iuridicheskiiia poslovitsy i pogovorki russkago naroda: opyt sistematicheskago, po otdelem prava, sobraniia iuridicheskikh poslovits i pogovorok russkago naroda* (Moskva: Krasand, 1885), 26.



Apollonian clarity, reason, and orderliness.”<sup>127</sup> He adds that this consciousness “scorns strict observance of formal law,” and is instead guided by “moral considerations based on a complex conglomerate of emotion, a sense of beauty, national myths and values, and collectivist (tribal or kinship) responsibilities.”<sup>128</sup> He summarizes:

The eleventh century *Sermon on Law and Grace* by the Kiev Metropolitan Ilarion can serve as a metaphor for the Russian attitude toward the law. Ilarion sees transitioning from Judaism to Christianity as moving from the fetters of the law to freedom of grace: “Man is no longer constrained in the Law [of the Old Testament] but moves freely in Grace [of the New Testament].”<sup>129</sup>

Looking at the foreshadowing and the depictions of different types of unproductive movement or the lack of movement in Gogol’s text through the prism of this metaphor, as Kustanovich interprets it, can be illuminating. Just as in Ilarion’s text, the scenes of vertical law in Gogol’s text bear static imagery of restraint, whereas scenes of horizontal law and vertical law at the local level feature imagery of movement, albeit rather unproductive movement.

The important thematic role that unproductive or restricted movement plays in the text is foreshadowed by a few important images. The first appears in the narrator’s initial characterization of the Ivans’ friendship. In Chapter One, the narrator reports that the town fool Anton Prokov’evich “used to say that the devil himself had tied Ivan Nikiforovich and Ivan Ivanovich to each other with a piece of string” (*sam chert sviazal verevochkoi*), and that “wherever the one goes, the other gets dragged [*pletetsia*] along” (197/226). The following sentence, “Ivan Nikiforovich never married,” may appear at first as a nonsequitur (197/226). But

---

<sup>127</sup> Konstantin Kustanovich, “Law and Grace: Religious Roots of Legal Tradition in Russia.” Unpublished conference paper. Association for Slavic, East European and Eurasian Studies 44th Annual Convention, delivered Nov 16, 2012.

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

a connection between Ivan Nikiforovich's marital status and the image of the Ivans attached by string may be a reference to a common folk saying regarding two spouses who cannot get along: “*verevkoi ne sviazhesh.*”<sup>130</sup> And, married or not, Anton Prokofievich's words ultimately prove prophetic, as the Ivans do, after the initiation of the lawsuit, end up being “dragged along,” so to speak, one after the other: first to the Mirgorod courtroom, then to the police chief's party, the Poltava courts, and to the town church featured in the final scene.<sup>131</sup> Even the attempts to reconcile the Ivans at the housewarming party resemble a Slavic folk wedding game called “string tag” (*udar po verevochke*).<sup>132</sup> In this game, players form a circle by tying together the ends off a large string. Players stand on the outside of the ring, holding it with both hands. One designated player, standing inside the ring, attempts to “tag” the hands of the outside players, who, while attempting to evade the designated player's strikes, must keep one hand on the string at all times. If the outside player removes both hands from the string, then he becomes the designated player inside the ring, and the game continues in this manner.

The game's imagery, just like the scenes of unproductive movement in the attempted reconciliation scene, links thematically with the notion of the potentiality of progress, of stunted or obstructed movement. In connection with the law, this imagery links stunted or obstructed

---

<sup>130</sup> Dal's dictionary contains the explanation: “Веревкой не свяжешь, говорят о несогласии супругов.” *Tolkovii slovar' Dalia 1863-1866*. s.v. “verevka.” Accessed on November 20, 2014. [slovari.yandex.ru/~книги/Токовый%словарь%Даля](http://slovari.yandex.ru/~книги/Токовый%словарь%Даля).

<sup>131</sup> The roots of the Russian term for “lawsuit” *tiazhba* also connect to this imagery of “dragging along” one after the other: *tiazhba* derives from the verb *tiagat'*, meaning to pull, lift, or carry something heavy. Synonyms for *tiagat'* include *tianut'* (to drag) *dergat'* (to tug).

<sup>132</sup> The diminutive term for *verevka*, *verevochka*, is used in a folk game played at weddings called “*Udar po verevochke*”: “Для игры необходима замкнутая в круг веревочка. Игроки берутся обеими руками за веревочку с внешней стороны. Выбирается один водящий, который должен находиться в центре круга, образованного веревочкой. Цель водящего – послать, т.е. ударить по руке одного из играющих находящихся с внешней стороны круга. Те, кто находятся с внешней стороны круга, во время атаки водящего могут отпустить от веревочки только одну руку. Если играющий отпускает от веревочки две руки или по одной из них попадает водящий, то уже именно он становится в круг и игра продолжается дальше.” See: <http://www.portal-slovo.ru/pedagogy/38186.php>. A simpler description of this game can be found in Dal's dictionary as well under the entry, “verevka.” *Slovar' Dalia*, s.v. “verevka,” accessed November 20, 2014, <http://slovar-dalja.ru/slovar-dalya/verevka/2788/>.

movement with the metaphorical notion of moving forward, so to speak, through a conflict. Horizontal law in Mirgorod is not a conduit for just resolution; there is no breakthrough or revelation. Like the game of “string tag,” there is no winner, and no exit. The game simply ends when the players are tired of participating. When the two Ivans are pushed together in an attempt by the partygoers to force a reconciliation, missing elements (such as conscience, of recognizing one’s own guilt in order to forgive one’s brother and move past the conflict), prevents any progress toward a moral, meaningful, or just reconciliation. Horizontal law may bring about some movement (bringing the Ivans together), but it fails to bring about progress.

Another potentially meaningful moment of foreshadowing in the text occurs when Ivan Nikiforovich, while attempting to enter the Mirgorod courtroom, becomes wedged in the doorframe. He is physically unable to enter the courtroom, and the court servitors resort to shoving him violently into the anteroom, where a sole, skinny, elderly female petitioner awaits. This evocative scene presages what transpires when the Ivans’ case is transferred to the Poltava courts; as Derrida writes about Kafka’s text “Before the Law,” the law is “always the city’s law, the law of cities and edifices protected by gates and boundaries, of spaces shut by doors.”<sup>133</sup> And indeed, it appears that once the Ivans’ case is in the hands of the Poltava functionaries, there is no more movement, no more hope of a potential attempt at reconciliation or just resolution. It is as though the doors to the Poltava courts, part of the vertical legal structure, are impenetrable, forcing the Ivans to wait forever in a metaphorical anteroom, like the helpless, skinny, elderly petitioner, who, despite all her efforts, can “do nothing” to move Ivan Nikiforovich. In the closing scenes, the aging Ivans seem trapped in a cycle of delusion and deterioration without even the glimmer of a hope of reconciliation that remained while the case still remained

---

<sup>133</sup> Jacques Derrida, *Acts of Literature*, (London: Routledge, 1992) 195.

tangentially in the purview of horizontal influences. They are trapped in this state of an endless lawsuit, caught under the oppressive net of the rain and monotony of repeated false promises of an end or resolution. The devil, who ties the Ivans together, no longer may “dream” of the lawsuit, as Dem’ian Dem’ianovich suggests. It has become reality.

As this analysis makes clear, horizontal law as depicted in Gogol’s text is no representation of Grace. The stunted movements and false starts of conscience, spiritual brotherhood, or forgiveness in the scenes of horizontal law do not translate to the freedom of grace of Ilarion’s metaphor. Yet the reconciliation attempts bear kernels of aspirations to some of those ideals. There is at least the possibility of transcending the conflict through means more worthy than that of cold legal rationality; there is unproductive movement, but movement nonetheless. The imagery of vertical law in the text, however, suggests no movement, no kernels of hope, but rather seems more like those fetters of the law of Ilarion’s text. Clearly, horizontal law is not perfect, but it is by no means as destructive as vertical law.

But perhaps one needs to question whether it is indeed fair to expect a positive depiction of an alternative in Gogol’s text? Of course the scenes of horizontal law are flawed; Gogol was never known for depicting morally or ethically exemplary individuals or scenarios in his texts. Perhaps all we need to understand horizontal law as a better, if flawed, alternative to the law are those kernels of higher aspirations, those elements that, in Kustanovich’s words, refer to the “complex conglomeration” of Russian cultural values. In his article, “Truth as Lie,” Lotman writes that moments such as that in which the partygoers call upon the Ivans to heed their conscience and to feel ashamed before themselves and God, can communicate some essential truths.

It is no accident that wherever Gogol consciously presents the truth to the reader [...] it seems to run counter to the overall style of the text. According to Gogol’s convictions,

man is truly the brother of his fellow man, and this lofty truth forms the humanistic basis of Christianity as well as Gogol's social utopianism. But no one believes this truth, no one follows it in practical life. Truth for Gogol is always only a potential possibility, the profound basis of life; truth is just as real as the Christian morality which sustains life. But Gogol's truth is realized by virtue of its not being fulfilled [...] truth is the divine law of life which, however, is never realized in everyday life.<sup>134</sup>

This quote helps to explain some of the ambiguities present in Gogol's depictions of ostensible alternatives to the law. Just as Lotman writes about "truth" as unrealized potential, perfect judgment is not something that is achieved by ordinary mortals in everyday life, for mortals are flawed by definition.

In his final text, *Selected Passages from Correspondence with Friends* (*Vybrannye mesta iz perepiski s druz'iami*, 1847), Gogol writes about the special potential of justice in Russia: "Justice among us could be fulfilled better in all other nations, for of all other nations, in the Russian alone has this true thought [*mysl'*] arisen: that no man is right, that only God, and God alone, is right. This thought, like an immutable belief, has spread throughout our nation" (164/8:342).<sup>135</sup> Here again Lotman's assertion that the truth for Gogol is only ever a potentiality; Gogol does not write that 'our' justice is better, but only that it "could be" (*moglo by*) better than that of other nations. What prevents the realization of this potential is the fact "we, people of rank, do not perceive [this idea] because we have acquired a chivalric-European [*rytsarskikh-*

---

<sup>134</sup> Iurii Lotman, "The Truth as Lie in Gogol's Poetics," trans. Christopher Putney, in *Gogol: Exploring Absence: Negativity in Nineteenth-Century Russian Literature*, ed. Sven Spieker (Bloomington: Slavica, 1999), 52.

<sup>135</sup> Page references in the text refer to the Jesse Zeldin translation (modified when necessary) of Gogol's *Selected Passages from Correspondance with Friends* (hereafter: *Selected Passages*), followed by page number from Gogol's *Polnoe sobranie sochinenii*, e.g. 2:160. *Selected Passages from Correspondence with Friends*, trans. Jesse Zeldin (Nashville: Vanderbilt University Press, 1969); N. V. Gogol, *Polnoe sobranie sochinenii*, ed. N. L. Meshcheriakov, 14 vols (Moscow and Leningrad: Izdatel'stvo Akademii nauk SSSR, 1937-1952), 8:213-418. Zeldin's translation reads "Justice among us can be fulfilled better than in all other states, because of all nations only the Russian has given rise to this certain thought—that no man is right, that only God is right."

*evropeiskikh*] understanding of truth” (164/8:342).<sup>136</sup> We only argue about who is innocent and who is guilty, but if each of our affairs is analyzed, you will come to the same conclusion –that is, both are guilty” (164/8:343). Gogol explains this notion through a formula for fair judgment among landowners. He instructs landowners to “judge every man with a double judgment [*dvoim sudom*]” and to “grant every case a double decision [*dvoimiu raspravu*]” (163/8:342). The first, what Gogol calls a “human” (*chelovecheskii*) judgment, should “vindicate the innocent and denounce the guilty.” Gogol urges, “try to do it before witnesses” (164/8:342). The second judgment should be a “divine” or “godly” (*bozheskii*) judgment. In it, Gogol urges landowners to “vindicate [*osudite*] both the innocent and the guilty,” to make the “first admit what fault he committed for the other to offend him” (that is, for the ‘innocent’ party to admit his own role, his own guilt), and to make the second admit “how he is doubly guilty, before God and before men,” and to reproach him “because in his brother he offended Christ himself” (164/8:342).<sup>137</sup> Finally, Gogol adds:

Reprimand both because they did not make it up [*ne primirilis*] and came to court, and with both of them form the words for them to confess to the priest in their confession. If you pronounce such judgment, you will be like a representative of God [*polnomochnyi kak Bog*], because God authorizes you. (164/8:342)

This quote suggests that for Gogol, as in Ilarion’s *Sermon*, “salvation” is more important than “justification,” and salvation is not something that can be attained through the Western-chivalric understanding of legal justice. Gogol’s insistence that proper judgment should both be carried

---

<sup>136</sup> Ibid., I have used “perceive” to maintain clarity of thought, but the original reads: “*My ne slyshim ee*,” or “We do not hear it.” Motifs of deafness and blindness are important to the negative characterization of the law. These topics are addressed in Chapter Three of this dissertation.

<sup>137</sup> (This phrase Gogol uses here, “*pred bogom i pred liudmi*” differs very slightly from that used by the partygoers in the reconciliation attempt of the two Ivans: “*pered liud’mi i pered bogom*.”)

out in front of witnesses and incorporate religious-spiritual elements suggests a favorable attitude towards these features of horizontal law. Despite laying out this formula for god-like judgment in his nonfictional writings, and incorporating elements of horizontal law in this formula, Gogol neglected to portray an example of this scenario in practice in the fictional texts for which he earned his fame. In this way, Gogol's "The Two Ivans" is typical of contemporary and later depictions of alternatives to the law, which, though imperfect, reveal through contrast the deeper faults of the existing legal structures. Alternative means of judgment to the law may appear potentially more appropriate or fruitful in texts, yet they ultimately fail to serve as viable alternatives. Incorporating valued elements such as conscience, mercy, forgiveness, or spiritual brotherhood, however stunted or flawed, nevertheless elevates the alternative above the law, which lacks these potentially redeeming features.

### **Horizontal and Vertical Law in *Dubrovskii* and Beyond**

Gogol's "The Two Ivans" raises two themes that appear in works by other nineteenth-century writers: horizontal law as an alternative to normal legal channels, and the consequences of taking a personal matter to the courts rather than resolving it without involving the state. In an unfinished novella, Pushkin features both. Pushkin began *Dubrovskii* in 1832, but abandoned the text before completing it. It was finally published in unfinished form in 1841. Just as Pushkin was writing his dramatic tale based on a lawsuit between friendly neighbors, Gogol was writing his own stories for the Mirgorod cycle, which were published in 1834. While these two works differ in tone, they both demonstrate dramatic consequences of making a personal affair a matter for the courts, and they both share an ambivalent attitude towards horizontal law. Where Gogol's

episode of horizontal attempts at reconciliation result in empty ritual, those in Pushkin's work result in terror and violence.

Whether Gogol saw early drafts of Pushkin's *Dubrovskii* before he wrote *The Two Ivans* is unknown.<sup>138</sup> Like that of Gogol's tale, the plot of Pushkin's novella is predicated upon a dispute between formerly friendly neighbors that escalates, culminating in a lawsuit, which in turn prompts further tragic outcomes. Though the depictions of horizontal law differ, the tales share several similarities. Both stories feature: the 'reproduction' of the full text of a legal document, lawsuits based on unfounded claims, a litigant who accuses the court of impartiality, a scene in which the court inkpots are thrown and individuals are pushed and shoved about in the courtroom, and effusions of alcohol caused by legal officials. In both stories an outsider (Shabashkin in Pushkin, Agafia Fedoseevna in Gogol) exacerbates the feud, preventing the neighbors from realizing their mutual desire to reconcile; in both stories a lawsuit brings about devastating consequences not only for the individuals involved, but for the entire village. Yet there are profound differences between the narratives, beginning with differences in tone and genre. Importantly for our discussion here, the group consciousness that in Gogol's text appears as a flawed or fleeting emulation of the uplifting Russian Orthodox concept of *sobornost'* easily descends in Pushkin's tale into the destructive, crude, and potentially violent mob-mentality of the rebellion or *bunt*.

In Pushkin's *Dubrovskii*, the eponymous hero returns home to his estate upon learning that it will be confiscated in accordance with a ruling on a lawsuit brought against his father by Troekurov, the neighboring landowner. The wealthy Troekurov is not acquisitive, but is proud, and merely hopes to punish his neighbor for having insulted him by finding means to legally

---

<sup>138</sup> See Dmitrii Blagoi, *Ot Kantemira do nashikh dnei* (Moskva: Khudozhestvennaia literatura, 1979), 2:416.



confiscate his property, which had long ago been legally purchased from the Troekurov family (as Troekurov admits) by Dubrovskii's predecessors. In this narrative, the absurdity and unfairness of the legal system is revealed through the preferential treatment to documentary evidence in legal procedure. Troekurov informs the district assessor that he will break the law in order to deprive Dubrovskii of his estate. When the assessor, eager to please the wealthy landowner, learns that Dubrovskii's deed of purchase burned in a fire, he gleefully responds, "in that case, we can even do it according to the law" The elder Dubrovskii, naïve in legal matters, loses the case, and soon afterwards dies as a result of the stress.

In Pushkin's text, the clash between extralegal justice and vertical forms of law is a literal one, as the legal representatives (the bailiffs, court clerk, and police chief), upon arriving to seize the property, meet the defiant resistance of the Dubrovskii peasants. This scene is somewhat similar to the scene of horizontal law in Gogol's text in which the crowd unanimously and spontaneously agree upon an action. As Dubrovskii approaches his father's estate, he sees a crowd of people, peasants, and house serfs fill the courtyard. Realizing what is happening, Dubrovskii hangs his head. "His people surrounded [*okruzhili*] their unhappy master. 'You are our father,' they cried [*krichali*], kissing his hands. 'We want no other master but you' (811/6:163).<sup>139</sup> The crowd entreats Dubrovskii to intervene: "'Speak to them, father,' shouted the crowd" (*krichali emu iz tolpy*) (811/6:163).

As in Gogol's text, the narrator in Pushkin's text does not attribute several important utterances to anyone in particular, but to the collective crowd. When Shabashkin demands that young Dubrovskii identify himself, a "voice in the crowd" (*golos iz tolpy*) answers, "Your honor,

---

<sup>139</sup> All references from *Dubrovskii* are from: Aleksandr Pushkin, *Polnoe Sobranie Sochinenii v 10 tomakh* (Leningrad: Nauka, 1977-1979) 6: 142—209. References in English are from: *Dubrovskii*, trans. T Keane, in: *The Poems, Prose and Plays of Alexander Pushkin*, ed. Avrahm Yarmolinsky (New York, The Modern Library: 1936). Henceforth, the English reference will precede the Russian., e.g. Pushkin, 811/6:163

that is our young master” (811/6:162). The sheriff angrily retorts that the peasants now belong to Troekurov, and demands to know who “dared to open his mouth,” but like in the historical traditions in which local communities would refuse to hand certain suspects over to the jurisdiction of the prince, Dubrovskii’s peasants refuse to identify the challenger: “all remained silent” (*vse molchali*) (812/6:164). A murmur at the back of the crowd swells into a “terrible clamor,” and the crowd collectively “lurches toward” the officials (*vsia tolpa dvinulis’*) (813/6:165). Calm is only restored when Dubrovskii intervenes.

At his insistence, all of the peasants are told to leave the estate, after which the blacksmith Arkhip locks the officials in the parlor and sets fire to the compound. The reader may experience some satisfaction at the punishment of the officials who have facilitated the death of Dubrovskii and the confiscation of his estate. But this sense of justice is based on revenge, not moral justice. The alternative justice in which Dubrovskii and his peasants engage aspires to a level of fairness that transcends that of vertical justice; unlike the officials, who readily admit to manipulating a case in order to gain the favor of wealthy landowners (Sputzin and Shabashkin), Dubrovskii’s band of brigands only prey upon those who prey upon others.

Together with some of the peasants, Dubrovskii forms a band of brigands who do not murder anyone but attack only the rich, and even then leave them a part of their possession. Dubrovskii becomes a Robin-hood like figure, the local inhabitants see in him a “romantic hero” and wish him well, as his notion of justice is on behalf of the common people (832/6:178). Whereas in Gogol’s tale, the alternative to the law appeared in the method of community consensus and a call to conscience with the objective of forgiveness, in Pushkin’s tale, Dubrovskii’s sense of an alternative to justice appears in the form of the objective of charity

achieved through vengeful terror and theft. The ends may be more moral than those of legal justice, but the means, though appealing to a romantic sensibility, are not.

Eventually, Dubrovskii forms his own informal organized legal system. He judges according to conscience, and accepts oral testimony, and tries to rule in a way that is fair. Yet he realizes that his days are numbered, and his alternative model of justice, which (though it does inspire many of them) nevertheless causes fear and terror among innocent people. His intentions were born out of revenge, and he ultimately recognizes that his methods are not right, but by then it is too late, and he has already descended a destructive path from which there is no return. What may have begun as a collective endeavor ultimately results in the formation of a new, though less strictly controlled hierarchy, and while it may be informal (and, therefore, outside of the realm of official state justice), it is a hierarchy nonetheless. Dubrovskii appears to realize that he lacks the legitimacy of community consensus or religious authority that horizontal law needs in order to be upheld and enforced. Dubrovskii's story ends tragically for the romantic hero: he loses his intended bride to another suitor, he suffers a bullet wound to the shoulder, his forces are attacked by government soldiers, and finally, he orders his followers to change their mode of life, urging them to pass the rest of their lives in "honest labor" (875/6:209).

Dubrovskii's alternative form of justice ultimately turns out to be no more legitimate than that of the corrupt officials who work for the legal system. His alternative justice appeals to the romantic sensibilities of the inhabitants of the provinces, but the justice is not legitimate. Earlier in the text, Dubrovskii tells his peasants not to revolt against the officials, claiming that the Tsar will not "let us be wronged" because "we are all his children," and asking rhetorically, "How can he stand up for you, if you begin acting like rebels and brigands?" (813/6:164).

These prophetic words portend Dubrovskii's own fate. He, perhaps unconsciously, admits that his actions, though perhaps well-intentioned, and, in a certain sense, more "fair" or "just" than official law, are nevertheless criminal. Dubrovskii is merely a man, who, though basing his acts on charity, does not fully have the right to judge his fellow men. In a sense, Dubrovskii is just another usurper, a pretender among other pretenders in Pushkin's oeuvre whose self-righteousness is ultimately revealed to be misguided. Dubrovskii is neither God nor Tsar but merely a man, and therefore has no right to judge others or impose his justice upon others. His attempts to do so bring about as much despair and calamity as do those of vertical justice.

Some of these themes recur in various subsequent works of Russian literature as well. As in the texts by Gogol and Pushkin, Dostoevskii's *The Insulted and the Humiliated*, (*Unizhennye i oskorblennye*, 1861) illustrates the negative consequences that can result from taking a private matter to court. Like Pushkin's Troekurov, Dostoevskii's Prince Petr Aleksandrovich Valkovskii decides to assert his dominance over his neighbor, Nikolai Sergeevich Ikhmenev, by punishing him with a lawsuit that he admits is unwarranted. Valkovskii, more experienced in legal matters, easily wins the case, the outcome of which threatens the Ikhmenev family with financial ruin. Valkovskii claims that he does not wish to bankrupt Ikhmenev, and even conspires to offer the money won through the lawsuit to his defeated neighbor. Valkovskii recognizes that the honest and principled Ikhmenev would accept the money only on condition that the Prince admit publicly that the lawsuit was unjust. Yet because the lawsuit is a public affair, the Prince will not repudiate it. Valkovskii is a predatory, manipulative scoundrel, and his scheming could doubtless cause much damage without the involvement of the law. But Dostoevskii's text illustrates another instance in which the involvement of the law brings about an irrevocable tragedy for

individuals who might have been exonerated, had the case been examined through alternative means.

Other episodes of community-based judgment appear in Pisemskii's *Wood Demon* (*Leshii*, 1853) and Nekrasov's narrative poem *Who Lives Well in Russia?* (*Komu na Rusi zhit' khorosho?*, 1873 - 1874). Episodes of judgment by horizontal law in the form of a 'family court' occur in Mikhail Saltykov-Shchedrin's *The Golovlev Family* (*Gospoda Golovlevy*, 1880) and Anton Chekhov's stories "The Judgment" ("*Sud*," 1881), and "The Problem" ("*Zadacha*," 1887). Works featuring consensus-based judgment in a broader sense of social organization include scenes in Nikolai Chernyshevskii's *What is to be Done?* (*Chto delat'*, 1863) Tolstoi's *Resurrection* (1899), and Maksim Gor'kii's "Twenty-Six and One" ("*Dvadsat' shest' i odna*", 1899). All of these episodes incorporate the consideration of human conditions and circumstances beyond factors that are considered by vertical legal structures. Some of these texts will be considered in more detail in the coming chapters.

As evident in the analysis of Gogol's text, judging by alternative means can include these factors or, in Kustanovich's words, that "complex conglomeration" of values and revered notions in Russian culture. In this way, that is, by demonstrating what is lacking in the vertical legal system, these alternatives, however flawed, serve to critique the law by comparison. Community-based judgment, which incorporates conscience, religious or social values, and human circumstances, despite its messiness and sometimes impure motives or misguided methods, nevertheless shows what Russian judgment *could be* like; it shows something of those potential truths of which Lotman speaks. By contrast, legal procedure, with its reliance on rationalism, seems empty and hollow. Gogol's alternative, like other depictions of horizontal law, is not

perfect, but it offers something more than formal law, and often in nineteenth-century Russian literary depictions, that “something more” is of crucial importance.

The following chapter examines that “something more” in the form of the divinely-sanctioned mercy that, according to the official ideological narrative of the ‘good tsar,’ can be attained through an imperial appeal.

## Chapter Two:

### Demonic Law and Divinely-Inspired Mercy

Justice condemns the criminal, mercy shows him grace.

*Inscription on the sculpture by Pietro Baratta, purchased by Peter the Great, Summer Garden, St. Petersburg*

To bestow mercy or to punish is reserved for God and for the Tsar<sup>140</sup>  
*Russian Folk Proverb*

While it provides a useful framework with which to compare depictions of formal and informal types of law in literary texts, the analytical model used in the preceding chapter neglects to address an important figure in the dynamic relationship between individuals and the law in nineteenth-century Russia. The special role of the autocrat, who is at once head of the law, yet separate from and elevated ‘above’ it, provides yet one more alternative to formal legal channels that was at least theoretically available to the inhabitants of the Russian empire. Unlike the laws of vertical judicial institutions, which derive their legitimacy solely from the authority of the state administration, the authority with which the tsar is endowed, according to official ideology, derives directly from God. This special quasi-divine character grants the monarch the ability to offer something that the law cannot, as only the monarch can bestow *mercy* upon subjects.

While the first chapter examine horizontal law (a community-supported, conscience-based form of judgment) as an alternative to vertical law, this chapter examines yet another extralegal alternative, a “scenario” that played a visible role in both official and cult mythologies of the Russian ruler: the direct, personal appeal to the tsar.<sup>141</sup> Whereas horizontal methods

---

<sup>140</sup> Russian proverb: *Karat’ da milovat’ –Bogu i tsariu* .

<sup>141</sup> I borrow the term “scenario” from Richard Wortman, who uses the term to describe the individual modes of performance of the imperial myth. Wortman includes under this rubric the public ceremonies and celebrations,

circumvent formal legal channels by resolving private problems locally, an appeal to the tsar circumvents the vertical legal apparatus by petitioning directly to the highest authority, second only to God. As with horizontal law, the alternative method of the imperial appeal compares relatively favorably to the ordinary judicial system and its laws. Its ideal objective — mercy— consistently outshines legal justice, the goal of formal legal methods.

In literary texts, just as horizontal law fails to appear as a viable alternative to the law due to the inherent sins and weaknesses of the men who conduct horizontal mediation, the imperial appeal also fails to represent a viable route to just and moral judgment for a variety of reasons. As an idealized scenario, the imperial appeal taps into an important parallelism; according to the isomorphic pattern outlined in the 16th century *Domostroi*, the relationship between monarch and subject replicates the relationship between God and his earthly subjects.<sup>142</sup> Yet literary depictions of this scenario reveal some problematic elements in representations of this scenario. In fictional representations of this scenario, the tsar is rather inaccessible, and is ultimately revealed to be, after all, a human being, and therefore, imperfect, subject to the same emotions and desires that problematize the judgments of all humans.

The appeal to the tsar functions as a pivotal moment for the protagonists in a few prominent works of Russian literature. Nikolai Gogol's folktale, "The Night before Christmas" ("Noch Pered Rozhdestvom," 1832), Aleksander Pushkin's novella, *The Captain's Daughter* (*Kapitanksaia Dochka*, 1836), and Lev Tolstoi's novel *Resurrection*, (*Voskresen'e*, 1899) each feature a scenario in which the protagonist's destiny takes a favorable turn due to a successful petition to the tsar. Yet these writers do not unquestioningly endorse the mythologized status of

---

publications, speeches, sculptures, architecture and other public art forms, as demonstrative of aspects and themes of imperial power. Richard Wortman, *Scenarios of Power: Myth and Ceremony in Russian Monarchy* (Princeton: Princeton University Press, 2010).

<sup>142</sup> Lotman, "Agreement," 130.



the Russian monarch as a holy figure of compassion and benevolence; on the contrary, each portrayal represents a complex, problematic engagement with official mythologies.

The following analysis draws upon insights from Iurii Lotman's essay, "'Agreement' and 'Self-Giving' as Archetypal Models of Culture" (*"Dogovor i vrucheniia sebia kak arkhētīpicheskie modeli kul'tury,"* 1981) as well as those from Boris Uspenskii and Viktor Zhivov's "Tsar and God: Semiotic Aspects of the Sacralization of the Monarch in Russia" (*"Tsar i Bog: Semioticheski aspekty sakralizatsii monarkha v Rossii,"* 1987) to explore the potential virtues as well as the practical shortcomings of depictions of the imperial appeal as an extralegal alternative in these literary texts. Lotman presents a binary model in which to interpret human interactions: they appear either as a "legalistic" contractual exchange (which in Russian culture has a negative valuation) and a "religious" act of self-giving (viewed positively). The following analysis considers Lotman's model (and pursues problematic aspects of it) in relation to the character interactions and the appeal to the tsar first in Gogol's "The Night Before Christmas." In order to understand how Gogol's depiction of the appeal to the tsar engages with and challenges official tsarist ideologies, the analysis then examines Gogol's text in light of Uspenskii and Zhivov's detailed historical catalog of semiotic methods of sacralization of Russian rulers. The analysis also considers how these issues appear in later texts by Gogol's contemporaries and literary successors. The two essays on semiotics help to demonstrate that while Gogol's tale presents the appeal to the tsar as a relatively favorable extralegal alternative due to its pretensions to spiritual and imperial authority, ultimately, the practical application of this alternative method fails to live up to its envisioned ideal.

## The Legalistic Agreement and the Religious Appeal

At first glance, Gogol's tale about a lovesick blacksmith's triumph against all odds to win the hand of his capricious bride may appear to have little relevance to a discussion of justice, judgment, or the law. There are no lawsuits or judges engaged in courtroom banter in this fantastic and folksy tale of witches, devils, and black magic. Scholarly treatments of this story focus primarily on the fairytale elements of the text, including the extent to which (and the level of accuracy with which) Gogol relied on ethnographic research and precedents in Slavic folklore and the Ukrainian Puppet Theater (*vertep*) in shaping this and other tales collected in his *Evenings on a Farm Near Dikan'ka*.<sup>143</sup> With the help of Lotman's analysis, however, it is possible to isolate and compare the relations that form the foundation of a legal contract to those that describe the relationship between tsar and subject in the imperial appeal in Gogol's tale. That the main character's request for a special favor from the tsarina falls short of a serious appeal for mercy and, ultimately, proves to have been unnecessary for the successful conclusion to the hero's quest only further underlines the inadequacy of this extra-legal recourse in Gogol's text.

Lotman's evaluation of the reciprocity, fairness, and equivalence of the legalistic agreement, in contrast to the submission, one-sidedness, and lack of compulsion of the act of "self-giving," illustrates how the legalistic exchange is associated with attributes perceived

---

<sup>143</sup> In his study on the *vertep* in Gogol's *Vechera na khutore bliz Dikan'ki*, Madhu Malik, following Vasilii Gippius, notes that stories of outwitting the devil seated on the back are common in the *vertep*' tradition. Among the principle arguments against the rational, reductionist legal system that recurs in implicit criticisms of the law is the notion that the law is a Western, foreign import. Madhu Malik notes that when Gogol arrived in St. Petersburg in 1828, he sought to capitalize on the nationalist sentiment that had "captured the Russian imagination and was promoting an interest in native materials over the imitation of foreign models." For more on this and the *vertep* in Gogol's "The Night before Christmas," see Madhu Malik, "Vertep and the Sacred/profane Dichotomy in Gogol's Dikan'ka Stories," *The Slavic and East European Journal* 34.3 (1990): 332-347, 332. For more on the ethnographic sources for Gogol's collection, see Paul Karpuk, "Gogol's Research on Ukrainian Customs for the Dikan'ka Tales," *Russian Review* 56.2 (1997): 209-232. See also Gippius, "Veche na khutore bliz Dikan'ki" in *Ot Pushkina do Bloka*, 61-71.

negatively in Russian cultural tradition. In another variation of the binary set up in Ilarion's *Sermon*, in which the "justification" of the law can never equal the much more meaningful "salvation" offered by grace, Lotman's analysis helps to demonstrate how the elusive "justice" of the law is less valuable than the "mercy" of the ruler. Not only is the objective of "mercy" loftier than the legal justice of the law; but the method of attaining it (self-giving) is also presented as superior to the contractual exchange, as Lotman explains.

Scholars have suggested that "The Night before Christmas" was written considerably earlier than its publication date of 1832, with some dating its composition to as early as 1830.<sup>144</sup> Published in the second part of his collection of Ukrainian folk tales, *Evenings on a Farm Near Dikan'ka*, "The Night before Christmas" features a simple plot structure similar to others in the collection: a young man falls in love with a maiden, but something or someone (often the girl's parent) obstructs the union. Only by colluding with or overcoming supernatural forces (witches, devils, sorcerers, etc.) is he able to attain his bride.<sup>145</sup>

The narrative of "The Night Before Christmas" begins as the devil plots revenge upon Vakula, a pious young blacksmith, for having painted an unfavorable depiction of the devil being chased out of Hell on the Day of Judgment on the village church wall. The devil knows that Vakula is in love with Oksana, the beautiful daughter of the Cossack Chub; he knows as well that Chub seeks to marry Vakula's mother, Solokha. Church law, which prevents a son from marrying his stepfather's daughter, renders Chub and Vakula adversaries. Hoping to capitalize

---

<sup>144</sup> See the commentary to *Noch' pered Rozhdestvom* in Gogol, *PSS*, 1:499-504. All page references in the text of this chapter refer to the Pevear and Volokhonsky translation of "The Night Before Christmas" (modified when necessary), followed by page number from Gogol's *Polnoe sobranie sochinenii*, e.g. *PSS*, 3:160. References to "The Night Before Christmas," found in volume one of the *Polnoe sobranie* will be identified in the text by page number only, e.g. 236. *The Collected Tales of Nikolai Gogol* trans. Richard Pevear and Larissa Volokhonsky (New York: First Vintage Classics, 1998): 194-241. N. V. Gogol, *Polnoe sobranie sochinenii*, ed. N. L. Meshcheriakov, 14 vols (Moscow and Leningrad: Izdatel'stvo Akademii nauk SSSR, 1937-1952), 1: 201-243.

<sup>145</sup> This basic plot line occurs in "The Fair at Sorochintsy," "St. John's Eve," and "A May Night, or The Drowned Maiden."

on this enmity, the devil removes the moon from the sky and stirs up a snowstorm in hopes of keeping Chub at home, where Vakula hopes to find Oksana alone. Despite the devil's antics, Vakula succeeds in visiting Oksana, yet fails to serenade her, and realizes that his love is unrequited. The haughty girl later taunts the poor blacksmith with an impossible request; Oksana promises to marry Vakula on the condition that he bring her the empress's slippers.

Despondent and on the verge of suicide, the usually-pious blacksmith deigns to enlist the assistance of the dark forces: a wizard and the devil. Vakula tricks the devil into taking him to a band of Cossacks, who agree to bring Vakula along on an official visit to the empress. Charmed by his handsome features and the simplicity of his request, Catherine gives Vakula her most expensive slippers. Meanwhile, Vakula's amorous problems resolve on their own: Chub loses interest in Vakula's mother, and Oksana falls in love with Vakula. Upon Vakula's return from his magical journey, Oksana announces her willingness to marry the blacksmith, with or without the slippers. Chub gives Vakula his blessing, and "The Night Before Christmas," ends "happily ever after" for Vakula (the sole tale in Gogol's collection with a rather unequivocal happy ending).

Unlike "The Two Ivans," this story does not contain an implicit criticism of the law by means of an explicit contrast between legal pursuit and an alternative. Vakula's desired objective is not something that the law can help him to attain. Rather, the story offers rich material with which to compare the two types of interactions upon which the law and an appeal to the tsar are based. While a comparative analysis of the appeal to the tsar and legalistic exchanges reveals the deficits of both methods, the former, as an alternative to legal methods, again emerges as the more worthy approach to resolving human issues.

The plot of “The Night Before Christmas” is constructed upon a series of interpersonal interactions that can be viewed according to two main categories identified by Lotman: the “agreement” or “transaction” (*dogovor*), and “self-giving,” or “dispensation” (*vruchenie sebja*).<sup>146</sup> The transactional agreement belongs to a mode that Lotman characterizes as “magical” because it involves primarily pagan or Satanic elements.<sup>147</sup> Most of the interactions in Gogol’s story fall into this first category, as several characters make pacts with both explicitly Satanic forces as well as with ordinary mortals. Though only one scenario (Vakula’s appeal to the empress) resembles Lotman’s category of “self-giving” in Gogol’s story, the narrative structure presents this interaction as a crucial moment in the plot. Because of its pagan or demonic roots, its conditionality and potential for deception, the agreement, Lotman argues, has an essentially negative register in the Russian cultural context. In contrast, the religious, earnest, and unmotivated interaction of “self-giving” appeals to important cultural and religious values. As the following analysis will demonstrate, Lotman’s binary formulation is an imperfect model with which to view these two modes of interaction. Nevertheless, the “agreement/self-giving” distinction not only facilitates a reading of Gogol’s tale as an investigation of the appeal to the tsar as an extralegal alternative, but also provides some tools with which to examine the relative merits of the appeal as an alternative to the law.

---

<sup>146</sup> Iurii Lotman, “‘Agreement’ and ‘Self-Giving’ as Archetypal Models of Culture” in Jurij Lotman and Boris Uspenskij, *The Semiotics of Russian Culture*, trans. Ann Shukman (Ann Arbor, Michigan Slavic Contributions: 11, 1984), 125-176. The theological term “dispensation” is offered by Schonle. See Andreas Schonle, *Lotman and Cultural Studies: Encounters and Extensions* (Madison: University of Wisconsin Press, 2006), 67.

<sup>147</sup> Lotman, “‘Agreement,’” 125.

**“Nothing is Done Without a Contract:” the “*Dogovor*” and Deals with the Devil**

In Hell itself, then, laws are reckoned?  
That’s well! So might a compact be  
Made with you gentlemen—and binding, surely?

*Johann Wolfgang von Goethe, Faust*

The transactional agreements in Gogol’s tale illustrate Lotman’s key characteristics of the *dogovor*: they describe social relationships that involve: a) reciprocity, b) equivalence c) agreement or conditionality, and d) compulsion.<sup>148</sup> For Lotman, the term “reciprocity” simply denotes a situation in which both of the agents involved in transactions are active participants; “one-sided actions do not occur” in this system.<sup>149</sup> The parties in these relationships are “equivalent” in that the agreement requires an “exchange of equivalent value.” The transactional exchanges are “compulsory” in that “the performance of certain definite actions by the one party compels specific actions in response by the other” in accordance with the even distribution of power in the relationship.<sup>150</sup> The agreement hinges upon implicit or explicit mutual understandings, with explicit agreements taking external expression in the form of written contracts or oath-taking. Essentially conditional and unstable, these agreements are at all times subject to a change, manipulation, or violation of terms, various interpretations by either party, and even spontaneous termination. In Lotman’s words, “the existence of the agreement implies that it may be broken, just as in the conventional, semiotic nature of the exchange there lies the possibility of deception and misinformation.”<sup>151</sup>

---

<sup>148</sup> Lotman, “Agreement,” 125.

<sup>149</sup> *Ibid*, 125.

<sup>150</sup> *Ibid*, 125.

<sup>151</sup> *Ibid*, 125.

From as early as the Middle Ages, Lotman explains, the notion of the agreement was perceived differently in the contexts of Western Europe and pre-modern Russia. In Western Europe, the agreement was understood as an “ethically neutral” concept; one could draw up agreements either with Satan or with forces of holiness.<sup>152</sup> Having sprung from the Roman secular tradition, the agreement held a considerable degree of authority in the context of Western Europe. The agreement formed the basis of the Western judicial system, and was therefore considered on par, in terms of legitimacy and influence, with the Western religious authority.<sup>153</sup>

In Russia, however, the agreement could never be considered ethically neutral, but only in a negative aspect. Lotman writes that in the Russian narrative tradition, agreements can “only be made with a Satanic power or its pagan counterpart.”<sup>154</sup> A “negative emotional light” is therefore cast upon the agreement, which affects its evaluation in society, and renders the agreement devoid of the “aura of cultural value.”<sup>155</sup> This has interesting implications for Russian cultural perceptions of legal relations in society, which, according to Lotman, are built upon the foundation of the psychology of the ethically negative agreement.

The fact that the agreement lacks authority, Lotman argues, is evidenced by the inclusion of religious and spiritual rituals in legal affairs (the persistence of ritual elements of horizontal law into forms of vertical law as mentioned in the previous chapter). Because law is comprised of contractual agreements (interactions of an essentially pagan nature), it must appropriate authority from an external source: through the invocation of religious symbols:

---

<sup>152</sup> Lotman provides examples of ethically neutral agreements in the Western tradition. He mentions, for instance, St. Theophilus, who repented after selling his soul to the Devil, and St. Francis of Assisi, who offered the wolf of Gubbio freedom from pursuit by hunters in exchange for peace for the villagers. Lotman, ““Agreement,”” 127.

<sup>153</sup> Ibid, 127.

<sup>154</sup> Ibid, 127.

<sup>155</sup> Ibid, 127.

In early Russia, an agreement was regarded as a purely human affair (human as opposed to divine). The fact that kissing the cross was introduced in cases where it was necessary to ratify an agreement is evidence indeed that without this unconditional, extra-contractual, divine authority it was insufficiently guaranteed.<sup>156</sup>

An evocative illustration of the inherent contradictions in the use of spiritual authority to legitimize pagan, secular contracts appears in Tolstoi's *Resurrection*. Tolstoi's narrator inserts a sharp condemnation of the grave hypocrisy of a veteran priest who swears in witnesses at a district court:

The priest... was very proud that he had sworn in some ten thousand men and that in his old age he continued to work for the good of his church, his fatherland, and his family... It never occurred to him that his work in the court, which consisted of swearing people in over the Gospels [*nad Evangeliiem*], which explicitly forbids oaths, was wrong. (30/13:33)<sup>157</sup>

This excerpt implies a discomfort, even a disgust, for the notion of a blending of the secular judicial and spiritual religious realms. The narrator adds:

No one present seemed conscious that all that was going on here [at the prison church service] was the greatest blasphemy [*koshchunstvom*] and a supreme mockery [*nasmeshkoi*] of that same Christ in whose name it was being done. No one seemed to realize that the gilt cross... was nothing but the emblem of that gallows on which Christ had been executed for denouncing just what was going on here. (151/13:144)

---

<sup>156</sup> Ibid, 128.

<sup>157</sup> Lev Tolstoi, *Voskresenie. Sobranie sochinennii v 22 tomakh*, ed. M.B. Khrapchenko (Moskva: Khudozhestvannaia literatura, 1983). 13:7-458. Translations of Tolstoi's text are from Lev Tolstoi, *Resurrection*, trans. John W. Strahan (New York: Washington Square Press, 1963). 30. Henceforth, citations will reflect the page number of the translation, followed by the page number of the original in volume 13. Translations have been adapted when necessary. For instance, in this quote, Strahan renders the original *nekhoroashii* as "self-contradictory." Strahan omits "explicitly" (*priamo*), and has "the Bible" instead of "the Gospel." 30/13:33.



Lotman's model posits that while the legalistic agreement may appropriate religious signs, symbols, or rituals, the interaction of "self-giving" precludes the elements of paganism, play, deception, obligation, and conditionality that belong to the sphere of the agreement. As the following analysis makes clear, however, it is problematic to read Gogol's text in terms of these distinct categories, as the complex narrative undermines a binary reading.

All of the agreements in Gogol's story bear the essential characteristics that Lotman attributes to the interaction. In every agreement in "The Night Before Christmas," both parties play an active role in an equivalent, reciprocal arrangement that obliges the parties to one another: Oksana offers herself to Vakula in exchange for the empress's slippers (34/216), Vakula offers Patsiuk food in exchange for advice; (42/223) Vakula (deceptively) offers his soul to the Devil in exchange for winning Oksana as a bride (43/225); the devil offers his assistance in exchange for freedom from the cross (44/225); and Vakula asks for the Cossacks to take him along with them 'in exchange' for a past favor Vakula had granted them (53/234). The crucial transaction driving the plot is Oksana's facetious offer to marry Vakula in exchange for the empress's slippers, which emerges spontaneously when Oksana admires her friend's new pair.

"Ah, Odarka!" the merry beauty said, turning to one of the girls, "you have new slippers! Oh, what pretty ones! and with gold! You're lucky, Odarka, you have a man who buys everything for you; and I don't have anyone to get me such nice slippers."

"Don't grieve, my darling Oksana!" the blacksmith picked up. "It's a rare young lady who wears such slippers as I'll get for you."

"You?" Oksana said, giving him a quick and haughty glance. "I'd like to see where you're going to get slippers such as I could wear on my feet. Unless you bring me the ones the tsaritsa wears."

"See what she wants!" the crowd of girls shouted, laughing.

“Yes,” the beauty proudly continued, “you’ll all be witnesses: if the blacksmith Vakula brings me the very slippers the tsaritsa wears, I give my word [*vot moe slovo*] I’ll marry him at once.” (34/216)

The characteristics of the agreement or *dogovor* outlined by Lotman are vividly demonstrated: Vakula and Oksana both serve as active participants in the exchange (reciprocity); though made in jest, the offer of marriage in exchange for the ostensibly impossible feat of obtaining the tsaritsa’s slippers is made by Oksana in the ‘spirit of an exchange’ of goods or services of equal value (equivalence); Vakula’s implicit consent to the transaction is given external expression by his subsequent attempt to carry out what is requested of him (agreement); in the presence of witnesses, Oksana gives her “word,” thus verbally obliging herself to wed Vakula if he overcomes the challenge she presents to him (compulsion).

The pact that Oksana and Vakula make is emblematic of the other contractual exchanges in the text. By demonstrating the conditionality of the agreement, as well as the arbitrariness of the signs involved, this exchange illustrates the dubious qualities that, according to Lotman, lend the legalistic mode of interaction a negative valuation. The spontaneity of Oksana’s request suggests the indiscriminate nature of her choice of “slippers” as the ‘price’ of her hand in marriage; the slippers are meaningless, an arbitrary sign. It is clear that the true object of Oksana’s desire is not the empress’s slippers, but what they represent: the accomplishment of a feat so unrealistic that it might as well be impossible. Such a demand expresses Oksana’s own incredibly high estimation of her own worth as a bride, as well as her estimation of Vakula as inadequate, at least in his current state. Vakula understands the essence of the message communicated via the impossible demand for the slippers: the extraordinary *conditions* that Oksana places on their potential union functions as undeniable evidence that Oksana does not reciprocate Vakula’s *unconditional* love.

Overcome with despair, Vakula vows publicly to drown himself. Rumors of Vakula's decision soon reach Oksana. Upon realizing the extent of Vakula's devotion, Oksana spends a sleepless night thinking about the blacksmith who would prefer death to life without her as a bride. By morning, Oksana falls in love with Vakula, who has meanwhile foregone suicide in favor of an unlikely attempt to fetch the tsaritsa's slippers. Vakula's willingness to drown himself, it turns out, serves in effect as an equally acceptable substitution for the execution of the impossible task represented by the original demand; both scenarios publicly demonstrate and validate Oksana's sense of self-worth. When Vakula finally returns to present the prize slippers to Oksana, she declares that she is ready to be his bride, even "without slippers." Oksana's abrupt nullification of the contract is not just an example of dramatic irony; it underscores the arbitrary, non-motivated, and conventional nature of the signs in the contractual exchange.

The exchange between Oksana and Vakula resembles an anecdote from the Russian narrative tradition that Lotman uses to demonstrate how "the psychology of exchange and contract cultivates the sign."<sup>158</sup> In the Russian redaction of the *Exploit of Digenis*, a popular narrative adapted from the Greek, the eponymous hero sets out to kidnap the beautiful daughter of the ruthless Stratigos, who, together with his sons, has killed every previous suitor. Upon finding the maiden at home alone and unprotected, Digenis leaves her with orders to warn her male brothers of her impending abduction. Arriving a second time, Digenis announces himself, and calls Stratigos and the brothers out to fight. After waiting for three hours with no response, Digenis finally takes his bride, only to experience great shame for having achieved his desired object at such a low 'cost.' Only after finally managing to incite a battle in which he defeats and

---

<sup>158</sup> Lotman, "Agreement," 130.

captures the bride's father and brothers is Digenis able to experience satisfaction and great honor.

Through this example, Lotman demonstrates that certain elements of this story (the bride, the battle) have no value in and of themselves, but that this western chivalric culture, from which the psychology of the agreement emerges, relies on arbitrary signs whose value derives solely from the *meaning attributed to them*.<sup>159</sup> Like for Digenis, whose ultimate goal is not the daughter of Stratigos but a public demonstration of his own valor, Oksana's ultimate aim is not the empress's slippers, but an indisputable and impressive public demonstration of her own beauty and value. Because the signs in agreements are arbitrary and conventional, they are subject to change, manipulation, and deception. This conditionality and conventionality of the legalistic exchange is in part what renders the *dogovor* suspicious in the Russian cultural context.

Vakula's interactions with the devil similarly demonstrate the potential for shifting meanings, as well as another important feature underlying the psychology of the agreement: deceptive play. The multiple interpretations of words and other conventional signs in the agreement is partly what makes this mode of interaction, and by extension, the legal systems that are based upon it, so susceptible to scorn and mistrust. In Lotman's words, the "possibility of various interpretations of the agreement," may lead to a situation in which each party "seeks to put into the express formulations of the agreement a content to suit his own purposes."<sup>160</sup>

Gogol exploits the potential in the legalistic exchange for shifting meanings, word play, and deception to comedic effect. The possibility of differing interpretations that feature in "The Night Before Christmas" takes the form of intentional trickery. When the devil realizes that

---

<sup>159</sup> Ibid, 132. Emphasis mine.

<sup>160</sup> Ibid, 125.

Vakula's desperation may lead him to sin, he rejoices in anticipation. Unwilling to let such "glorious prey" (*slavnaia dobycha*) escape his clutches, the devil jumps astride the blacksmith's neck:

A chill crept over the blacksmith; frightened and pale, he did not know what to do; he was just about to cross himself...But the devil, leaning his doggy muzzle to his right ear, said:

"It's me, your friend [*drug*] —I'll do anything for a friend and comrade! I'll give you as much money as you like," he squealed into his left ear. "Oksana will be ours today," he whispered, poking his muzzle toward his right ear again. The blacksmith stood pondering.

"Very well," he said finally, "for that price I'm ready to be yours!" (43/224)

Attempting to disguise his true intentions, the devil masquerades as a friend. He addresses the blacksmith directly as such, using the familiar form of "you" (*ty*). And, for a moment, the devil rejoices in his apparent victory:

The devil clasped his hands and began bouncing for joy on the blacksmith's neck. "Now I've got you, blacksmith!" he thought to himself. "Now I'll take revenge on you, my sweet fellow, for all your paintings and tales against devils! What will my comrades say now, when they find out that the most pious man in the whole village is in my hands?" Here the devil laughed with joy, thinking how he was going to mock all the tailed race in hell, and how furious the lame devil would be, reputed the foremost contriver among them. (44/225)

But the devil is not the only one disguising his true intentions in this exchange. In his study of Lotman's article, Andreas Schoenle emphasizes the utility of the malleable meanings of words in the legalistic exchange. He writes that the agreement is "transactional only; words can be twisted, intentions violated, and the beneficiary of the contract is the one who succeeds in

escaping through a legal loophole while stringing the other up in his own words.”<sup>161</sup> And indeed, Vakula proves to be the most pious man in the village by violating this contract through clever trickery.

Vakula subverts the devil’s attempt to entrap him by masquerading as a complicit partner. Vakula takes advantage of the devil’s insistence upon externalizing the agreement via a written contract:

“Well, Vakula!” the devil squealed, still sitting on his neck, as if fearing he might run away, “you know, nothing is done without a contract [*bez kontrakta nichego ne delaiut*].”

“I’m ready!” said the blacksmith. “With you, I’ve heard, one has to sign in blood; wait, I’ll get a nail from my pocket! Here he put his arm behind him and seized the devil by the tail.

“See what a joker [*shutnik*]!” the devil cried out, laughing. “Well, enough now, enough of these pranks [*shalit*]!” (44/225)

Affecting laughter, the devil still plays along. But Vakula has exploited an opportunity to break the agreement, thereby reinforcing his piety. To observe an agreement made with one of the “powers of darkness,” as Lotman observes, is “sinful,” whereas to break such an agreement leads to “salvation;” this can be done, as Lotman says, and as Vakula demonstrates, through redemption or by cunning wit.

Their positions of dominance thus reversed, Vakula reciprocates the devil’s sham friendliness with evident irony. Menacingly, Vakula addresses the devil with even increased affection, using the diminutive “my sweet fellow:”

---

<sup>161</sup> Schoenle, *Lotman and Cultural Studies*, 68.

“Wait, my sweet fellow [*golubchik*]!” cried the blacksmith, “and how will you like this?” With these words he made the sign of the cross and the devil became as meek as a lamb [*iagnenok*]. “Just wait,” he said, dragging him down by the tail, “I’ll teach you to set good people and honest Christians to sinning!” Here the blacksmith, without letting go of the tail, jumped astride him and raised his hand to make the sign of the cross. (44/225)

Vakula’s ability to invert the dynamics of power in their relationship underscores the equivalence of this exchange. Yet, as Schonle rightly points out, the beneficiary is the one who can exploit the loophole. Finding himself now in need of something from Vakula, the devil responds with a new offer: “I’ll do anything you want, anything, only leave my soul in peace — don’t put the terrible cross on me!” Vakula consents, and orders the devil to transport him to the capital (44/225).

After the devil has carried out his part of the bargain, having taking Vakula to and from the empress, Vakula finds a way to violate the agreement he made with the devil to leave him in peace. Vakula snatches the devil by the tail as he is about to run away, and cries, ““Wait, friend, that’s not all—I haven’t thanked you yet” (61/241). In addition to the irony Vakula employs in using the devil’s own facetious words in calling him a “friend” (*drug, priatel*’), he uses a subtle pun, verbally/linguistically connecting his offer to “thank” the devil by whipping him three times through the shared root of the syllable *dar*: to “thank” the devil (*poblagodari*’) with three strokes (*tri udara*) of a whip.<sup>162</sup>

---

<sup>162</sup> The devil begs for mercy (*milosti*) and Vakula delivers punishment via the mask of a thanking (*poblagodari*’); *milost*’ (mercy) is a synonym for *blagodat*’ (grace). See *Novaia filosofskaia entsiklopediia v 4 tomakh: red. V.S. Stepina*, 2001. The Online Orthodox Encyclopedia “Alphabet of Belief” (established 2005) elaborates on the meaning of the term *blagodat*’ and its connection to *milost*’: Слово «благодать» весьма часто встречается в Священном Писании, как Ветхого, так и Нового Завета, и употребляется в различных смыслах: а) иногда означает благоволение, благорасположение, благосклонность, милость (Быт. 6:8; Еккл. 9:11; Есф. 2, 15; 8:5) See: <http://azbyka.ru/>

Like his agreement with Oksana, Vakula's agreement with the devil demonstrates the reciprocity, obligation, equivalence, and agreement, as well as the possibility of deception that characterizes Lotman's concept of the agreement. As we see in Oksana's agreement with Vakula, as in Vakula's agreement with the devil, there is no real authority that makes the agreement binding for either party. Lotman writes:

In the Russian tradition an agreement acquires its binding power from the holy object by which its maintenance is guaranteed. Without this holy authority from the non-conventional power of faith, it has no "force." Therefore a word given to Satan (or his earthly deputies) must be broken.<sup>163</sup>

Each of these agreements, in a sense, is broken, manipulated, or otherwise rendered invalid. Oksana declares the agreement she makes with Vakula unnecessary after she finds one of his actions a suitable replacement for the requested action. Vakula reneges on his promise to deliver his soul to the devil just before externalizing it with a signature. Having agreed not to make the sign of the cross over the devil in exchange for the use of his supernatural powers, Vakula nevertheless delivers three (a number evocative of the holy trinity) strokes to the devil to "thank" him. This lack of authority is another aspect that can undermine the value of the agreement in Russian cultural consciousness.

Two other aspects of the legalistic exchange that might devalue it in the Russian cultural context is its association, as Lotman identifies, with pagan figures or demonic forces, and its roots in foreign sources. Lotman explicitly states that contracts are negatively-charged interactions that can occur only with pagan or demonic forces, not with holy or divine figures. That the legalistic mode of exchange entered Russia through foreign influence (the Western

---

<sup>163</sup> Lotman, "Agreement," 129.



Chivalric model mentioned by Lotman and decried by Gogol in *Selected Passages*)<sup>164</sup> may also color the agreement in a negative aspect (although Lotman does not include such a connection in his analysis). It is indeed not necessary to consult Lotman in order to perceive the explicit associations that Gogol's narrator draws between pagan or Satanic elements, foreignness, and lawyers in "The Night Before Christmas." Even without Lotman's contributions, it is evident that legalistic interactions are connected to the forces of darkness in the case of Gogol's works, which build upon Western and Russian folklore traditions of narratives featuring agreements between individuals and devils or demons.<sup>165</sup> In a digression (a favorite device of Gogol's) at the very outset of the tale, Gogol's narrator uses associational imagery to link the notions of the law, the devil, and the foreign or other (*chuzhoi, nemetskii*).

The narrator begins "The Night Before Christmas" *in medias res* as a witch rides her broom across the night sky, undetected by the villagers. Only a paragraph into his tale, the narrator abruptly switches to a hypothetical tense, and begins musing:

If the Sorochintsy *assessor* [*zasedatel'*] had been passing by just then, driving a troika of hired horses...with the *devilishly* [*d'iavol'ski*] woven whip with which he used to urge his coachman on, he would surely have noticed her, for no witch in the world could elude the Sorochintsy assessor...But the Sorochintsy assessor was not passing by, and what business did he have with *other* [*chuzhoi*] people, since he had his own [*svoia*] territory." (20/202)<sup>166</sup>

Why does the narrator interrupt himself in the very first paragraph to deliver this digression? Why is the whip "devilishly" woven? Within the very first moments of Gogol's story, and without any explicit connection to the main plot of the story, Gogol's narrator associates the

---

<sup>164</sup> See discussion in Chapter One of this dissertation.

<sup>165</sup> For folklore sources of "The Night Before Christmas," see the commentary to the story, *PSS*, 1:500-509.

<sup>166</sup> Emphasis added.

district court assessor (*zasedatel'*) with a devilish (*d'iavol'ski*) whip, and the notion of foreignness, or otherness (*chuzhoi*). Transitioning back to the plot from this seemingly irrelevant digression, the narrator then mentions a second figure. Emerging in the distance, the narrator remarks that the figure looks like “a perfect German” or “foreigner” (*nemets*) when viewed from the front, whereas from behind, “he was a real provincial attorney [*striapchii*] in uniform” (20/202).<sup>167</sup> Finally, the narrator admits that “only by the goat’s beard under his muzzle, the little horns sticking up on his head, and the fact that he was no whiter than a chimney sweep, could you tell that he was not a German [*nemets*] or a provincial attorney [*gubernskii striapchii*], but simply a devil [*chort*]” (20/203). Gogol’s fictional editor of the *Dikanka Tales*, the beekeeper Rudy Panko, provides a note of commentary regarding the term “German.” “Among us anyone from a foreign land [*chuzhoi zemli*] is called a German [*nemets*], whether he’s a Frenchman, a Swiss, or a Swede...” (20/203).

This connection to foreignness is important because in this unusual manner of introducing the tale’s antagonist, the narrator sets up an interesting chain of associations that links legal servitors with foreignness and demonic forces. In the digression, the narrator first mentions a legal servitor, then his devilish whip, and finally his otherness (*zasedatel'-d'iavol'ski-chuzhoi*); in describing the devil the narrator moves from otherness to the legal association, ending with the demonic association (*nemets/chuzhoi-striapchii-chort*). This suggests that for Gogol’s narrator, not only do legalistic exchanges involve demonic or pagan forces, but the demonic and legal realms are so connected that the only way to distinguish a lawyer from the devil is through the latter’s horns.

---

<sup>167</sup> For historical background on the duties of the *striapchii*, see Kucherov, *Courts, Lawyers and Trials*, 108.

This associational imagery introduced in the devil's first appearance before the reader makes yet another appearance just after Vakula outsmarts and punishes the devil:

Here, seizing a switch, he measured him out three strokes, and the poor devil [*chort*] broke into a run, like a muzhik who has just been given a roasting by an assessor [*zasedatel'*]. And so, instead of deceiving, seducing, and duping others [*drugikh*], the enemy [*vrag*] of the human race was himself duped. (61/241)

The court assessor's devilish whip reappears in the form of this switch, and instead of the devilish assessor using his switch to "urge his coachman on," the narrator inverts the image. Vakula uses the switch upon the devil himself, who had served as Vakula's coachman and carriage. Yet again the narrator presents the reader with a curious succession of associated elements: the devil (*chort*), the law (*zasedatel'*), and otherness (*drugikh/vrag chelovecheskogo roda*).

Lest the reader surmise that these connections are specific to this story, it is important to mention that "The Night before Christmas" is far from the only fictional work in which Gogol links devils and demons with judicial bureaucrats.<sup>168</sup> To present but one example from the "Tale of Two Ivans" discussed in the previous chapter, the court secretary betrays "on his face that indifferent and devilishly ambiguous expression which Satan alone wears when he sees at his feet a victim having recourse to him" (229/263). As will be discussed in Chapter Three of this

---

<sup>168</sup> The connection between urban legal bureaucrats and devilish figures is a central theme of "Divine and (In)Human Justice: the City Hall in Gogol's *Dead Souls*," Judith Kornblatt, Stuart Goldberg, and Naomi Olson. For memorial volume in honor of Robert Maguire, eds. Douglas Greenfield, Emily Johnson, and Cathy Nepomnyashchy (forthcoming). See also Christopher Putney, *Russian Devils and Diabolic Conditionality in Nikolai Gogol's Evenings on a Farm near Dikanka* (New York: Peter Lang, 1999).

dissertation, Gogol's devilish legal trope is not at all unique in nineteenth-century Russian literature.<sup>169</sup>

As mentioned, Lotman argues that such devilish trickery and wordplay as occurs during the exchanges between Vakula and the devil are possible only in the realm of legalistic exchange. Lotman writes that "this play on words which exposes the conventional nature of the sign, and turns an agreement into a deception, is permissible in dealings with the Devil, a dragon, or a bear, but was unthinkable in dealings with God and the world of holiness."<sup>170</sup> This may be in part because the agreement is a transaction between two agents of more or less equal status or power. Recall that in the agreement, obligations are mutual, and there is no binding authority backing the arrangement, and, therefore, manipulation is possible.

By contrast, in the religious interaction between an individual and a much more powerful figure, which Lotman characterizes as "self-giving," there is no room for manipulation. This notion, that deception and play is "unthinkable" in dealings with the world of holiness, has interesting implications for our understanding of Gogol's depiction of the imperial appeal as a quasi-holy interaction, for the scene is not without deception or irony. The manipulative aspects of Vakula's appeal to the empress destabilize some aspects of Lotman's model. In consequence, the reader must either conclude that Vakula's appeal to the empress cannot be read as a true act of "self-giving," or that that the monarch belongs to the secular rather than the holy realm. The following sections of this chapter explore the first possibility, and then present a brief

---

<sup>169</sup> In contemporary Russian culture, several different media such as films, television shows, folk sayings, and news stories attest to the lasting urge in Russian culture not to act in accordance with the law. It is tempting to view the notion of preserving one's personal honor by breaking the law while acting in accordance with an alternative personal moral or ethical code, present in Russian culture even today, as an persistence or an extension of this sort of cultural psychology in which Lotman asserts that to break a contract with the devil leads to salvation, whereas to keep it leads to spiritual ruin.

<sup>170</sup> Lotman, "Agreement," 128.

investigation, with the help of semiotic analysis by Zhivov and Uspenskii, of the second. Close analysis of Gogol's depiction of an imperial appeal reveals his narrator to be a rather uncooperative participant in the official ideological idealization of the Russian monarch as an all-powerful, divinely inspired, benevolent and merciful ruler. What this analysis makes clear is that while the appeal to the empress may involve fewer signs of the devilish contract, and perhaps fewer tricks or broken promises, it is by no means presented as an ideal, practical, or ultimately, a successful means of achieving a desired outcome.

### **“Self-Giving” and the Appeal to the tsar**

“Lies [*soglati*], he said, are for the world, not for God: you cannot lie to Him, nor play [*igrati*] with the sublime.”

*Daniel the Prisoner*

As opposed to the agreement, the act of self-giving (*vruchenie sebia*) is by Lotman's definition an unconditional, one-sided action. This “religious” scenario lacks the essentially negative valuation of the “pagan” exchange. This scenario does not allow for the free semiotic play of interchangeable, arbitrary signs, but is rather a symbolic space for meaningful and predictable associations that are not subject to various interpretations.<sup>171</sup> One episode in Gogol's story features the unconditional act that forms the essence of “self-giving,” in which, Lotman explains, one party “surrenders itself to the other without making any conditions,” to a receiving party that is “acknowledged to be the bearer of supreme power.”<sup>172</sup> By putting his fate in the hands of the empress, Vakula submits himself unconditionally to a higher power, and can therefore have no expectation of an agreement, and no contract can be broken.

---

<sup>171</sup> Ibid, 126.

<sup>172</sup> Ibid, 139.

Lotman identifies the core components of the religious interaction as: a) one-sidedness: the one who “yields himself up counts on receiving protection but between his action and the response there is no connection, absence in reward cannot be grounds for a break in relations.”<sup>173</sup> b) lack of compulsion: one party gives away everything whereas the other may or may not give. There is not necessarily a connection between a worthy recipient and an unworthy one and a successful reward or denial, which may appear arbitrary to humans if the actions are coming from a deity. Additionally, c) the relationships are not equal; they “preclude the psychology of exchange and there can be no thought of conditionality or conventionality” in that “the means of communication are not signs but symbols whose nature precludes [...] the possibility of deception or interpretation.”<sup>174</sup> Finally, d) the relationship takes the form of an *unconditional gift* rather than an exchange.<sup>175</sup>

In Lotman’s understanding, the relationship of the Roman religion in the last centuries of that empire took the form of a contractual relationship, as sacrificial offerings were presented in exchange for the favor of the Gods; this, Lotman explains, is why there was no contradiction between the early Roman religion and the contractual basis of the Roman legal system. In the Russian context, however, the coexistence of pagan and Christian elements gave rise to the coexistence of the two models (of contractual relationships and relationships borne out of the act of “self-giving”). In the knightly lifestyle of the West, Lotman argues, where the relationship between God and the saints could be patterned according to the suzerain-vassal relationship and subjected to conventional rituals like those governing the chivalric duties of service to the lord and to ladies, the agreement was endowed with the aura of holiness.<sup>176</sup> In Russia, however, the

---

<sup>173</sup> Ibid, 126.

<sup>174</sup> Ibid, 126.

<sup>175</sup> Ibid, 125-126.

<sup>176</sup> Ibid, 128.

contract was regarded as a “purely human affair;” the relationship between individuals and God and individuals and the powers could not be based on a system of mutual obligations.<sup>177</sup> From the point of view of “symbolic consciousness,” power in Russia is endowed with holiness and truth, surrounding itself with rituals modeled on the “heavenly order.”<sup>178</sup> Before this power, “the individual is not a party to a contract,” but rather, submits himself unconditionally, trusting in the possibility of receiving the tsar’s favor.<sup>179</sup>

Vakula’s appeal to the empress features the characteristics of “self-giving” outlined by Lotman: it is one-sided, it lacks compulsion, the agents are of unequal status, and it is (at least ostensibly) an act of giving and unconditional gift rather than an exchange. Vakula zealously prostrates himself before Catherine, and awaits an opportune moment to deliver his request.<sup>180</sup> Believing the slippers to be the sole obstacle standing between himself and Oksana, Vakula acts with the purpose of a man whose fate is about to be determined. He “gives himself” over, submits himself to the empress. He begs her to be merciful:

Your Imperial Majesty, punish me not, but grant me mercy [*prikazhite milovat*] !  
 Meaning no offense to Your Imperial Grace [*milosti*], but what are the slippers you’re wearing made of? I bet not one cobbler in any country of the world can make them like that. My God, if only my wife could wear such slippers!” (56/237)

---

<sup>177</sup> Ibid, 129.

<sup>178</sup> Ibid, 128.

<sup>179</sup> Ibid, 128.

<sup>180</sup> The submissive act of bowing to the ground is connected linguistically and symbolically to the notion of petitioning to the Russian tsar. The term “*chelobitie*,” denoting a low bow to the ground, or literally “beating one’s brow,” also referred, in the form of the term “*chelobitnaia*,” to a written petition to the tsar from the 15<sup>th</sup> to 18<sup>th</sup> centuries. The term “*chelobitie*” dates to the mid-fourteenth century. See I.I. *Sreznevskii, Slovar' drevnerusskogo iazyka*, Vol. 3 (Moscow, 1989), 2, cols 1488-89.

Vakula makes no offer in exchange for the slippers; rather, he submits himself to the empress, expressing his purpose through the language not of “justice,” “equivalence,” “reciprocity,” or “fairness,” but asks instead for her mercy. “Grant me mercy” (*prikazhite milovat*’), he asks, and appeals to her mercy or grace (*milost*’). There is no compulsion in the relationship. Vakula addresses the lack of equivalence in the relationship, acknowledging her supreme power through his prostration and the language of his appeal. Finally, the slippers themselves are presented as an unconditional gift; Catherine makes no demand nor expresses expectation for anything in return.

To understand the blacksmith’s appeal for mercy in terms of Lotman’s category of “self-giving” is to underscore the connection between the monarch and the world of the holy, to emphasize the parallelism between the Earthly tsar (as the monarch was called) and the Heavenly tsar (referring to God). The sacral or quasi-divine qualities of the appeal to the tsar stand out in positive contrast to the negatively-charged legalistic exchange. Speaking of the Middle Ages, Lotman writes that the notion of service to the prince that was based on contractual obligation (as in the Western tradition) took on a negative aspect early on in Russian culture, and continued into later centuries.<sup>181</sup> The unstable terms of the contract render the contract dubious:

Service “by contract” is suspect, but service “as to God” is genuine. This comparison between the sovereign and God [...] has deep roots [in the Russian context]. The centralized form of government was modeled much more directly on the pattern of religious relations than in the West. The isomorphic model was laid out in the *Domostroj*: God in His universe, the tsar in his kingdom, the father in his family; this reflected three levels of unconditional personal commitment and matched the religious system of relations on other levels. The notion of “service to the sovereign,” which developed under

---

<sup>181</sup> Lotman, “Agreement,” 130.



these conditions, took for granted the absence of conditions between the parties. From one side total and unconditional self-commitment was assumed and for the other favour.<sup>182</sup>

According to Lotman's formulations, then, the unconditional self-commitment to the tsar emulates service to God; it is complete and unconditional, free of obligations, manipulation, and deception. On a surface reading, the interaction between Catherine and Vakula in "The Night Before Christmas" appears to coincide with Lotman's notions of "self-giving," to present a scenario in which the monarch bestows a gift to a subject of mercy or favor, neither of which can be obtained through legal, contractual means. This interaction, presented as offering Vakula a form of salvation (preventing him from drowning himself) appears to stand in dramatic relief against the multiple transactional agreements that occur throughout the story. As Schoenle puts it, the comparison between the agreement and "self-giving" is between an interaction based on convention, lies, and the ethics of Western European culture, and one based on truth, iconicity, and represents the "sine qua non of the Christian ethos, a type of *imitatio Christi* exalted in Russian art and culture."<sup>183</sup>

There are, however, problems in reading this episode as the clearly preferable alternative to the legalistic contractual model of social relations. Indeed, close analysis reveals that Vakula's interaction with Catherine falls short of such an exalted enactment of the Christian ethos. Because the scene lacks spiritual or religious iconicity, and instead features manipulation and deception, it is problematic to read this depiction as an instance of "self-giving."

Lotman's assertion that the psychology of the religious interaction of "self-giving" precludes the possibility of play or deception, yet the encounter between Vakula and Catherine

---

<sup>182</sup> Ibid, 130.

<sup>183</sup> Schoenle, *Lotman and Cultural Studies*, 67.

involves deception on a few different levels. First, Vakula pretends to be one of the Cossacks with whom he travels to the Imperial palace. The Cossacks agree to take him with them to visit the empress on one condition: “Get dressed the same as we are Vakula dons a green jacket as directed, and continues to pose as a Cossack once in the presence of the empress (53/234). When Catherine invites the Cossacks to air their concerns, Vakula cries, “My God! If only my wife could wear such slippers!” (56/237) Vakula’s deception is twofold; he not only impersonates a Cossack, but he also implies that he is already married. Surprised, Catherine remarks that she had thought that Cossacks do not wed. In order to avoid provoking disfavor towards the Cossack company, another Cossack replies that some of them do marry. At this point it is now Vakula who is surprised, because this same Cossack, who “had such a good knowledge of literate language” speaks with the tsaritsa “as if on purpose in the coarsest way, usually called muzhik speech” (56/237). Vakula reckons, “He’s surely doing it for a reason” (56/237).

Lotman describes the authority of the tsar (as seen in Russian tradition dating to the medieval period) to be “divinely given,”<sup>184</sup> bearing a power that has “absolute value,” and is the image of “celestial power” embodied in “eternal truth.”<sup>185</sup> If play and deception have no place in interactions with the holy forces, why does Gogol’s narrator depict Vakula deliberately deceiving (albeit without malicious intent) the tsaritsa, whose rank is God-given? Even without this outright deception, the entire exchange has a built-in element of artifice. Before granting the Cossacks entry to the empress’s chambers, Potemkin prepares them to behave in a particular manner, asking them, “You won’t forget to speak the way I taught you?” (55/236).

---

<sup>184</sup> Lotman, “Agreement,” 135.

<sup>185</sup> *Ibid.*, 132.

Another factor that makes this scenario a problematic instance of self-giving is the lack of iconography and solemnity of an interaction characterized by the “aura of holiness.” Many of the positive characteristics that lend “self-giving” the revered, divine status receive ironic treatment in Gogol’s text. The “mercy” that Catherine bestows upon Vakula comes in the form of something as material and trivial as a pair of adorned slippers; indeed, the empress’s first response to Vakula’s request is to laugh. (56/237).

This incorporation of both irreverent humor and deception or play on the part of the supplicant in the scenario of the appeal to the tsar is not unique to Gogol’s narrative. A humorous account of an exchange between Peter the Great and his court jester, Balakirev, dates to the eighteenth century, a time at which, Lotman admits, the “contractual spirit” permeated the culture, causing people to “rethink their attitude to traditional institutions.”<sup>186</sup> In this scenario, the relationship between a subject and a tsar resembles that of two parties in a contractual exchange much more than an interaction between a submissive, self-giving subject his all-powerful, divinely-appointed tsar. Humor and deceptive play, which should not belong in an interaction characterized by the aura of holiness, pervade the brief text, presented here in its entirety:

Once the enraged Sovereign banished Balakirev from court and bade him never to show himself again. There was nothing he could do about it; he had no choice but to obey, and removed himself. A week passed, and then another; Balakirev still had not appeared at court, and His Majesty began to miss him. Another three weeks passed. Suddenly a rumor made the rounds that Balakirev was dead. The Sovereign sent a messenger to find out whether the rumor was true. Upon his return, the messenger reported that with his own eyes he had seen Balakirev laid out on a table, and that his wife was weeping for him. “I feel sorry for him,” said Peter. “He loved me and was loyal to me. I must aid his wife.” He immediately sent an orderly to the supposed widow.

---

<sup>186</sup> Ibid, 135.

Balakirev's wife appeared in mourning, wearing hoop skirts fashionable in that era. Peter expressed sympathy to her at length and then said, "I would reward the person generously who could bring Balakirev back!"

"Just how much would you give them?" asked a voice, as if from the grave. "What does this mean? Are you really still alive, you worthless scoundrel?" shouted his Majesty.

"Nope! I'm dead!"

"You are here, you rogue! Crawl out this instant!"

"Nope, I'm not coming out. Wife, let's go home."

"Hold on!" protested Peter, "I'll give you a hundred rubles!"

The jester stuck his head out from beneath his wife's skirts.

"I promise you mercy [*proshenie*]" repeated the sovereign.

Balakirev showed even more of himself.

"All my former privileges!"

Balakirev leaped out and fell at the feet of the Sovereign, then stood and said,

'Alekseich,' you can keep the hundred rubles; that's for bringing me, a fool, back to life.

But make sure you give me back those privileges!"<sup>187</sup>

There is much that is interesting in this anecdote, and of course one must take into consideration that the dynamics in the relationship between a jester and a tsar are by nature different from those between a monarch and an ordinary subject, or in Vakula's case, an impoverished blacksmith. Nevertheless, the elements of play, deception, disguise, and negotiation mix together in this anecdote with elements of the surrender of oneself to the higher power. This text dislocates or, rather, conflates the two modes of interactions identified by Lotman: in accordance with "self-giving," the two parties are unequal and their relations appear to be more one-sided than reciprocal, yet the exchange includes a degree of compulsion and the conditionality

---

<sup>187</sup> James von Geldern and Louise McReynolds, *Entertaining Tsarist Russia: Tales, Songs, Plays, Movies, Jokes, Ads, and Images from Russian Urban Life, 1779-1917*. (Bloomington: Indiana University Press, 1998) 2. *Polnye izbrannye anekdoty o pridvornom shute Balakireve, liubimtse Petra I-go Chast' pervogo*. Kollektiv Avtorov. (Moskva: tip. Lazarnykh in-ta vost. iaz., 1873), 25.

characteristic of the agreement. The ambiguities present in these fictionalized encounters between Balakirev and Peter, and Vakula and Catherine the Great recur in several texts that investigate the imperial appeal as an alternative to normal legal channels. The following section explores how these tensions, apparent in Gogol's text, remain relevant in literary depictions of the imperial appeal throughout the nineteenth century.

### **The Imperial Appeal in *The Captain's Daughter* and Beyond**

Subtle elements of play and deception also occur in a canonical text by Gogol's most famous literary contemporary, Aleksandr Pushkin. Scholars disagree about the extent of deception, but artifice unquestionably plays a role in what is likely the most iconic instance of the imperial appeal in nineteenth-century Russian literature: the encounter between Masha Mironova and Catherine the Great in *The Captain's Daughter*.<sup>188</sup>

Having conceived of the plot while writing *Dubrovskii*, Pushkin began writing *The Captain's Daughter* in late January 1833, almost exactly one year after the publication of Gogol's "The Night Before Christmas."<sup>189</sup> Like Gogol's tale, Pushkin's novella takes place during the reign of Catherine the Great. This first-person coming-of-age narrative recounts the exploits of young Petr Grinev, whose father sends him to serve in the imperial army.<sup>190</sup> Grinev

---

<sup>188</sup> In her dissertation, "Justice and How to Attain it in Russian Literature and Film," Anna Krivoruchko offers an in-depth comparison between two of Pushkin's texts (*Andzhelo* and *The Captain's Daughter*) with the English literary texts to which he referred. Krivoruchko considers Lotman's understanding of these two "good tsar" narratives, which Lotman groups together as a group with Pushkin's short poem "The Feast of Peter the Great." Alexander Dolinin adds the text "The Tale of Tsar Saltan" to this group. See Krivoruchko, "Justice and How to Attain it," 29 - 119. See also Alexander Dolinin, "Poema Pushkina 'Andzhelo': istochniki i zhanrovye osobennosti." *Pushkin i Angliia: tsikl statei*. (Moskva: Novoe literaturnoe obozrenie, 2007), 130-154.

<sup>189</sup> The commentary to "The Night Before Christmas" in Gogol's *PSS* cites the date of the censor's approval as January 31, 1832. (*PSS* 1:537). In the commentary to Pushkin's *PSS* on *The Captain's Daughter*, the date of January 31, 1833 is the first date noted in the manuscript of the plan for the novella.

<sup>190</sup> For possible historical connections between Derzhavin and the fictional Grinev and Shvabrin, see Irina Reyfman, "Poetic Justice and Injustice: Autobiographical Echoes in Pushkin's the Captain's Daughter" *The Slavic and East European Journal* 38.3 (1994): 463-478.

offers his hare-skin coat to a peasant who helps to guide him to safety during a snowstorm. This generous act plays a strong role in Grinev's fate, as the peasant is later revealed to be the would-be usurper Emilian Pugachev. When Pugachev's camp mercilessly attacks Catherine's imperial troops at the Belogorsk fortress, he executes everyone except for Grinev, whose kindness Pugachev remembers. Pugachev pardons Grinev and secures safety for Grinev's intended bride, the titular captain's daughter, "Masha" Mironova. After the imperial troops regain control of the countryside, reports of Grinev's apparently friendly interactions with Pugachev come under scrutiny, and Grinev is arrested and brought before the Kazan court for military treason.

Not wanting to sully his intended bride's honor, Grinev declines to explain in entirety the innocuous, personal (romantic) nature of his ostensibly treasonous motivations. The court finds Grinev guilty and sentences him to death. Out of respect for his father's honorable military service, Catherine immediately commutes Grinev's court sentence to exile in Siberia. Distraught, Masha suspects that Grinev neglected to defend himself before the court on her account. Resolved to clear his name, Masha sets out to the capital to personally petition the empress on Grinev's behalf. Like Vakula's petition to Catherine, Masha's appeal invokes important features (an unconditional submission, agents of unequal status, lack of reciprocity, and lack of compulsion) of Lotman's act of "self-giving."<sup>191</sup> Yet Pushkin's scene, like Gogol's, contains the deception and manipulation Lotman deems "impossible" in the relations belonging to the "religious" realm.<sup>192</sup>

---

<sup>191</sup> For an examination of the ways in which the "gift-giving economy" and reciprocal relationships in Pushkin's *The Captain's Daughter* express notions about the "poet's inspiration" and place in history, see David Bethea, "Slavic Gift-giving, the Poet in History, and Pushkin's *The Captain's Daughter*," in *Russian Subjects: Empire, Nation, and the Culture of the Golden Age*, eds. Monika Greenleaf and Stephen Moeller-Sally (Evanston: Northwestern University Press, 1998), 259-273.

<sup>192</sup> In other words, Lotman's notion that the psychology of "self-giving" must preclude the possibility of deception fails to apply in Pushkin's scene of the imperial appeal. Like the Cossack who uses a different manner of speaking with the tsaritsa, and like Vakula who adopts a physical "disguise" as a fellow Cossack in order to approach the tsaritsa, Masha, according to Al'tman and Zaslavskii, also may be considered to be engaging in some degree of

The very morning after Masha arrives at Tsarskoe Selo (the imperial summer residence), she takes an early morning stroll in the Imperial Gardens, where she encounters a sympathetic listener. This woman, the reader later learns, is the empress herself dressed in plain clothes. The following day, Masha is summoned before Catherine where she receives an official pardon for Grinev.

Although the narrator suggests that Masha's encounter with the empress in the garden is a fortuitous coincidence, some textual evidence suggests that Masha is more perceptive than she lets on. M.S. Al'tman and O.B. Zaslavskii both argue that Masha engages in a degree of manipulation and deception in this appeal for Catherine's mercy. As the scholars note, Masha stays at the post-house, where the postmaster's wife, Anna Vlas'evna shares "all the mysteries of life in the palace," including the time at which the empress usually arises; when she drinks her coffee; and at what hour she usually goes for a stroll, and other facts about the empress's routine "in full detail," with Masha, who listens to the information "with attention."<sup>193</sup> Altman characterizes this information as "invaluable," adding that it is "for this very reason, counting on the possibility of meeting the sovereign," that Masha takes her prepared petition with her to the garden "exactly at the appointed time" at which the sovereign takes her stroll.<sup>194</sup> "After all," Al'tman contends, why else would she "go for a walk early in the morning, dressed in plain

---

deception in order to achieve a successful outcome from the empress. Rather than giving themselves up in an *imitatio Christo*, the potential deception that these petitioners engage in reveal a degree of ulterior or indirect (*kosvenno*) motives behind their actions.

<sup>193</sup> "Жена смотрителя тотчас с нею разговорилась, объявила, что она племянница придворного истопника, и посвятила ее во все таинства придворной жизни. Она рассказала, в котором часу государыня обыкновенно просыпалась, кушала кофей, прогуливалась; какие вельможи находились в то время при ней; что изволила она вчерашний день говорить у себя за столом, кого принимала вечером,— словом, разговор Анны Власьевны стоил нескольких страниц исторических записок и был бы драгоценен для потомства. Марья Ивановна слушала ее со вниманием." Pushkin, *PSS* 6:356.

<sup>194</sup> M.S. Al'tman, "Chitaia Pushkina," in *Poetika i stilistika russkoi literatury*, ed. M.P. Alekseev (Leningrad: Nauka, 1971) 117-118.

clothes, clutching a petition?”<sup>195</sup> Al'tman argues that because of her expectation and hope of encountering the empress, that from the first moment of their interaction, Masha has already guessed her identity.

To this notion that Masha's interactions with the “unknown lady” are not as opaque as a surface read suggests, Zaslavskii adds linguistic evidence. Unlike in her interactions with other characters, Masha emphasizes her humble country origins by using the deferential particle *slovoers* to answer the questions that the empress poses. Masha repeats “*tochno tak-s*” three times, answering once, “*nikak net-s,*” in response to a style of questioning that resembles not a conversation with just any peripheral figure affiliated with the court, but rather a formal interrogation conducted by a figure of unquestioned authority (6:357)

The reasons that Al'tman offers for Masha's reasons for hiding her suspicions from the empress offer another example in which the limitations of the law vividly emerge in contrast to an extralegal alternative approach to the resolution of human issues. Al'tman posits that it is precisely this private, intimate, natural, and informal context that makes it possible for Masha to make use of what the narrator claims are the qualities in which Masha is “gifted” in the “highest degree”: “humility and prudence” (6:355).

Despite the rather unequal manner of the speech in their conversation, the unofficial and apolitical, or, as Caryl Emerson calls it, the “idyllic” context of this chance encounter allows Masha to pursue an objective that remains outside the purview of the legal system.<sup>196</sup> Because it is not possible to argue Grinev's innocence in the eyes of the law (*po zakonu*), Masha

---

<sup>195</sup> Ibid, 117-118.

<sup>196</sup> Caryl Emerson, “Grinev's Dream: The Captain's Daughter and a Father's Blessing,” *Slavic Review* 40.1 (Spring 1981): 60-76,74.



deliberately appeals (*prosit*) not for “justice” (*pravosudiia*) but for “mercy” (*milosti*) (6:357).<sup>197</sup> This context provides Masha a venue in which relaying the truth (the whole truth, not just the legally relevant facts) can potentially bring about not legal fairness or justice, but, in effect, salvation for Grinev, whose livelihood, life, and honor are at stake. If it were not for the apparent deception or manipulation in this episode, Pushkin’s scene would appear as a vivid illustration not only of Lotman’s “self-giving,” but also of Ilarion’s dichotomy, in which the law offers “justification,” which is worthless compared to the invaluable “salvation.”<sup>198</sup> The law is not an appropriate venue for certain private aspects of human behavior.

Even if Al’tman and Zaslavskii’s arguments are not convincing, there can be no doubt at least that the empress engages in a degree of manipulation and deception in the episode; Catherine refers to the “tsarina” in the third person, and tells Masha disingenuously, “I hope you will not need to wait long for an answer to your letter” (358). It is clear that the empress is assuming a disguise, but why? Perhaps the eEmpress herself realizes that even though it is an alternative to the law, an imperial petition is in fact an official, formal process that perhaps precludes not the possibility of deception or play, as in Lotman’s self-giving, but rather precludes the transmission of the whole truth of the human condition, as Caryl Emerson has suggested.<sup>199</sup> Perhaps the eEmpress’s choice to hide her identity itself reveals one of the failures of the petition to the tsar as a reliable, elevated alternative to the legal mode of exchange; it, too, has its own rules and procedures, which can present obstacles to satisfactory outcomes for subjects. Perhaps

---

<sup>197</sup> Speaking about the relationship between Grinev and Pugachev, David Bethea writes that “the implicit message of *The Captain’s Daughter*” is to “rewrite history... in a way that uniquely stresses *milost’* (mercy) and allows peasant and nobleman, unofficially, *privately*, to break down the barriers that have heretofore made them into implacable enemies. See David Bethea, *Realizing Metaphors: Alexander Pushkin and the Life of the Poet* (Madison: University of Wisconsin Press, 1998), 232.

<sup>198</sup> Ilarion, *Sermons*, 4.

<sup>199</sup> Emerson, “Grinev’s Dream,” 74.

the tsar is truly human, and therefore susceptible to the manipulations and play that occurs only in the realm outside of the world of holiness. This possibility, that the texts underscore not the divine but the human aspects of the respective characters' interactions with the monarch, will be analyzed in detail below. Before turning to the question of the divinity of the tsar, however, discussion of a few more points about the problems of viewing these scenes as illustrative of Lotman's ant-legalistic concept of "self-giving" is warranted.

The failure of the imperial appeal in both of these scenes to fulfill Lotman's specific ideals of the "religious" act of "self-giving" also undermines an idealized perception of the appeal as a lofty alternative to the law. Further scrutiny demonstrates that the imperial appeal in both of these texts is as problematic of an alternative to the law as the episodes of horizontal law in Gogol's "Two Ivans," and not only because of the deception and artifice involved. Neither in Pushkin's nor in Gogol's portrayal of Catherine does the sovereign truly grant the appellant "mercy" unconditionally, without reciprocation. In Gogol's episode, Catherine is under the impression that Vakula is a Cossack, upon whose service Catherine relies. The narration suggests that she offers the slippers not purely out of a sense of benevolence regarding a loyal subject, but out of gratitude for Vakula's service as a Cossack (upon which perhaps Vakula counted, suggested by his desire to appear before Catherine dressed as a Cossack), or, as will be analyzed further below, as an expression of gratitude for Vakula's charming flattery.

Similarly, the benevolence of Pushkin's Catherine towards Masha likewise fails to appear unequivocally unconditional or lacking reciprocity. Just as Catherine commutes Grinev's execution due to a reciprocal gesture honoring his father's previous military service, the attention the empress grants Masha is primarily a result of her father's honorable military record. As mentioned, by the time Vakula receives the elusive slippers, they have already lost all of their

importance in terms of Vakula's "contract" with Oksana, so Catherine does not really prove to be the source of the blacksmith's salvation. As Zaslavskii argues, Catherine may offer salvation to Grinev, but she does so not out of a sense of divinely-inspired benevolence or mercy, but out of a sense of "obligation" to Masha's father. In a sense, then, these interactions, therefore, are neither bereft of reciprocity nor conditions. Just as Pugachev's pardon of Grinev can be considered a repayment of a debt owed to Grinev for the present of the hareskin jacket, Catherine's pardons serve as a favor granted in *exchange* for the loyalty the young lovers' fathers showed in their respective military careers. These elements further undermine the idealized scenario promoted in official ideology: that any subject may appeal to the sovereign as the ultimate secular source of mercy and moral justice.<sup>200</sup>

Lotman does allow for the potential for the contractual exchange to define the relationship between subject and ruler in the Russian context. Lotman cites the period of Peter the Great as the era in which the notion of agreement was embraced along with other Western cultural influences. In his speeches Feofan Propokovich, while emphasizing the fact that the tsar's authority is divinely given and absolute, simultaneously affirms that "in assuming power the tsar enters into an implicit contract that binds him to rule for the good of his subjects."<sup>201</sup> At this period in time, Lotman argues, "the tsar ceased to be a symbol, and thereby became obliged to serve his subjects *practically*, as they were to serve him."<sup>202</sup>

Richard Wortman adds that Peter, belonging very much to the "age of rationalism," justified the legitimacy of his rule by the evidence of his *service* to his people through the military and civic achievements he accomplished, the glory he won for the Russian empire. He

---

<sup>200</sup> For more on mercy in Pushkin's work, see Dolinin, "*Poema Pushkina*."

<sup>201</sup> Lotman, "Agreement," 135.

<sup>202</sup> *Ibid*, 135.

trained his servitors to behave in court according to Western manners; noblemen were no longer allowed to debase themselves before the ruler as “obedient slave.”<sup>203</sup> Wortman argues that by adopting the title of the “father of the fatherland,” or “*otets otechestva*,” Peter introduced the table of ranks, emphasized the tsar’s role as father of his flock (Peter was the conquerer, whereas Aleksei, who preceded him, was called the monk). “Now the relationship between sovereign and subjects was to be based not on hereditary right and personal obligation, but on the obligation to serve the state.”<sup>204</sup> Wortman suggests that Peter’s emphasis on the role of the tsar as a secular leader did not preclude the notion of the tsar as a spiritual leader, but rather added a new dimension: “Peter’s successors would assume an office vested with enormous power and sacral qualities, but they, too, had to justify their power by their deeds; they too had to emulate the gods, to prove their efficacy, and to show themselves dedicated to the common weal.”<sup>205</sup> Peter served as the model of service to the state that he expected from his subjects.

Whereas Lotman emphasizes the religious model of “self-giving” as defining the relationship between ruler and subject in the pre-Petrine era, Valerie Kivelson argues that Muscovites did expect a degree of reciprocity in their relationship with their ruler. Reminding us that “cultures certainly can sustain complex and mutually contradictory values and norms,”<sup>206</sup> Kivelson argues, “The prevalence of appeals [to the tsar] for pity suggests that Muscovites based their demands in large part on a sense of moral economy, not on any putative rights of citizenship.” Muscovites “lavishly employed the language of dependency and moral obligation to provoke their tsar to action.” They “articulated demands for collective protection...and invoked

---

<sup>203</sup> Richard Wortman, *Scenarios of Power*, 54.

<sup>204</sup> *Ibid*, 63.

<sup>205</sup> *Ibid*, 63.

<sup>206</sup> Valerie Kivelson “Muscovite ‘Citizenship’: Rights without Freedom” *The Journal of Modern History*, 74.3 (September, 2002) 465-489: 486.

entitlements as dependents of the tsar--his slaves or orphans...<sup>207</sup> By stressing the subjects' "demands" and "obligation," Kivelson assumes reciprocity in the imagined relationship between tsars and subjects even in the early period of Muscovy.

Clearly, the degree to which the scenario of the imperial appeal can be considered in terms of Lotman's notion of the religious, unconditional, one-sided action of "self-giving," or a reciprocal exchange, and whether one can generalize about changes in this interaction among different eras remains up for debate. Lotman ends his analysis by peering into the nineteenth-century, the period under question for the current analysis. The semiotician argues that Russian thought at the end of the eighteenth century was characterized by efforts to escape from the linguistic conventionality that underlies contractual agreements. With the approach of the nineteenth century, "the idea of 'self-surrender' and the rejection of culture based on the conventionality of the sign came once more to the fore." Surrender to abstract ideals began to replace the traditional notion of self-surrender merely to the sovereign:

On the one hand there was the archaic idea of the providential mission of the autocracy, fanatically propagated by Nicholas I, and on the other, the ideal that inspired the progressive section of society: that of self-surrender to the objective, absolute values of freedom, history, the people or the "general good."<sup>208</sup>

Both Pushkin's and Gogol's depictions of imperial appeals, while superficially positive, complicate the exalted image of the monarch. The next section takes a closer look at the specific ways in which Gogol's depiction of the appeal to the tsar subverts the image of the sovereign idealized in official ideology as a quasi-divine earthly representative of God.

---

<sup>207</sup> Ibid, 487.

<sup>208</sup> Lotman, "'Agreement,'" 139.

### **Divinity and Humanity in the Appeal to the Tsar**

Power in Russia is so very complete and majestic while elsewhere, in other countries, only the word remains. Here it bears a religious, and, one may say, supernatural character that acts on the imagination.

*A lady in waiting of the Empress Maria Aleksandrovna*<sup>209</sup>

“You are God, You are God, not a person . . .”

*V. Petrov, to Catherine the Great*

Lotman suggests that one of the main factors responsible for the negative perception of the legalistic contract in Russian culture is its association with pagan or satanic elements. Conversely, therefore, among the characteristics that lends appeal to the direct petition to the sovereign is the ruler’s association with holiness and the religious associations of this model of interaction. An examination of the appeal to the tsar as a potential alternative to the law, therefore, necessitates a close investigation of the degree to which the encounter is presented in symbolic religious or spiritual imagery.

As Boris Uspenskii and Viktor Zhivov demonstrate in “‘Tsar and God’: Semiotic Aspects of the Sacralization of the Monarch in Russia,” the official mythology of the Russian tsar underwent a process of increasing sacralization from the medieval period to the twentieth century. In his study of Russia’s ritualized court ceremonies and celebrations, Richard Wortman calls this sacralization process “elevation” because it “lifted the sovereign into another realm where he or she displayed the superior qualities of being entitled to rule.”<sup>210</sup> Participants of court

---

<sup>209</sup> Wortman, *Scenarios*, 3.

<sup>210</sup> Wortman, *Scenarios*, 6.

ceremonies sought to vest the sovereign with sacral qualities, to elevate the ruler as a holy, supreme, and divinely-anointed figure.

As mentioned, whereas engaging in social interactions based on the legalistic contractual exchange promises the possibility of justice or fairness, the act of petitioning the monarch promises the possibility of moral justice or mercy. Folk proverbs, imperial decrees and speeches, officially sanctioned odes, and literary works throughout and prior to the imperial period in Russian culture emphasize the rampant corruption of provincial courts, calling into question the possibility of justice.<sup>211</sup> At the same time many of these texts affirm the official imperial mythology, and present a positive alternative by crafting an image of a merciful, divinely-sanctioned tsar as a figure in whom subjects must put their unconditional and unquestioning trust and faith. The works of Gogol, Pushkin, and Tolstoi, which depict appeals to the tsar as crucial turning points that change protagonists' fortunes for the better, seek something more rooted in moral fairness than legal justice. But to what degree do the complex works of Gogol (and Pushkin, and Tolstoi) adhere to this pattern of the mercy of the tsar versus the (in)justice of the law? As a case study, an analysis of Gogol's depiction of the appeal to the tsar in consideration of the characteristics that contribute to the sacralization and idealization of the monarch can illustrate the degree to which these complex literary works destabilize this dichotomy.

Richard Wortman writes that the literature, art, and architecture of the eighteenth and nineteenth centuries express the themes of Russian official mythologies by setting them in a "current cultural idiom" and glorifying the monarch as an "esthetic and cultural ideal."<sup>212</sup>

Wortman argues that literary and dramatic presentations of the monarch that comply in this

---

<sup>211</sup> See Goliakov, *Sud i zakonnost'*, 83-88.

<sup>212</sup> Wortman, *Scenarios*, 7.

official idealization “[present] the ruler in terms of what Mikhail Bakhtin called ‘the world of the epic.’”<sup>213</sup> This “monologic world” is absolute; it “banishes all doubt and precludes individual points of view,” and “excludes any questioning beyond affirmation.”<sup>214</sup> Uspenskii and Zhivov examine such narratives, performances, and private communications that belong to this monologic ‘world of the epic’ that precludes questioning of the official imperial mythology. The writings and public displays that contribute to the ever-increasing sacralization of the tsar, however, differ greatly from the complex and multi-layered literary works of the nineteenth century, which polemicize with, and question such ‘absolute truths’ that dominated the eighteenth-century literary scene.

Even despite the apparently positive portrayal of the appeal to the tsar in their respective texts, under no circumstances can the works of Gogol, Pushkin, or Tolstoi be considered to belong to Bakhtin’s ‘world of the epic.’ Wortman notes that the act of questioning the “mythical” or “moral” supremacy of the monarch continued to be forbidden until the age of the Decembrists (1825), when members of the nobility embraced a new myth, the romantic myth, one that could be set against the ‘epic’ world of the court.<sup>215</sup> As close examination reveals, nineteenth-century literary portrayals of the appeal to the tsar tend to deviate from the unquestioning, affirming ‘epic.’

Uspenskii and Zhivov identify several ways in which narratives and performances uphold and contribute to the notion of the monarch as a saintly figure. First, sacralization is achieved in a) the title by which the tsar is addressed (“earthly god,” “Savior,” or “Christ”), b) divine

---

<sup>213</sup> Ibid, 7.

<sup>214</sup> Ibid, 7.

<sup>215</sup> He adds that although these “monologic” texts do not allow for questioning or opposition to official mythologies, we cannot assume that the authors fully believed in the affirmations of these mythologies, as many of them have a highly ritualized character. See Wortman, *Scenarios*, 9.



characteristics attributed to the tsar (such as “holy” or “anointed”), and c) the use of symbolic imagery (the shining brightness of holy light or righteous sunshine<sup>216</sup>) or rituals that connect the tsar to Christ or God. While Gogol’s depiction employs some of these terms and imagery, the Catherine of “The Night before Christmas” bears little resemblance to the deified “Christ” or “earthly god” that she is made to be in texts that can be considered to belong to Bakhtin’s category of “unquestioning” or “monologic” texts.

Although she was by no means a particularly pious individual, as Uspenskii and Zhivov point out, Catherine the Great was addressed by courtiers with symbolic and spiritual language. The scholars point out that the tradition of calling the monarch “Christ” emerged in the eighteenth century.<sup>217</sup> On her coronation day in 1786, the Tambov priest Ivanov referred to Catherine as “the Lord’s Christ” (*khristos gospoden*): “How humble, how far-seeing and how generous, is this, the one anointed and crowned today for the Russian kingdom, the Lord’s Christ!”<sup>218</sup> S. Naryshkin used the epithet “earthly god” (*zemnyi bog*) to address Catherine in his 1762 “Epistle to Catherine II.”<sup>219</sup> Derzhavin uses the same term to refer to Catherine and other Russian monarchs in at least four different poems.<sup>220</sup> And, appropriating the language of an appeal to the tsar, V. P. Petrov also uses the expression; in a private letter to Catherine of 1793, Petrov puts his hopes on “the earthly god [*zemnogo boga*], so that [she] would deign to restore divine mercy [*milosti nebesnogo*] to me.”<sup>221</sup> The variant “earthly deity” (*zemnoe bozhestvo*) was also used to refer to Catherine the great by multiple authors and correspondents.<sup>222</sup>

---

<sup>216</sup> The connection of the metaphorical connection to “shining” or “brightness” appears as early as the 12<sup>th</sup> century in an anonymous text. See Uspenskij and Zhivov, 44.

<sup>217</sup> Boris Uspenskii and Victor Zhivov, “*Tsar and God*” and *Other Essays in Russian Cultural Semiotics*, trans. Marcus Levitt (Boston: Academic Studies Press, 2012), 27.

<sup>218</sup> Ibid, 28.

<sup>219</sup> “You are an earthly God, and ours, O You, Catherine!” Ibid, 32.

<sup>220</sup> “To Rulers and Judges,” 1787; “Providence,” 1794; “Desires,” 1797, “To the New Year, 1798.”

<sup>221</sup> Uspenskii and Zhivov, “Tsar and God,” 32.

<sup>222</sup> Ibid, 34-37.

It is important to note that while the Bakhtinian monologic narratives preclude any questioning or challenging of official mythology, this did not mean that all audiences agreed with this sacralization of the monarch. The defiant Skopsty, for instance, considered the term “earthly deity” blasphemous.<sup>223</sup> Like several other monarchs in the eighteenth and nineteenth centuries, Catherine herself objected to some attempts at sacralization that appeared to have gone too far: once, for instance, she was approached by peasants who brought candles to be placed before her, apparently considering her a “living icon.” These peasants were sent away.<sup>224</sup>

Nicholas I, who ruled during Gogol’s time, similarly discouraged such unrestrained praise, and, according to Uspenskii and Zhivov, did not enjoy being called a god. But he was nevertheless celebrated with symbolic imagery and rituals traditionally reserved for holy figures, including celestial allegory, a common trope linking rulers to divinity.<sup>225</sup> In an early eighteenth-century text addressed to “Peter our Christ,” the author describes how the “sun” of the holy virgin and Christ the Savior shine “rays of grace” (*blagodati*) and strength upon the Russian ruler. The use of celestial brightness and shining rays to connect the monarch to God recurs in the reign of Paul and Nicholas I.<sup>226</sup>

By the nineteenth century, the source of the divine “shining rays” is presented as deriving not only from divine figures like the holy mother and Christ, but from the tsar himself. An excerpt from a church service created to celebrate the imperial family of Nicholas I illustrates the use of the divine celestial metaphor:

...from holy tsarist blood our Emperor Nicholas came shining forth to us, Nicholas, the true image of Jesus Christ, crowned and anointed monarch of the church and of the

---

<sup>223</sup> Ibid, 34.

<sup>224</sup> Ibid, 47.

<sup>225</sup> Ibid, Footnote 193, p. 93.

<sup>226</sup> Ibid, 45.

Russian kingdom, heir to God's kingdom, placeholder of Christ's throne and acting Savior of the fatherland.<sup>227</sup>

This excerpt also exemplifies another type of sacralization that Uspenskii and Zhivov examine: the adaptation of certain rituals to celebrate the sovereign and the imperial family in ways and scenarios traditionally reserved to honor Christ. He was addressed as a living icon of Christ; soldiers devoutly crossed themselves after receiving greetings from him; he was referred to in language adapted from the language used to describe Christ's entrance into Jerusalem.<sup>228</sup> His reign saw the ascendance of the "high triumphal days" (*vysokotorzhestvennye dni*), which caused events in the personal life of Nicholas and the imperial family to be celebrated as official church holidays; special prayers and church services, such as the above text, were created specifically for these celebrations.<sup>229</sup>

If Gogol's scene of the imperial appeal is meant to function as a loftier and more spiritually valid alternative for achieving a positive or righteous outcome than the contractual legalistic exchange, one might expect to encounter similar language and imagery in this scene to that which participates in the sacralization of the monarch as exemplified above. Such sacralization would reinforce the legitimacy and divinely-sanctioned nature of the monarch's holy judgment as opposed to outcomes reached through secular formulaic logic. Yet Gogol's depiction features very little of this imagery.

Religiously associated terms that emphasize the divinity of the sovereign, such as those mentioned above, are absent in Gogol's imperial scene. As opposed to describing Catherine in terms of holy brightness, or her countenance as an icon or an image of God, and rather than

---

<sup>227</sup> Ibid, 99.

<sup>228</sup> Ibid, 50.

<sup>229</sup> Ibid, 50.

focusing on her divine qualities as an earthly god or deity, Gogol's narrator offers a description in practical, physical terms that emphasize secular might and her corporeality. Commanded by Catherine to rise from his bowed position, Vakula lifts his head and sees:

standing before him a woman of small stature [*nebol'shogo rostu*], even somewhat portly [*dorodnuiiu*], powdered [*napudrennuiiu*], with blue eyes, and with that majestically smiling air which knew so well how to make all obey and could belong only to a woman who reigns. (55/236)

This description befits that of a powerful political figure, but not necessarily an earthly deity who bestows divine mercy upon her subjects. Rather than accentuating any divine qualities, this description characterizes Catherine as a personable and benevolent ruler, not as a holy figure. Eighteenth-century poets and correspondents addressed Catherine with titles such as “Christ,”<sup>230</sup> “Earthy God,”<sup>231</sup> “Earthy deity,”<sup>232</sup> “image of God,”<sup>233</sup> and sobriquets such as “holy.”<sup>234</sup> In contrast, the Cossacks and Vakula address Catherine either as “mother” (*mamo*) (55/236), “Your Imperial Majesty” (*vashe tsarskoe velichestvo*) (56/237), or “Your Honor” (*vashe blagorodie*) (57/238). Although Vakula makes a request, the success of which he believes has the power to

---

<sup>230</sup> The Tambov priest Ivanov called Catherine “the anointed one” and “Christ” in a speech on her coronation day in 1786. See Uspenskii and Zhivov, “Tsar and God,” 28.

<sup>231</sup> Ibid, 32. In his “Epistle to Catherine II” in 1762 S Naryshkin writes, “You are an earthly God, and ours, O You, Catherine!” G.R. Derzhavin uses the epithet frequently. See, for example, “To Rulers and Judges” (1878), “Providence” (1794), and “Desires” (1797) and “To the New Year, 1798”. See notes 162-167.

<sup>232</sup> Ibid, 176 Catherine is called the “all-Russian earthly deity”, in many works, such as A. Perepechin’s poem “Heartfelt Feeling of the Most Genuine Zeal, Dedicated With Reverence to the All-Russian Earthly Deity Catherine the Second . . .” (St. Petersburg, 1793) V. P. Petrov calls Catherine an “earthly deity” in his ode “On Composing a New Law Code” (1782). A. S. Pishkevich uses this phrase in everyday writing about the empress. There are also variations of this phrase that appear widely in eighteenth-century poetry, such as in Petrov’s ode “On Concluding Peace with the Ottoman Porte” (1775); N. P. Nikolev’s ode “On the Taking of Warsaw, 1794,” and other similar examples.

<sup>233</sup> Ibid, 46. Sumarokov’s ode to Catherine 1766, V. I. Maikov in his “Ode on the Occasion of the Choice of Deputies for Composing a New Law Code in 1767”, Petrov, Derzhavin.

<sup>234</sup> Ibid, 23, note 101. V.P. Petrov’s first version of “On the Composition of a new Law Code” contains the lines “Great [was] the Lord in Peter the Great,/Great he was in Elizabeth,/ [And] in Your holy Catherine,/In the miracles She performed!”

determine the salvation of his soul, Vakula does not refer to Catherine as his “Savior.” Nor does he invoke the presence of God’s grace or mercy in the monarch’s judgment, as was customary for peasant petitions since as early as the sixteenth century.<sup>235</sup>

Vakula does appeal to her benevolence, however, crying out, “Grant me mercy!” (*prikazhite milovat*) (56/237). Vakula refers to Catherine as “your Imperial Grace,” (*vashei tsarskoi milosti*) but his use of these expressions appears more conventional than symbolic (56/237). Compare this to the language used by V. P. Petrov, in a letter to Catherine in which he places his hopes on “the earthly god (*zemnogo boga*), so that [she] would deign to restore divine mercy (*milosti nebesnogo*) to me.”<sup>236</sup> In the eighteenth century it became common practice to use liturgical references in addressing the monarch, borrowing biblical phrases such as those from psalms, adapting quotations from the bible in which notable figures address God, and using the form of the akathist hymn to greet and praise the monarch. Yet Vakula’s address of Catherine the Great is an adaptation not of a biblical phrase, but rather of a secular folk saying, or *poslovitsa*: “*Ne prikazhite kaznit’ (golovu rubit’), prikazhiterech’ govorit’*.” “Do not punish me (do not behead me), but allow [me] to speak.”<sup>237</sup> It is interesting that Vakula, purportedly the most pious man in the village, neglects to employ religious or spiritual language in what seems to him at the time to be a matter of life and death.

Catherine’s response to Vakula’s request is an example of a quintessentially human trait: laughter. “The sovereign laughed,” or perhaps a better translation would be, “burst into

---

<sup>235</sup> Conventional forms of petitions with which subjects addressed the tsar since well before the sixteenth century included direct comparisons between the tsar and God. Fedor Alekseevich commented on the petitions he received: “In your petitions you write that he, the Great Lord, should deign to be merciful, like God” See Uspenskii and Zhivov, “Tsar and God,” 24.

<sup>236</sup> Ibid, 32, note 168

<sup>237</sup> See the online edition of V. Dal’: *Tolkovy Slovar’* (1863—1866), specifically the entry for “*kaznit’*.” <http://slovardalja.net/>

laughter.” (*gosudarinia zasmeialas*’) (56/237). Rather than emphasize her connection to the realm of the divine, as in Lotman’s scenario of self-giving, the narrator emphasizes Catherine’s secular, human traits.

Gogol’s text does feature imagery of brightness, light, and direct references to the mother of Christ, but the manner of presentation again emphasizes its secular, rather than sacral qualities. When Vakula arrives to the palace, he marvels at the sheer abundance of wealth that surrounds him. “My God, what light!” he exclaims, “Back home it’s not so bright at noontime.” His attention focuses next on the “brilliantly lit stairway” which he then admires for its ornaments, banister, iron, and workmanship. Any celestial-divine imagery dissolves into admiration for material splendor and physical craftsmanship. The same thing occurs when an arresting painting catches Vakula’s eye; it is no ordinary painting but a portrayal of the “most pure Virgin with the Child in her arms” (54/235). Rather than being moved by its spiritual content, Vakula again admires the skillful artistry of the human being that created the work. Vakula exclaims, “What a painting!” (*Chto za chudnaia zhivopis*’), notably employing not the word icon (*ikona*) but the word denoting pictorial art (*zhivopis*’) (54/235). Vakula goes on to emphasize the difference between this particular painting and an icon. In his seminal cultural study *The Icon and the Axe*, James Billington writes that “naturalistic portraiture” was “rigorously rejected in Russia;” rather than the “imaginative physical imagery of Western Christendom,” there was in Russian religious paintings a “desire to achieve a more spiritualized representation of holy figures” by means of a “flat, two-dimensional plane” that was “religiously respected.”<sup>238</sup> Yet Vakula, mesmerized, gazes at precisely those physical, representational

---

<sup>238</sup> James Billington, *The Icon and the Axe: An Interpretive History of Russian Culture* (New York: Knopf, 1966), 30.

aspects of the painting: “It seems to be speaking! it seems alive! And the holy Child! He clasps his little hands and smiles, the poor thing!” In the same line of thought, and in the same vein, Vakula’s admiration moves onto the next object: the “perfect finish” of the brass handle of the door. Any spiritual qualities of the painting with its holy subject, not to mention any affiliation this might suggest between Catherine and the holy subjects of the painting, are completely submerged in a list of physical, man-made qualities. These potentially spiritual or otherworldly images ultimately reinforce the corporeality of the imperial palace, and, metonymically, of Catherine herself.

In his examinations of Catherine’s “scenarios” of power, Wortman mentions the garden parties in which Catherine had the palace decorated in a way to resemble something otherworldly or celestial, and the pains Catherine took to demonstrate her piety before the Russian people. Gogol’s depiction, however, rather metonymically associating the celestial or mother of god imagery with divine qualities of the empress herself, instead only uses the notion of brilliance to emphasize the secular qualities of the monarchy’s splendor and power.

Though the emphasis of Catherine’s humanity conflicts with the image of her as an elevated, divinely-anointed “earthly god,” it does not entirely contradict one facet of her regime’s official mythology. Richard Wortman writes that alongside the notion of Catherine as the divinely chosen supporter and defender of Russian Orthodoxy, the empress sought to craft a public image of herself as the loving and caring mother of the Russian empire. In this scenario, Catherine attempts to emphasize her human side not as something opposed to her divinity, but as opposed to the notion of an inaccessible or impersonal ruler. Wortman argues that Catherine’s enlightened compassion emphasized her image as a benevolent “mother of the fatherland” who was accessible and empathetic to her subjects.

Wortman reports that Catherine expressed interest in getting to know her subjects during repeated visits to the provinces during which she would participate “in numerous staged demonstrations of mutual fealty between herself and the Russian nobility” in which the nobility were similarly given the opportunity to offer reciprocal affection. She presented spectacles that “performed” the “scenario of happiness and mutual affection” that expressed a symbiotic alliance between a “grateful nobility and a benevolent monarch who understood their needs.” Indeed, after the charter of 1782, by means of which Catherine tried to remove the contractual nature of the reciprocal obligations that had previously been expected of the nobility, “maternal love” was to express the new relationship between [the nobility] and the throne. Noblemen no longer served out of formal duty imposed by imperial fiat, but out of an obligation displayed as mutual affection. Catherine evoked this feeling personally. Members of the nobility felt her endearing manner and reciprocated her sentiments.”<sup>239</sup> Note that in describing Catherine’s maternal posturing, Wortman employs the language not of Lotman’s psychology of “self-giving” but retains the language of the “exchange.”

Even the ideal of Catherine as the “mother of the fatherland,” however, is somewhat thrown into question by Gogol’s narration. What ultimately earns Vakula Catherine’s affection is not an appeal to her maternal benevolence, nor her mercy, power, or majesty, but rather, her handsomeness. The narrator writes that

the empress, who did in fact have very shapely and lovely feet, could not help smiling at hearing such a compliment from the lips of a simple-hearted blacksmith, who, in his Zaporozhye outfit, could be considered a handsome fellow despite his swarthy complexion. (57/238)

---

<sup>239</sup> Wortman, *Scenarios*, 131.



Despite the inconsistency in omniscience (Catherine at this point is not supposed to know that Vakula is a blacksmith), this statement suggests that what grants Vakula favor is Catherine's very ordinariness. Her susceptibility to charm and flattery of her physical appearance is something that hardly emphasizes her maternal, not to mention her quasi-divine status. Even her status as an "all-powerful authority" who bestows mercy and love upon her subjects seems somewhat diminished.

It seems ironic that Gogol, who (as the following pages illustrate) perceived eighteenth-century odes to Catherine not as flattery, but as deserved, earnest, and reverent overtures to an extraordinary ruler, depicts an encounter with Catherine that reveals a side of the empress that is vulnerable to human weakness for flattery and charm. While Vakula's flattery is not necessarily deceptive (the narrator remarks that the empress truly did have lovely feet), his strategy relies on charm rather than sharing the whole truth and gravity of his circumstance. The success is not due to the sovereign's mercy or elevated divinity above ordinary mortals; it is due to the whims and fancy of an all-too-human being, susceptible to the charms of a handsome face.

Although the 'monologic' ode had gone out of favor by the time Gogol began writing his Dikanka stories, the sacralization of the tsar in the Russian cultural consciousness was still widespread and indeed, as Uspenskii and Zhivov show, continued to increase. While it may be possible that Gogol shared traditional believers' alarm at the use of sacred language reserved for the immortal Christ and god to describe mortal, perishable tsars, there is no evidence that Gogol categorically objected to the "elevation" of monarchs. In fact, in his last publication of nonfictional writings, Gogol celebrates precisely those poets of Russia who declare their appreciation of the special role of the monarch, elevating the monarch as a divine being. What Wortman would call "elevation," Gogol calls "a kind of royal grandeur of expression"

(52/8:251). In the chapter “On the Lyricism of Our Poets,” of *Selected Passages from Correspondence with Friends*, Gogol writes that “only a jester” would characterize Russian poets’ loving odes to their tsars as mere flattery:

But he who has more wit, he who is wiser, will stop before those odes of Derzhavin in which he outlines a vast realm of beneficent activity for the sovereign [*gosurdar*], in which he himself, with tears in his eyes, speaks to him of other tears which are ready to flow from the eyes not only of Russians but even of the brute savages living on the borders of his Empire, simply through contact with that mercy [*milosti*] and that love which only an all-powerful authority can show to the people. So much is powerfully said that if there should ever be a sovereign who for one moment forgets his duty, he would recall it anew in reading these lines and would be moved by the holiness [*sviatost’iu*] of his rank. Only icy hearts will reproach Derzhavin for his exaggerated [*izlishnye*] praises to Catherine. (52/8:251)

Gogol appears to affirm the notion of the dichotomy of the divinely-inspired merciful tsar and the legalistic impersonal state. Gogol deliberately “elevates” the tsar as a spiritual figure, an agent of God, as opposed to a mere representative of the state and its legal system. He writes:

Our poets have begun to see the higher [*vysshee*] meaning of the monarch clearly [...] it will become evident to everyone that the *sovereign is the image of God, as our entire land knows* [...] In Europe it has not occurred to anyone to explain this sublime meaning of the monarch. The politicians, the legislators, and the lawyers have seen him from one side only, namely, as the *highest functionary of the state* [*vysshego chinovnika v gosudarstve*], put in his position *by men* [*liudei*]; and they do not know how to behave with this power, how to show it its own limitations since, because of constantly changing circumstances, it is sometimes necessary to enlarge his prerogatives, sometimes to restrict them. The sovereign and his people are therefore in a strange situation in regard to each other over there: they regard each other almost as though they were antagonists, each

desiring to seize power at the expense of the other. Among us, the poets and not the legislators have clearly seen the lofty [*vysshee*] meaning of the monarchy, in trembling have they heard *the will of God* [*vol'iu boga*] to establish it in Russia in its legal form; that is why their sounds always become biblical [*bibleiskimi*] the moment the word “tsar” escapes their lips. Even those of us who are not poets perceive this (57/8:251).<sup>240</sup>

Clearly, Gogol was not opposed to the presentation of the tsar as a living image of God.

However, in his fictional works, Gogol’s narrator depicts Catherine the Great as enveloped in an atmosphere of a type of flattery that seems more appropriately directed at a merchant’s daughter such as Oksana. At no point in the scene in which Vakula approaches Catherine the Great does the scene or dialog become “biblical.” Gogol’s comical fictional scene appears to be more the work of the jester than the poet.<sup>241</sup>

---

<sup>240</sup> Emphasis mine.

<sup>241</sup> Although it is a commonplace to point out the ways in which the tone of his fictional works appears to contradict those in his nonfictional writings, it is, to be sure, unfair to compare these excerpts of Gogol’s writings without noting the different contexts and genres of the works. “The Night Before Christmas” is a lighthearted fairy tale, denounced famously by Vladimir Nabokov, who, like Gogol, considered it, along with Gogol’s other *Dikanka* Tales, to be “juvenilia.” See Vladimir Nabokov, *Nikolai Gogol*, (New York: Penguin, 1959), 31. Gogol was an unknown writer in his twenties when he authored *Evenings on a Farm Near Dikan'ka*. Gogol had become more taciturn and religiously zealous by the time he wrote *Selected Passages* only a few years before his death. An antithesis of sorts, to the jocular folktale of his early work, the essays or letters in Gogol’s last publication appear to aspire to a rather earnest tone. Gogol’s awkward efforts in this genre have confounded critics sparked much debate in the reception of *Selected Passages*. I agree with Jesse Zeldin, who thinks that to consider “the two Gogols” (the successful artist and the unsuccessful essayist) as separate entities is to deny the depth and complexity in Gogol, a genius whose works failed to provoke the results he had hoped they would achieve. See Zeldin’s excellent introduction to his translation of Gogol’s *Selected Passages*, vii–xxvii. Andrei Belyi provides an example of this type of “two Gogols” narrative; in *The Artistry of Gogol*, Belyi writes that Gogol was bifurcated into two personas: the first, who considered himself “great,” was in reality “trivial” “shallow” and “poorly cultured,” whereas the second Gogol, who, not recognizing himself as great, was capable nevertheless of “shocking” his readers and “opened the eyes of all Russia to her reality” even without the intent of teaching any lesson.) See Andrei Belyi, *Masterstvo Gogolia: issledovanie*. (Moscow: Gosudarstvennoe izdatel'stvo khudozh. lit-ry, 1934), 33.

### **“To the tsar it is far:” The Unlikely Success of the Imperial Appeal**

In my day, no matter whether the case was just or unjust, anyone could go to court, become friendly with the judge, and receive a merciful decision. In my time, we didn't meddle any further. We had a saying: to God it is high [*vysoko*]; to the tsar it is far [*daleko*].

*Fonvizin, Brigadir*

As several instances in the above discussions suggest, the success of the appeal to the tsar is neither portrayed as a likely nor easy path to a successful outcome. So many circumstances, many of them out of control of the protagonist (such as social status, personal connections, and, most importantly, chance) must converge in order to create the conditions to make it possible for the protagonist to be granted an audience with the monarch. The portrayal of the appeal to the tsar, therefore, as an alternative to the law in Russian literature, simultaneously serves to undermine the appeal while superficially upholding it as superior to legalistic methods. From Vakula's unlikely supernatural visit to Catherine, to Masha's luck in encountering Catherine at the Gardens and other textual attempts to secure an imperial pardon, this “alternative” appears at times nearly as elusive as finding justice in a fictional Russian courtroom.

In Gogol's “The Night Before Christmas,” a considerable amount of effort, trickery, luck, or a combination thereof is needed for Vakula merely to find himself in the presence of the monarch. The success of his endeavor is a singular moment of extraordinary good fortune – an exception rather than the rule. Not just any ordinary imperial subject is so lucky. Vakula considers making such a request of the empress so unlikely that his initial response to Oksana's outlandish request is to commit suicide. Instead, he decides to seek the help first of a blasphemous wizard, then of the devil himself. In this text, the empress appears so

unapproachable that the pious Vakula deems it necessary to invoke supernatural power to do so. Interestingly, even after the devil offers to take Vakula “straight to the tsaritsa” (*priamo k tsaritse*), the blacksmith declines, thinking to himself, “No, it’s scary” (*net, strashno*). Vakula instead orders the devil to take him to the band of Cossacks, with whom it will presumably be less “scary” to face the empress (53/234). If Gogol’s depiction of the appeal to the tsaritsa is presented as a successful one, it is not presented as something attainable by the ordinary individual. A number of factors, including a wizard, a devil, a disguise, compatriots, an invented wife, and some welcome flattery all contribute to Vakula’s unlikely success.

Although the specifics are different, one can say the same in general for Pushkin’s depiction of an imperial appeal in *The Captain’s Daughter*. As noted above, scholars have underscored the role of the military reputations of Masha’s father in the empress’s willingness to reconsider Grinev’s case. One wonders whether Masha’s appeal would have had any success if it were not for their fathers’ honorable service, something entirely out of Masha’s or Grinev’s control. Several important factors contributed to Masha’s successful appeal: their family reputations, her appearance in the capital alone as a daughter orphaned as a result of military service, the informal nature of her ‘chance’ meeting with the empress, the fact that the empress is unattended by her courtiers, and even her skill in knowing how to explain Grinev’s admittedly illegal actions in terms that would be received sympathetically. As in Gogol’s text, the imperial appeal in Pushkin’s novella does result in success. Yet due to its improbabilities, this episode can hardly serve as a repeatable formula for a reliable alternative to the faulty legal system. In fact in the following examples, (all occurring in texts written in the latter half of the nineteenth century) the success of the imperial appeal is mitigated, if it is successful at all.

Like the above texts by Pushkin and Gogol, Lev Tolstoi's *Resurrection* (*Voskresen'ie*, 1899) features an imperial petition that succeeds where the legal system absolutely fails. Yet the limited success of the petition, as well as the difficult and drawn-out process of the petition, similarly illustrates the notion that "to the tsar, it is far." Tolstoi's novel, which reads like a dramatized manifesto exposing the dysfunctional legal system, is an interesting case study to include in this analysis because its plot focuses heavily on an explicit comparison between the legal system and the imperial appeal. Unlike the texts by Gogol and Pushkin, however, in which the imperial appeals are of a rather more spontaneous, immediate, and informal (and consequently, romanticized) nature, Tolstoi's text portrays the banal, undramatic, and protracted process of an official, formal petition to the Emperor. As in the texts by his predecessors, the success in Tolstoi's depiction of an imperial petition appears to be not so much the product of a benevolent, divinely-inspired sovereign, but due instead to the social status of the petitioner—a well-connected member of the Russian elite. Again, the imperial appeal may prove more successful than pursuing normal legal channels, but it is not easily done, and it is not presented as an avenue that is widely accessible to ordinary subjects.

The novel, which takes place in the 1880s (after the judicial reforms of 1864 and during the reign of Aleksandr III) is a tale of the redemption of the wealthy landowner, Prince Nekhliudov. One day Nekhliudov is called to serve on a jury trial in which a prostitute is accused of poisoning a patron.<sup>242</sup> At the trial Nekhliudov is shocked when he recognizes the defendant as Katerina Maslova, a young woman he had seduced and abandoned many years prior. Distracted by an overwhelming sense of shame and guilt, Nekhliudov neglects to observe an omission made

---

<sup>242</sup> Nekhliudov's aunt refers to the assassination of Aleksandr II in chapter XIV, and Maslova's trial takes place on a specific date in an unspecified year: "January 17, 188\_." Tolstoy, *Sobranie sochinenii*, 13:37.

by the jury when they deliver the sentence (the jury neglects to add “without intent” to the charge of murder), which leads to Malsova’s conviction. The court sentences Maslova to hard labor in Siberia. The following chapters of the novel are dedicated to Nekhliudov’s various efforts to overturn this conviction based on a judicial error. Doubtful of the potential success of either method—a judicial appeal and an imperial petition—Nekhliudov pursues both as persistently as possible in hopes of some form of a just outcome.

Like Gogol’s Vakula and Pushkin’s Masha, Tolstoi’s Nekhliudov is in possession of some special resources that help to grant him access to the sovereign. Nekhliudov is attractive, wealthy, of good family stock, and generally well-connected among the Russian elite; other well-connected members of the aristocracy are generally inclined to help him. As Nekhliudov’s exposure to the world of the criminal justice system increases, he undertakes the causes of an increasing number of cases of wrongful and unjust convictions. He has limited success in these endeavors, some of which he pursues through normal legal channels, and others through appeals to the royal family (both informally and formally). But the success of these endeavors through both methods is revealed to be almost entirely due to Nekhliudov’s social connections, not to the benevolence or divine mercy of a compassionate tsar or well-functioning legal system. Ultimately, Tolstoi’s text suggests that there is very little difference between the judicial appeal (the law) and the imperial appeal (the tsar), as the narrative illustrates that both operations are practically entirely facilitated by personal social networks, a sort of a patronage system (a series of contractual exchanges, as Lotman would say) of reciprocal favors exchanged among well-connected members of the nobility.<sup>243</sup>

---

<sup>243</sup> Though Nekhliudov may attempt to engage in scenarios of “self-giving” when he appeals to his well-connected acquaintances for favors on behalf of the wrongfully convicted, he ends up participating in contractual exchanges in which he is obligated to reciprocate the favor by attending various social gatherings, which he finds unpleasant and

In order to help Maslova, Nekhliudov travels to St. Petersburg, where he attempts to capitalize on the elite social connections of his uncle, Count Ivan Mikhailovich. The Count writes a letter to one Senator Volf of the Appeals Department who is “indebted” to him (285/13:261). Indeed, Volf tells Nekhliudov that he would be happy to do anything the Count wishes, and promises to raise the issue with the Senate members (serving as the highest appellate instance in the judicial system). In exchange for Nekhliudov agreeing to dine with him, Senator Volf promises to provide a definite answer on Maslova’s case. The Senator does not mince words, however, or offer false hope to Nekhliudov, and indeed, even though the members serving on the Senate at the time of the review of Maslova’s case are more inclined than others to approve the appeal, in the opinion of Maslova’s attorney, the appeal is denied. Because the Appeals Department cannot make decisions on the merits of the case, but can only overturn a decision on the grounds of errors in the judicial process, the department finds that “The appeal had no grounds whatever” (315/13:287).

Having thus failed to secure justice for Maslova through the normal legal channels, Nekhliudov’s only remaining hope is for a successful imperial petition. Yet Nekhliudov seems even more skeptical of success than he had been with the judicial process. Upon returning to Moscow, Nekhliudov relays the incident to his brother in law, Rogozhinskii, who argues that the very purpose for the Senate is to address mistakes such as the one that occurred in Maslova’s trial. Nekhliudov tells him that the appeal has been rejected. Rogozhinskii replies that “if there is a real mistake, the Emperor should be petitioned.” Nekhliudov replies, “That has been done, but there is no probability of success” (360/13:328). Explaining the official process of resolving

---

dull. Despite his distaste for such engagements, Nekhliudov recognizes that social capital is the currency with which he must pay for the special attention he seeks for his cases.



matters raised by officially submitted imperial petitions, Nekhliudov explains straightforwardly: “They will apply to the Department of the Ministry, the Department will consult the Senate, the Senate will repeat its decision, and, as usual, the innocent will get punished” (360/13:328).

Yet Nekhliudov’s prediction is wrong; after Maslova’s journey to exile has already begun, Nekhliudov receives the “joyful news” that “by order of the chief of his Majesty’s office for the reception of petitions,” Maslova’s sentence of hard labor has been commuted to exile to one of the less distant districts of Siberia (485/13:438). Maslova has not been pardoned or exonerated, but she has been granted a degree of mercy by the Emperor. This letter appears almost unexpectedly, and rather anti-climactically, as the real focus of Tolstoi’s narrative, the “resurrection” of Nekhliudov, which is dramatized as a moral redemption or ‘salvation,’ or an epiphany of a spiritual nature, has already occurred.

Once again, an imperial petition succeeds where the normal legal justice system fails. Yet like Pushkin’s Masha and Gogol’s Vakula, one wonders whether Tolstoi’s Nekhliudov would have found success by means of an imperial petition without his extraordinary resources. After all, the pardon is enclosed in an envelope containing another letter from Nekhliudov’s childhood friend Selenin, who serves as the public prosecutor in the Senate, the very committee that oversees judicial appeals cases. Having taken part in the original rejection of Maslova’s judicial appeal at the Senate, Selenin has experienced his own epiphany of conscience, spurred on by his childhood friend Nekhliudov’s impassioned protests against the injustice of the case. In a final, crucial act of special assistance to Nekhliudov’s cause, (which likely would not have occurred were it not for Nekhliudov’s social status and personal connections) it is Selenin, not the Emperor, who intercedes to grant Maslova mercy. Selenin’s letter reads:

“Dear friend,” wrote Selenin, “our last talk has made a profound impression on me. You were right concerning Maslova. I looked carefully through the case, and see that shocking

injustice [*nespravedlivost'*] has been done her. It could be remedied only by the Committee of Petitions before which you laid it. I managed to assist at the examination of the case, and I enclose herewith the copy of the mitigation of the sentence... I hasten to communicate this glad news to you and warmly press your hand.” (484/13:437)

Unlike the previous texts, there is no dramatic personal encounter between petitioner and emperor. The language is official and formal, not personal:

His Majesty's office for the reception of petitions, addressed to his Imperial name...by order of the chief of his Majesty's office for the reception of petitions addressed to his Imperial name. The meshchanka Katerina Maslova is hereby informed that his Imperial Majesty, with reference to her most loyal petition, condescending to her request, deigns to order that her sentence to hard labour should be commuted to one of exile to the less distant districts of Siberia. (485/13:438)

Tolstoi's novel explores in great detail the extraordinary difficulties facing even the most well-connected appellant seeking the tsar's mercy. If securing imperial favor is this difficult for a wealthy nobleman such as Nekhliudov, there can be little hope for an ordinary subject seeking a favorable outcome through this means of an alternative to the law.

Tolstoi's *Resurrection* is not the first text to portray a protagonist's skepticism regarding an imperial appeal, nor is it the first to depict a less-than entirely successful petition. Pushkin's *Dubrovskii* and Tolstoi's own novel *War and Peace* offer compelling examples to consider in an examination of the imperial appeal as an alternative to the law, not so much for what the texts say about the appeal as for what they *neglect* to say. In both of these texts protagonists who would be considered innocent in the context of ordinary logic as opposed to legal logic find themselves victimized by a legal system that does not take into account the whole truth of human circumstances.

As mentioned in the first chapter of this dissertation, the elder Dubrovskii's estate had been long ago purchased by his predecessors from those of his neighbor, Troekurov, who initiates a legal contestation of the ownership of the Dubrovskii estate. Because the deed of purchase for the estate had burned in a fire some years prior, the provincial court orders Dubrovskii to relinquish the estate to his adversarial neighbor.

Knowing that the elderly Dubrovskii will be legally outmatched by the local petty tyrant Troekurov, who has the local lawmen and judges under his influence, the family nurse appeals to the younger Dubrovskii, Vladimir, who lives in the capital. In her letter, Orina Egorovna Buzyreva suggests to Dubrovskii that Dubrovskii should appeal to the tsar, as the law has failed them.

We hear that the court [*zemskii sud*] is going to hand us over to Kirila Petrovich Troyekurov, because it is said that we belong to him, although we have always belonged to you, and always heard so ever since we can remember. You might, living in St. Petersburg, inform our father the Czar of this [*dolozhit' tsariu-batiushke*], and he will not allow us to be wronged. (800/6:155)

Instead of acting upon this advice, Vladimir Dubrovskii rushes home to attend to his ailing father, who dies shortly thereafter from the stress caused by the lawsuit. The young Dubrovskii learns that the period in which he could have appealed the lawsuit has expired, and he is therefore left with no legal recourse.

When the lawmen inopportunistically arrive to confiscate the estate on the senior Dubrovskii's funeral day, the peasants begin to threaten the bailiff, the court assessor, and his officials. To calm the peasants, Dubrovskii reminds them of the extralegal alternative still available. Paraphrasing his nanny's very phrase, that the tsar "will not let us be wronged" (*on by ne dal nas v obidu*), Dubrovskii urges the peasants, "Don't fear, the Czar is merciful [*gosudar' milostliv*]: I

will petition him—he will not let us be wronged [*on nas ne obidit*]. We are all his children [*ego deti*]” (800/6:155).

Yet despite this repeated insistence by two characters that a petition to the tsar is sure to succeed, Dubrovskii never initiates an imperial petition. After these two instances in the text, the notion of an imperial appeal disappears from the text entirely. The absence of the pursuit of this option is conspicuous, and leaves several questions unanswered. Why did Dubrovskii raise the option of appealing to the tsar if he never seriously considered it as a viable option? Is it because Troekurov, a wealthier landowner with more status and better connections, would likely have more influence even in an imperial petition? Is it because Dubrovskii, a relatively poor nobleman with few resources, did not think he could ever be granted the tsar’s attention? Is it because Dubrovskii was too proud to submit his fate to the tsar? Is it simply because Pushkin did not want to explore that type of scene in this particular narrative? In that case, why is it even mentioned at all? What is the point of acknowledging the existence of this extralegal option not once but twice, only to dismiss it out of hand?

In Pushkin’s *Captain’s Daughter*, Gogol’s “The Night Before Christmas,” and Tolstoi’s *Resurrection*, the appeal to the tsar is treated as a last resort. These characters treat the imperial appeal with varying degrees of optimism, yet in *Dubrovskii* it is barely considered, and not pursued. To be sure, *Dubrovskii* is an incomplete text that was published only after the author’s death. Yet the conspicuous omission raises doubts about the imperial petition as an extralegal option for rather ordinary subjects such as the Dubrovskii family.

In Tolstoi’s *War and Peace*, pride emerges as the reason that one character initially refuses to seek an imperial pardon. The imperial appeal in Tolstoi’s *War and Peace* encompasses only a minor episode that mainly functions to illustrate the characters and relationship between

Nikolai Rostov, a cadet, and “Vas’ka” Denisov, the squadron of Rostov’s military regiment. The novel takes place during the early 1800s, and continues through the aftermath of Napoleon’s failed attempt to invade Moscow in 1812 (during the reign of Aleksandr I). When Denisov’s troops run out of food, the captain forcibly seizes unescorted wagons of food rations that had been consigned to an infantry regiment with which he feeds his starving troops. This brazen and courageous act results in the court-martial of Denisov, who is charged with insubordination and marauding.

Rostov later visits Denisov, who has been wounded in battle, in the hospital. Like Dubrovskii’s nanny in Pushkin’s text, with naïve optimism Rostov urges Denisov to follow the advice of the nearby uhlan, who says “he ought simply to beg the sovereign for mercy [*prosto prosit’ gosudar’ia o pomilovanii*]. They say there will be lots of rewards now, and surely he’d be forgiven [*verno prostiat*]....”<sup>244</sup> At first, Denisov (who speaks with an impediment) does not consent: “For what? If I were a ghrobber, I’d ask for mercy [*milosti*], but I’m on tghrial because I bghrought the ghrobbers to light. Let them take me to court [*pust’ sudiat*], I’m not afghraid of anybody; I’ve served the tsar and the fatherland honoghrably...” (406/5:145).

Denisov’s hospital roommate Tushin recognizes the importance that social connections have in achieving success through an imperial petition. Tushin argues that “there couldn’t be a better chance” for Denisov to petition the emperor because Rostov, Tushin reasons, has “surely got a hand in at the staff” (406/5:144). Denisov reluctantly agrees, but Rostov soon finds that to petition the Emperor is not, as he assumed, quite so “simply” done (406/5:144). He appeals first

---

<sup>244</sup> All page references in the text refer to the Volokhonsky and Pevear translation of *War and Peace* (modified when necessary), followed by page number from Tolstoi’s *Sobranie sochinenii*, e.g. 4:160. Lev Tolstoi, *Voina I mir. Sobranie sochinennii v 22 tomakh*, ed. M.B. Khrapchenko (Moskva: Khudozhestvannaia literatura, 1983). 4:7-7:355. Leo Tolstoy, *War and Peace*, trans. Richard Pevear and Larissa Volokhonsky (New York: Vintage Classics, 2007). 406/5:144.

to his cousin and former childhood friend, Boris, who has more influence in the military. Boris warns Rostov that “the sovereign is very severe [*strog*] on such occasions” and recommends Boris not to petition the Emperor directly but through the normal chain of command, by first appealing to the commander of the corps (410/5:149). Offended at Boris’s apparent unwillingness to intercede on behalf of Denisov, Rostov decides to petition the emperor himself.

Unlike the other characters discussed in this chapter, Rostov, though of good family name, has several factors that weigh against the likelihood of his success in his appeal. The narrator mentions that Rostov arrives at Tilsit on “the day least suitable of all for interceding on Denisov’s behalf. He could not go to the general on duty himself, because he was wearing a tailcoat and had come to Tilsit without permission of the authorities” (410/5:150). Nevertheless, Rostov resolves not to leave without doing all he can for Denisov, and, “above all, without delivering the letter to the sovereign” (410/5:150). Rostov begins to romanticize his imagined encounter with the Emperor, dreaming, it appears, of the kind of fortuitous, personal, informal encounter with the sovereign that Pushkin’s Masha and Gogol’s Vakula were lucky enough to experience.

I may see him any moment... If only I could deliver the letter to him directly [*priamo peredat’ emu pis’mo*] and tell him everything [*skazat’ vse*]... Would they really arrest me for my [civilian] tailcoat? It can’t be! He would understand whose side justice is on. He understands everything, knows everything. Who can be more just and magnanimous than he? (410/5:150)

Unlike Masha, however, the unlucky Rostov does not get the chance to tell the whole truth to the Emperor, and these rhetorical questions ultimately do not result in answers that please Rostov. But the lieutenant is preoccupied by the fantasy of success, thinking:

I'll fall at his feet and plead with him. He'll raise me up, listen to me, and even thank [*poblagodarit*] me. "I'm happy when I can do good, but to set right an injustice is the greatest happiness," Rostov imagined the words that the sovereign would say to him. (411/5:151)

Thus determined, Rostov approaches the emperor's lodgings with his petition, where he encounters a few obstacles. Though granted access to the building, he is told to wait (and informed that his petition will not be accepted). When Rostov attempts to explain his situation to an official, the latter requests Rostov's name and rank. Astounded at Rostov's audacity, the official orders Rostov to hand in the petition through his commander. Unlike Tolstoi's Nekhliudov and Pushkin's Masha, Rostov's status and family name are not 'magical' keywords that unlock the system of patronage and favors among the well-connected.

Yet Rostov's mission is not entirely inauspicious. He happens to recognize the former cavalry general of his division, who, importantly, had "earned special favor from the sovereign" during the campaign (412/5:152). Like Selenin, who serves as a proxy for the emperor in Nekhliudov's petition, this general offers Rostov the audience he had been hoping to find in the emperor; Rostov tells the sympathetic general "the whole affair" (412/5:152). The general agrees to petition the Emperor on Denisov's behalf.

The Emperor arrives shortly thereafter, and a crowd gathers around him. The general approaches the Emperor and speaks with him. The Emperor, speaking "in a loud voice, obviously wishing everyone to hear him," announces, "I cannot, General, and the reason why I cannot is that the law is stronger than I" (413/5:153). This episode highlights the importance of the scene in which Masha, the heroine of Pushkin's *The Captain's Daughter*, finds the empress *alone*, as there is no audience before which the empress feels the need to demonstrate consistency with the law or severity in cases of treason or disobedience.

After Rostov processes the full weight of this rejection, he begins to question the foundations of all of his patriotic thoughts, emotions, and actions. Hints of an almost seditious and certainly unpatriotic degree of doubt in the sovereign begin to swell in Rostov's mind:

Painful work was going on in his mind, which he could not bring to an end. Terrible doubts arose in his soul. Now he remembered Denisov with his changed expression, his submission, and the whole hospital with those torn-off arms and legs, that filth and disease...Then he remembered that self-satisfied Bonaparte with his white little hand, who was now an emperor, whom the emperor Alexander liked and respected... Then he remembered... Denisov punished and unforgiven. He caught himself in such strange thoughts that it made him frightened [*pugalsia*]. (416/5:157)

This refusal to grant mercy to Denisov, which Rostov instinctively perceives to be deeply unjust, begins to destabilize the very fabric of his understanding of the order of his world. Later, Rostov loses control over his emotions and exclaims in an outburst phrases that betray his deep confusion caused by seemingly inexplicable choices of his beloved Emperor. Ostensibly addressing others at a meal, Rostov's remarks actually represent a self-directed monologue:

"We're not diplomatic officials, we're soldiers and nothing more," he went on. "We're told to die—and we die. If we're punished, it means we're guilty; it's not for us to judge. If it pleases the sovereign emperor to recognize Bonaparte as emperor and conclude an alliance with him—it means it has to be so. And if we start judging and reasoning about everything, then there'll be nothing sacred left. Next we'll be saying there's no God, no anything," shouted Nikolai, banging the table, quite inappropriately in his interlocutors' opinion, but quite in keeping with his own train of thought. (416/5:158)

His emotionally unsettled tone betrays how difficult it is for him to accept these decisions, yet he refuses to allow himself to question outright the emperor's actions; two strong beliefs contradict each other in this moment. The result is the disillusionment of a loyal subject who is not granted



the mercy he had hoped for in the tsar. The text never states it directly, but Rostov's faith in the emperor's benevolence is fundamentally shaken.

Despite the overwhelming shortcomings of the imperial appeal, as these last few examples illustrate in a variety of texts and contexts, the features that add cultural valuation to the scenario of the appeal grant it a degree of legitimacy and spiritual worth that simply does not exist in the law. Like horizontal law, the appeal to the tsar is a preferable alternative to a legal means of resolving human issues, even despite its flaws. The imperial appeal, like horizontal law, will always appear more favorable because of its potential for the "moral considerations based on a complex conglomerate of emotion, a sense of beauty, national myths and values, and collectivist (tribal or kinship) responsibilities" by which Russian cultural consciousness is guided.<sup>245</sup> The next chapter will examine in detail precisely those limitations, absurdities, and cruelties of the law against which these alternatives are measured.

---

<sup>245</sup> Kustanovich, "Law and Grace."

## Chapter Three:

### The Monster and the Machine

The Russian authorities know how to get what they want. This is common in our legal practice. . . We all know how this monster machine works.

*Anonymous, 2013*<sup>246</sup>

While the first two chapters of this dissertation explore *why* the law appears negatively in nineteenth-century texts vis-à-vis extralegal alternatives, the current chapter takes a closer look at depictions of the law itself in order to examine *how* authors present the legal sphere in these texts. As the previous chapters suggest, the law serves various functions in fictional texts; it can appear as a source of slapstick comedy, bitter irony, or heartrending tragedy, but never as a source of redemption, salvation, or moral justice. A typological examination of legal servitors and legal scenarios in diverse texts by Gogol and other writers reveals a series of common attributes that form a composite portrait of the law in nineteenth-century literature. Through tropes and allusions that can be described by two central metaphors—the monster and the machine—these depictions highlight the absurdity, limitations, and cruelty of the law as its most salient features. Insights from comedic theories assist an understanding of the ways in which the attributes that characterize the law simultaneously serve as its criticisms; both the ‘monstrous’ predators who manipulate the law as well as the automatons who comprise the bureaucratic legal ‘machine’ illustrate its perniciousness. By treating the law alternately as something to be ridiculed or as something to be feared, nineteenth-century writers offer individual contributions to a collective imagining of the law as an entity fundamentally inimical to the human spirit.

---

<sup>246</sup> David Remnick, “Letter From Moscow: Danse Macabre, A Scandal at the Bolshoi Ballet,” *The New Yorker*, March 18, 2013. <http://www.newyorker.com/magazine/2013/03/18/danse-macabre>

Characterizations of the law are conveyed most vividly through the actions and attributes of the literary characters who represent and facilitate it. All of the literary devices and topoi that contribute to the shape of the law in nineteenth-century Russian literature appear in works by Gogol, yet the examination of legal types in this chapter extends well beyond Gogol's oeuvre. These devices and tropes evolve, develop, and take on different aspects in other texts by Gogol's contemporaries and literary successors. To be sure, every writer discussed in this chapter has a unique perspective, and employs these devices to suit his individual artistic or ideological purposes in a particular social, historical, and literary context. Nevertheless, there are some specific features and themes that emerge throughout disparate depictions of legal servitors. As this chapter illustrates, themes important in Gogol's earliest legal depictions remain relevant in texts written at the very end of the century.

Nineteenth-century legal characters generally fall into one of three major categories: the morally vacant character, the legal predator, and the questioner. The limited scope of the current project precludes an exhaustive study of nineteenth-century legal figures. Such a study should also include discussion of the additional categories of legal underlings, whom narrators characterize as dehumanized "non-personages" that function as the "pinions, wheels, and pulleys" of the legal bureaucracy (emphasizing the machine-like aspects of the legal system). (These examples are taken from Sukhovo-Kobylin's plays *The Case* and *The Death of Tarelkin* discussed later in this chapter).

Additionally, another important character type among literary legal figures is one introduced by Fedor Dostoevskii: the rational psychologist. Figures like Porfirii Petrovich of *Crime and Punishment* and the lawyers in *The Brothers Karamazov* (and even, in a sense, Ivan Karamazov himself) attempt to use logical reasoning and psychological explanations to resolve

legal scenarios. Unlike the morally vacant characters described in this chapter, they are not perceptually limited or even necessarily lacking in moral grounding. Unlike the legal predators discussed in this chapter, they are not necessarily malicious. These rational psychologists are competent and talented. Yet, as Dostoevskii shows, the belief that true and moral justice can be achieved by means of rationality and categorical or psychological methods misdirects these skillful and intelligent men to pursue an unworthy goal. Such a categorical approach still denies the singularity of the intimate, personal, and spiritual aspects of each individual that cannot be understood by reason or science.<sup>247</sup>

The following sections examine how these recurring character types emulate mechanized automatons, underscoring the absurd shortcomings of a machine-like legal system, or monstrous predators, attesting to the law's capacity for cruelty. The machine metaphor is generally associated with morally vacant characters, who, with their bureaucratic rigidity, personify the mechanized aspects of a procedural legal system. Metaphors of monstrosity are largely associated with legal predators, who treat the rigidity of the law as a tool with which to manipulate and victimize the innocent. The final category of questioners are reluctant would-be reformers. The questioners' futile protestations against the injustices of the legal bureaucracy demonstrate the degree to which cruelty, absurdity, and limitations are ineradicable and indelible components of the legal system. After inevitably failing to combat the inherent injustice of the law, questioners either become victims of that system, or adopt the characteristics of a morally vacant character. Embodying essential themes in the legal topos, these characters, all

---

<sup>247</sup> For more on Dostoevskii's legal men, see Gary Rosenshield, *Western Law, Russian Justice*. See also Jeanne Gaakeer, "'The Art to Find the Mind's Construction in the Face,' Lombroso's Criminal Anthropology and Literature: the Example of Zola, Dostoevsky, and Tolstoy," *Cardozo Law Review*, 26.6 (2005): 2345-2378.

dehumanized in some way, are the building blocks used by nineteenth-century authors to shape the negative image of the law in fictional texts.

As discussed in the introduction, the fictional portrayals of legal characters by nineteenth-century writers, who generally belonged to privileged classes, neither represent nor claim to represent popular Russian opinions on the matter. Part of what is so compelling about the investigation of literary depictions of the law is the way in which commentary in a fictional work may differ from attitudes held by historians, legal scholars, and publicists. If one were to assess the general cultural attitude towards lawyers and judges in Russia in the nineteenth century based on major Russian literary texts alone, the assessment would be unequivocally negative. This is true for depictions of the legal system before as well as after the implementation of the legal reforms of 1864. Individuals who worked in the legal profession and historians of the nineteenth century, however, present a different picture—one that upholds the Russian lawyer in particular as an integral figure in one of several important cultural shifts occurring in the political and social spheres of Russia near the end of Russia’s imperial age.

For these orators and scholars of jurisprudence, the Russian lawyer facilitated the emergence of the concept of the individual (*lichnost'* derived from the root “*litso*” meaning “person” or “face”) as a sacred and unique entity. The term previously used to denote an inhabitant of the Russian empire, *individuum* (deriving from the Latin for individual unit); suggests an understanding of the individual as someone important only insofar as he or she functions as a representative of a particular class or estate.<sup>248</sup>

---

<sup>248</sup> For more on the literary development of the concept of individual identity in Russian literature, see V. A. Nedzvetskii and E. Iu. Poltavets, *Russkaia Literatura XIX Veka: 1840-1860-e gody* (Moskva: Izdatel'stvo moskovskogo universiteta, 2010) 7-31.

In his 1953 study *Courts, Lawyers and Trials under the Last Three Tsars*, historian Samuel Kucherov presents a range of positive opinions on the nascent legal profession in the post-reform period. In the chapter “The Lawyer as Champion of the Individual,” Kucherov characterizes the emergent Russian lawyer as a heroic defender of individuals’ rights against the despotism of the state. Kucherov writes that in this “fight” (which, he argues, was ultimately “lost” in October 1917), the lawyer was “naturally on the side of the individual” not only because of his professional obligations, but also because “he was definitely convinced that the individual person is the greatest value society possesses and that to be his knight and defender is the noblest function a man can fulfill in society.”<sup>249</sup> He cites the French publicist and renowned historian of Russia, Anatole Leroy-Beaulieu, who writes:

Every Russian who has been brought to court has seen a man rise by his side who has dared to oppose, in his name, the representative of authority over the charge brought against him... [Lawyers] were the first to be called upon to give an example of something hitherto unknown: civic courage.<sup>250</sup>

In 1905, the Russian jurist Osip Iakovlevich Pergament, asks:

Was there during this last decade not...a single case in which representatives of the Russian guild of lawyers did not take part—disinterestedly, valiantly and bravely? ...Public consciousness was awakened to a great extent by the voice of the lawyer which rolled over the entire country. Created in the public interest, the guild of lawyers really served the public’s welfare.<sup>251</sup>

---

<sup>249</sup> Kucherov, *Courts, Lawyers and Trials*, 311-314.

<sup>250</sup> Ibid, 212. Jane Burbank’s research demonstrates that many ordinary Russians in pre-revolutionary Russia were able to achieve satisfaction reliably through ordinary legal channels. See Burbank, *Russian Peasants go to Court*.

<sup>251</sup> Kucherov, *Courts, Lawyers and Trials*, 310.

In addition to positive characterizations of the Russian lawyer by Leroy-Beaulieu and Pergament, Kucherov cites the late nineteenth- and early twentieth-century lawyers V.A. Maklakov, O.O. Gruzenberg and the celebrated A.F. Koni along with the parliamentary orator M.M. Vinaver, historian D. N. Borodin. These intellectuals, along with other contemporaries of the post-reform period commend the Russian lawyer for serving the public interest and advocating for the rights of the individual.<sup>252</sup>

The proliferation of praise for the Russian lawyer in Kucherov's chapter, coupled with findings by Jane Burbank, suggest that such opinions are not difficult to find in historiographical documents. Yet to find even a single legal functionary, judge, lawyer, or clerk described with resounding praise in a literary work is indeed a monumental task. Even despite the increasing attention given to the question of the individual in literary works in the latter half of the nineteenth century (such as Ivan Turgenev's *Fathers and Children* (*Otsy i deti*, 1862), authors did not, as a rule, enlist fictional lawyers to fulfill the function of 'champion of the rights of the individual.' Negative literary depictions of the judiciary continue to prevail until the end of the nineteenth century. Michael Newcity is not remiss in his aforementioned claim that "careful research has not revealed a single significant work of Russian literature published prior to 1917 in which lawyers, judges, or the courts are portrayed in a positive light."<sup>253</sup>

That these fictional legal servitors are portrayed negatively is clear. But how, exactly, is that achieved, and what conclusions can be drawn about portrayals of the law in general? Before addressing these questions, it is important to note that nineteenth-century texts did not arise in a vacuum. Nineteenth-century depictions of literary legal characters and scenarios, especially the

---

<sup>252</sup> Ibid, 309-313.

<sup>253</sup> Newcity, "Why is there no Russian Atticus Finch?" Note 5, p. 273.

earlier texts, likely drew upon a variety of sources and influences. These sources most likely included popular folk-sayings in which lawyers, judges, and the courts were predominantly characterized as corrupt and self-serving.<sup>254</sup> A multitude of proverbs and folk-sayings about justice, the law, and functionaries of the Russian courts attests to a lack of trust in the Russian judiciary among the general populace: I. Illiustrov's 1822 collection of folk-sayings, for example, includes a handful of proverbs that promote good and lawful behavior, but the majority of the proverbs express overwhelmingly negative attitudes toward the judiciary.<sup>255</sup> Some of these folk-sayings employ the irony, sarcasm, and other figurative imagery that appears in more sophisticated contexts in nineteenth-century authors' characterizations of the law. Take, for instance, the ironic folk-saying, "The court case drags on for good reason: it takes time to set a guilty man free."<sup>256</sup> Or: "You can recognize a merchant by his lies [*po obmanu*] and a judge by his pockets [*po karmanu*]."<sup>257</sup> The writers of the Golden Age of Russian literature were by no means the first to treat the judiciary with ironic scrutiny.

Some characters in eighteenth-century literary texts also may serve as primitive prototypes for nineteenth-century legal character types. One theatrical comedy in particular, Vasilii Kapnist's *Chicanery (Iabeda, 1798)* deserves special mention, as several of Kapnist's characters exhibit specific traits that recur in more developed forms in nineteenth-century works. In keeping with typical eighteenth-century comedic conventions, the characters in Kapnist's comedy are stock villains and protagonists whose very names convey their moral standing.

---

<sup>254</sup> For instance, the anonymous seventeenth-century works *The Judgment of Shemiaka (Shemiakin Sud)* and *The Tale of Ersh Ershovich (Povest' o Ershe Ersheviche)* denounce bureaucratic corruption. Epistles and other works by Kantemir, Sumarokov, Khemnitser, Khrapovitskii, and Derzhavin also touch upon similar themes. See Goliakov, *Sud i zakonnost' v khudozhestvennoi literatury*, 83-88.

<sup>255</sup> Folk proverbs and sayings about judges were not flattering. Generally, they describe judges as corrupt bribe-takers. For instance: "В земле – черви, в воде – черти, в лесу – сучки, в суде – крючки: куда идти?" See Illiustrov, *Iuridicheskiia poslovitsy*, 23-25.

<sup>256</sup> *Ibid.*, 27.

<sup>257</sup> *Ibid.*, 25.



The more complex legal characters of nineteenth-century texts likely share some literary ancestry with the unidimensional characters in *Chicanery*. Kernels of the nineteenth-century morally vacant judge, for instance, can be seen in traits of Kapnist's judge Krivosudov (whose name is formed by the words *krivo*, "crooked" or "blind" and *sud* "judgment" or "court").<sup>258</sup> Similarly, some behaviors typical of the nineteenth-century legal predator can be seen in Kapnist's litigious Pravolov (*pravo* denotes "justice" or "law;" *lovit'* means "to catch" or "to capture").<sup>259</sup> Kapnist's character Radbyn (whose name evokes the phrase, "I'd be glad to") also sketchily prefigures the nineteenth-century questioner.<sup>260</sup> These similarities are mentioned here

---

<sup>258</sup> As will be discussed below, a defining feature of the morally vacant character is a limited perceptive ability, often manifested through the motif of blindness, deafness, or some other physical limitation that appears to indicate an inner dysfunction in or lack of conscience or morality. Krivosudov exhibits the inability to see the words on the legal documents (also suggestive of his illiteracy) as well as moral unconcern: He regrets that cases cannot be decided at random but must be examined individually. Krivosudov demands an "oral translation" from his secretary, claiming as do many other morally vacant characters, that it is impossible to understand the legal documents. He insists, contrary to the secretary's objections, that "it is not possible to see anything [*nichevo uvidet' nevozmozhno*]" written in the cases. Unlike the nineteenth-century morally vacant character, however, Krivosudov is corruption incarnate; he is fully aware of the abuses of justice that he intentionally perpetuates and he is malicious in his demands for bribes. See Vasili Kapnist, *Iabeda in Izbrannia sochinenia*, ed. A.N. Chudinova (Sankt-Peterburg: Glazunova, 1907) 3-122, 22.

<sup>259</sup> Pravolov is also rather similar to the legal predator that emerges as a more complex recurring character type in the nineteenth century. Like the legal predator, Pravolov is an unscrupulous litigant who hopes to swindle a young man called Bogdan out of his inheritance by means of a legal technicality. Pravolov seizes upon a discrepancy in Bogdan's name as written in the inheritance documentation (the Greek version of his name, Fedot), and the Russified version of the name with which the young man refers to himself. Pravolov is characterized with a faint reference to demonic characters (Dobrov says the devil can't hold a candle to him ("emu sam chort ne do plechu")). Pravolov is greed incarnate; unlike his nineteenth-century progeny, whose manipulations are often motivated by the sheer sport of legal shenanigans, Pravolov's financial motivations are unidimensional. Moreover, unlike the nineteenth-century depictions, a *deus-ex-machina* prevents Pravolov's scheme from coming to fruition. Pravolov appears as an outlier, a bad actor that can be rooted out of the system, whereas the legal predators appear merely as figures seizing opportunities presented by a bad system.

<sup>260</sup> Radbyn is perhaps the most interesting character to prefigure a prominent nineteenth-century recurring legal type. Radbyn is the sole member of Krivosudov's court to question the merits of the fraudulent suit orchestrated by Krivosudov and Pravolov. Radbyn exhibits the physical tic of stammering, a recurring motif for questioners whose moral unease manifests externally in these characters. In his article "Prophetic Stammering," Charles Byrd argues that if we "trouble to decipher the stuttered lines," and imagine them performed on stage, "we find that many are ironically prophetic, the inverse of the casuistic legal chicanery" after which Kapnist's play is named. Byrd notes that Radbyn alone informs on a cheater during a card game; Radbyn alone neglects to flatter the corrupt judge Krivosudov; Radbyn alone realizes that "Fedot" is the same name as "Bogdan." Byrd explains that "the whole situation plays humorously upon the folk saying, "Fedot, da ne tot" [Fedot, but not that one] which has the following colloquial meanings; "he's (it etc.) is sort of...but not quite; you mustn't go by the label, etc.) For all the complexity of his fabrications, Pravolov's scheme seems merely to echo the simple point of an ordinary idiom: See Charles Byrd, "Prophetic Stammering in I.V. Kapnist's *Iabeda* (1798)" 41. 4 (Winter, 1997) 541-553, 547. Kapnist's use of

not to prove direct influence, but rather to note continuities in literary history. Comedies like Kapnist's *Iabeda* form the general literary context out of which the nineteenth-century legal-literary portraits emerge.

Kapnist's text is also helpful as an indicator of the differences between the humorous and scornful neoclassical treatment of the law in eighteenth-century comedies in contrast to the more sophisticated and ambiguous use of comedy in nineteenth-century legal scenarios. Typical for eighteenth-century comedies, Kapnist's mockery transparently targets abstract vices such as greed and corruption by personifying them through stock villains who are ultimately punished for their transgressions. In contrast, Gogol's treatment of the law, for instance, which is in many ways typical for the nineteenth-century comedic legal portrayals, critiques the absurdities, cruelties, and limitations not only of the individuals who engage with the law but also of the legal institutions themselves. Whereas the purpose of comedy in Kapnist's eighteenth-century text is to teach morals by ridiculing indiscretion and vice, Gogol and other nineteenth-century writers use comedy in legal depictions with greater subtlety that requires more in-depth analysis. The following exploration of the three central fictional legal characters in nineteenth century texts—the morally vacant character, the legal predator, and the questioner—demonstrates that the fictional legal bureaucracy not only attracts corrupt individuals, but also corrupts the individuals who join its ranks.<sup>261</sup>

---

humor in treating threatening characters is also a strategy that develops in the nineteenth century, in which the absurd limitations and cruelties of legal scenarios prove rich material for bitterly comedic scenes.

<sup>261</sup> In his study *Western Law, Russian Justice*, Rosenshield writes: "A traditional conservative, Gogol attributes the failure of Russian institutions not to inherent defects in the institutions themselves but to the fallible human beings who run them. Dostoevskii surprisingly directs his strongest criticism not at the legal actors but at the legal institutions." See Rosenshield, 26. The analyses in this section attempt to complicate this "truism" about Gogol's conservatism, and to show that there are indeed implicit criticisms of the institutions in addition to individuals. Morally vacant judges and questioners in particular illustrate the corrupting force of the legal culture and how that culture and its shortcomings result in absurdity and cruelty.

The analysis and examples of each major character type below follow a mostly chronological order. An introduction of the first iconic instance of the character type precedes brief examples of representative variations of the character type as they occur in a few nineteenth-century works. As the analysis demonstrates, the legal themes, associations, and concerns that appear in Gogol's texts recur and feature importantly in a wide variety of works by other nineteenth-century writers. Insights from a range of theories on comedy and laughter augment the analyses of the ways in which these depictions function to critique the law. In their similarities to monsters or machines, these characters contribute to a portrayal of the legal system as a flawed entity, a place hostile to human vitality, a topos that, in the Russian literary context, inspires scorn and dread.

## The Morally Vacant Character

“It’s nothing to me...but the law says, ‘guilty.’”

*Nikolai Gogol, 1834*

“There’s nothing I can do—it’s the law.”

*Aleksandr Sukhovo-Kobylin, 1861*

“Not I, sir, but the law.”

*Mikhail Salytkov-Shchedrin, 1873*

“It is not I but the law condemns you.”

*Mikhail Saltykov-Shchedrin, 1880*

“But I don’t permit myself to swerve one inch from the letter of the law...”

*Lev Tolstoi, 1899*

At first glance, Gogol’s “cowardly” but cheerful and “good-natured” judge Dem’ian Dem’ianovich in his tale of “The Two Ivans” may appear to have little in common with Ivan Il’ich, Tolstoi’s taciturn protagonist of *The Death of Ivan Il’ich* (229/2:263). Yet these unlikely literary brethren exhibit a set of defining traits that characterize the morally vacant literary legal character. Usually appearing as a judge or other figure of authority in the legal apparatus, the morally vacant character is neither malicious nor greedy; he does not actively seek to pervert justice for his own gain. Yet through laziness, ignorance, or negligence, the morally vacant character is nevertheless a complicit participant in the injustices that regularly occur under his authority. The morally vacant character’s weak moral compass permits him to enjoy the privileges that result from these injustices remaining unburdened by any sense of guilt.

These judges and authority figures personify the machine-like rigidity of the law, exposing the limitations of the law that render it incapable of addressing the whole of human concerns. Morally vacant characters unquestioningly perform mechanized actions and employ prescriptive legalistic language. They direct their efforts at upholding the legal status quo rather than actively pursuing moral justice. The morally vacant character interrogates neither the righteousness of the legal process, nor his own role in its unjust outcomes. Though the analogy is an exaggeration, morally vacant characters adopt a perspective that prefigures, in a sense, the Nuremberg defense (in which former Nazi officers claimed merely to be following orders in order to deflect moral culpability for their complicity in the crimes of which they had been accused). Variations of the phrase in the above epigraph, “there’s nothing I can do—it’s the law,” serve as a favorite slogan for the morally vacant character. The formal rigidity of the law serves as a shield or an excuse by means of which the character can deny all personal responsibility for any unjust outcome to which his actions (or lack thereof) contribute.

The first iconic instance of the morally vacant character appears in Nikolai Gogol’s “Tale of the Two Ivans.”<sup>262</sup> Another famous morally vacant character also appears in Gogol’s *The Government Inspector* (*Revizor*, 1836). Both morally vacant characters are judges, and both are presented as objects of ridicule who embody the limitations and the absurdities of the legal system. Many, but not all other nineteenth-century examples of the morally vacant character

---

<sup>262</sup> As several scholars have noted, Vasilii Narezhnyi’s novel *Two Ivans* (*Dva Ivana, ili strast’ k tiazhban*, 1825) is a clear source for Gogol’s story, although there are profound differences between the two texts. Gippius writes that Gogol’s plot “is only remotely connected with Narezhnyi’s novel of love and adventure.” Narezhnyi’s “didacticism” and “obligatory” happy ending, together with his characters, who “do not resemble Gogol’s at all,” shares more in common with the eighteenth-century mindset than with the type of nuance in works by Gogol and other nineteenth-century writers. See V.V. Gippius, *Gogol*, trans. Robert Maguire (Durham, Duke University Press, 1989): 70. Using legal characters as a means of criticizing not just corruption but also the bureaucratic judicial system is characteristic of nineteenth-century texts such as Gogol’s. As Richard Peace puts it, “if Narezhnyi’s tale is spattered with blood, Gogol’s tale is soaked in ink.” For more on Narezhnyi’s novel as a source for Gogol’s “The Two Ivans,” See Richard Peace, *The Enigma of Gogol*, 81-86, 82. See also Richard Peace, “Gogol’s Old World Landowners,” *The Slavonic and East European Review*, 53.133 (Oct., 1975), 504-520.

fulfill comedic functions, but every depiction of the morally vacant character is similarly unflattering. Other instances of the morally vacant character include the authorities in Ostrovskii's *A Profitable Position* (*Dokhodnoe Mesto*, 1857), the Prince in Sukhovo Kobyl'in's *The Case* (*Delo*, 1861), the legal counsel in Saltykov-Shchedrin's *The Golovlev Family* (*Gospoda Golovlevy*, 1880), the president of the court in Dostoevskii's *The Brothers Karamazov* (*Brat'ia Karamazovy*, 1880), the judges in Chekhov's stories "Malefactor," ("Zloumyshlennik," 1885) "In the Court," (1886) and the titular character in "The Examining Magistrate," ("Sledovatel'," 1887), as well as Lev Tolstoi's judge in *The Death of Ivan Il'ich* (*Smert' Ivana Il'icha*, 1886) and the court president in his final novel *Resurrection* (*Voskresen'e*, 1899). The scope of this project precludes an exhaustive analysis of each morally vacant character. What follows instead are analyses of excerpts of select examples from diverse texts by various nineteenth-century authors, chosen to demonstrate the breadth in representation and function of the morally vacant character.

A morally vacant judge or legal authority can be recognized by a) a lack of a moral conscience b) a preoccupation with unrelated personal interests often resulting in professional negligence c) obliviousness or limited perceptive abilities expressed via literal or metaphorical tropes of deafness, myopia, blindness, illiteracy, or intellectual limitations<sup>263</sup> d) professional callousness (using legal rigidity to deny complicity in injustice).

Gogol's bumbling Dem'ian Dem'ianovich comically exemplifies the morally vacant type: his upper lip betrays a suppressed glee in response to news of the Ivans' impending lawsuits (moral unconcern) (220/2:253); he ignores his cases in order to discuss birdsongs

---

<sup>263</sup> One folk-saying cited by Goliakov declares: "If your pocket is dry, then the judge is deaf." (*Esli karman sukh, tak I sud'ia glukh*). See Goliakov, *Sud i zakonnost'*, 85.

(trivial preoccupations) (214/2:246); he authorizes cases that his secretary reads despite having “heard nothing” of their contents (‘deafness’/limited perspective) (214/2:246); finally, he declares that “nothing can be done” to curtail the progress of the admittedly groundless case (professional callousness) (221/2:252).

While Dem’ian Dem’ianovich is the earliest example of the morally vacant judge, Gogol’s character Amos Fedorovich Liapkin-Tiapkin, one of the main officials in Gogol’s well-known play *The Government Inspector*, is perhaps a more important and memorable morally vacant character. The plot of Gogol’s comedy is predicated upon a case of mistaken identity. Having been forewarned of the arrival of an incognito government inspector, local officials mistake an itinerant opportunist named Khlestakov for the important official, and attempt accordingly to curry favor with him through and flattery and bribery. In addition to the comedic trope of mistaken identity, much of the play’s comedy stems from the city officials’ hasty and ludicrous attempts to cover up their indiscretions and abuses of power, which have gone hitherto unchecked.

In *The Government Inspector*, the provincial judge Amos Fiodorovich Liapkin-Tiapkin (whose name means “slipshod” or “bungler”) is neither more nor less guilty of corruption than his fellow city officials. He is a model morally vacant character, blissfully ignorant of the consequences of his inaction on the lives of local petitioners. In fact, Liapkin-Tiapkin shamelessly expresses his elation upon learning of a new civil suit involving two locals: “You’ve heard that Cheptov is suing Verkhovinsky... which is splendid for me [*mne roskosh*]. I can have free hunting on both their estates!” (255/4:17).<sup>264</sup> Like Dem’ian Dem’ianovich, Liapkin-Tiapkin

---

<sup>264</sup> All page references in the text refer to the Christopher English translation of *The Government Inspector* (modified when necessary), followed by page number from Gogol’s *Polnoe sobranie sochinenii*, e.g. *PSS*, 2:160. Nikolai Gogol, *Plays and Petersburg Tales*, trans. Christopher English (Oxford: Oxford University Press, 1995)245-

makes no secret about his passion for extrajudicial interests. Indeed, the judge participates in his official position only insofar as it supports his passion for hunting: rather than monetary bribes, Liapkin-Tiapkin accepts gifts from his petitioners in the form of borzoi hunting puppies.

Liapkin-Tiapkin exhibits a limited perceptive ability; he does not recognize his behavior as wrongdoing. The judge reasons, “I mean, there are sins and sins. I’m quite prepared to admit that I take bribes—but what sort of bribes? Borzoi puppies. They don’t really count” (252/4:15).<sup>265</sup> When the mayor reprimands the judge for accepting the puppies as well as for shamelessly displaying his hunting whip in his judicial chambers, the latter merely reminds the mayor of his own bribe-taking habits. In doing so, Gogol’s judge employs the strategy common to morally vacant characters: rather than acknowledge his own complicity in injustice, he deflects blame and responsibility.

Liapkin-Tiapkin also demonstrates the morally vacant character’s signature professional callousness through his lack of concern for his cases. Like Dem’ian Dem’ianovich, who declares that “nothing can be done” to quell the Ivans’ gratuitous lawsuits, Liapkin-Tiapkin similarly claims a powerlessness in his judicial affairs. He declares: “I’ve sat fifteen years at the bench and every time I look at one of those legal documents I throw my hands up in despair: Solomon himself couldn’t sort out true from false in a law report!” (259/4:21).

As the previous examples indicate, Gogol’s morally vacant judges serve comedic functions in the text: theorists of comedy and laughter call such a character a “comic butt.”<sup>266</sup> In order to analyze the various comedic functions at work in literary scenes involving the law in

---

336. N. V. Gogol, *Polnoe sobranie sochinenii*, ed. N. L. Meshcheriakov, 14 vols (Moscow and Leningrad: Izdatel’stvo Akademii nauk SSSR, 1937-1952), 4:5-95.

<sup>265</sup> English translates “*eto sovsem inoe delo*,” as “they don’t really count.” This could also be rendered, “that’s something entirely different [from a bribe].”

<sup>266</sup> Hokenson, *The Idea of Comedy*, 25



general, and the morally vacant character in particular, this discussion warrants a brief overview of some insights from a few different theories of comedy and laughter.

While the trends and the relative merits of various theoretical conceptions of laughter and the history of comedy are too complex to be discussed in detail here, it is worth mentioning two conceptual models with which to frame an understanding of these literary depictions of legal characters and scenarios. In her study *The Idea of Comedy*, Jan Hokenson distills the various approaches in critical discussions of comedy before 1990 to maintaining one of two general stances: the audience is understood either to laugh *with* or *at* the comic butt. Hokenson groups theories on comedy throughout history into these two broadly defined “critical postures,” which she identifies, respectively, as the satiric tradition (stemming from Aristotle and extending through Freud), and the populist tradition (originating with Nietzsche and continuing with Northrop Frye and Mikhail Bakhtin).<sup>267</sup> In literary legal scenarios, the comedic character can play a liminal role; at times, the narration appears to elicit laughter that is derisive; at other times, it appears sympathetic. Sometimes, it is a mixture of both. Morally vacant legal characters such as Gogol’s Liapkin-Tiapkin most often appear as the object of ridicule.

Observations from theories of laughter also make it possible to isolate the devices with which these morally vacant characters are used both to serve comedic as well as critical functions. Prior to 1900, three central theories of laughter as formulated by T.G.A. Nelson dominated critical discourse on humor. Superiority Theory (associated primarily with Thomas Hobbes), Incongruity Theory, (associated with Arthur Schopenhauer), and Psychic Release Theory, also referred to as Relief Theory (associated with Herbert Spencer and Sigmund Freud)

---

<sup>267</sup> Ibid, 24.

remain important conceptual models.<sup>268</sup> In recent decades, sociologists and psychologists have also investigated theoretical sources of laughter in physiological or evolutionary causes (Theories of Laughter as Play).<sup>269</sup> Despite valid criticisms of each of these theories, aspects of all these critical trajectories can offer insights that aid an understanding of the different modes of humor in literary legal scenes.

The laughter that Liapkin-Tiapkin and many other morally vacant characters elicit can be better understood by considering them in terms of a few of these theoretical modes. The Hobbesian Superiority Theory, for instance, argues that we laugh when we feel superior to others.<sup>270</sup> This line of thinking shares notions with the satiric (Aristotelean) tradition in which the comic figure is understood as an object of derision over which the spectator is invited to assume a morally superior stance, which in turn produces a pleasurable feeling in the spectator.<sup>271</sup> With his vanity, lack of self-awareness, underactive conscience, petty interests, incompetence and negligence, Gogol's Liapkin-Tiapkin violates a number of social mores, and therefore, represents an easy target for audience ridicule.<sup>272</sup> Superiority theory may help to explain some of the

---

<sup>268</sup> See T.G.A Nelson, *Comedy: An Introduction to Comedy in Literature, Drama, and Cinema* (Oxford: Oxford University Press, 1990), 6-7. See also: Andrew McConnel Stott, *Comedy* (New York: Routledge, 2005) 131-145.

<sup>269</sup> See John Morreall, *Comic Relief: A Comprehensive Philosophy of Humor* (Chichester: Wiley-Blackwell, 2009) 28-68.

<sup>270</sup> For more on varieties of superiority theory, see Stott, *Comedy*, 132-136.

<sup>271</sup> For Plato, this feeling was entirely malicious, and laughter was considered a negative, mean action, "according to Plato, "We laugh at the ridiculous figure, who is ridiculous because of his vanity (that is, his ignorance of his appearance, economic status, or degree of virtue.) Moreover, and this is the capital error of comedy to Plato, such self-ignorance counters the Delphic admonition to know oneself and, in the theater, thus to laugh at such weak and ridiculous self-ignorance is to experience malice (or pleasure in another's suffering..." Subsequent thinkers tended to redeem this sort of laughter for its ethical components: "Still, as a group, including such neo-Aristotelians as Riccoboni and Castelvetro, the Italian renaissance critics intensified the discourse of the moral teaching of virtue, through funny but censured vice or misbehavior, and many widened the critical scope to include social utility..." For more on Plato as an early proponent of what would later be called Superiority Theory, see Morreall, *Comic Relief*. 4-6.

<sup>272</sup> Bergson dedicates a good portion of his essay *On Laughter* to vanity, which is "inherently" comedic. Vanity is a common feature of morally vacant characters, and it often manifests through a fixation on petty interests or personal interests of judges that are absolutely unrelated to their professional duties. The most thorough depiction of a morally vacant character's vanity occurs in the depiction of the court president in Tolstol's *Resurrection*, whom the narrator describes as lifting weights in his judicial chambers before court in order to feel more attractive for an expected rendezvous with a mistress later that day. Ostrovskii's powerful officials in *A Profitable Position* also

comedic appeal of Gogol's play, not only regarding Liapkin-Tiapkin as a legal figure, but also the other members of the bureaucracy; it is easy to imagine the pleasure of audience members who are made to feel morally or intellectually superior to ostensibly powerful individuals.

The inadequacy of a ridiculous individual in a position of power presents spectators with apparent incongruity. It is precisely this incongruity—the combination in a single character of a consequential rank with rather low intellectual and moral standing—that forms the basis of another important theory of laughter. Incongruity Theory emerged in the eighteenth century when, along with fellow philosophers James Beattie, Immanuel Kant, (followed later by Arthur Schopenhauer), Francis Hutcheson propelled a shift in dominant analytical thought about the cause of humor: from superiority to incongruence.<sup>273</sup> Stated simply, proponents of Incongruity Theory suggest that laughter is a result of “a juxtaposition of incompatible contrasts.”<sup>274</sup> Laughter arises from the surprise, reversal, or deflation that comes as a result of a stark difference between the ideal and the real, or expectation and reality.<sup>275</sup>

In addition to simple manifestations of incongruity in a childish and dull-witted judge, many other instances of humor in literary legal scenes result from stark and often absurd incongruities between “natural” or “everyday” logic and the “professional logic” of the legal system.<sup>276</sup> To recognize the productive comedic potential of the incongruity between legal and

---

exhibit a significant degree of vanity. Hokenson writes: “The comic character is not laughed back to a norm of conventional behavior...but rather he is laughed back to self-consciousness as a social being. ... all the comic aims to do is to correctively humiliate the unsociable character, and thereby to advance or resume his evolution into the necessary condition of social life in common. Vanity is particularly vulnerable because, like all forms of unsociability, it is a gross deficiency of consciousness, being such deluded self=admiration that it has become encrusted with the mechanical or the unthinking. Thus comedy mocks the unthinking and the unbecoming. In whatever mode, Bergson stressed, this bringing to consciousness is the only way comedy corrects manners.” See: Hokenson, *The Idea of Comedy*, 56.

<sup>273</sup> Paul McDonald, *The Philosophy of Comedy*, Humanities E-Books, 2012, p. 49-50.

<sup>274</sup> Stott, *Comedy*, 135.

<sup>275</sup> Hokenson, *The Idea of Comedy*, 73.

<sup>276</sup> The term “professional logic” belongs to Bergson.

extralegal ‘ordinary’ perspectives one needs only to recall Gogol’s “The Two Ivans,” in which a police captain insists that a sow be held accountable for her actions in defiance of the city’s legal statutes.

As a typical morally vacant character, Liapkin-Tiapkin “hilariously” uses the “letter,” so to speak, to “murder” the “spirit” of the law in the third scene of the first act of *The Government Inspector*. When the hospital director expresses his fear of reprimand from the government inspector for neglecting his medical patients, Liapkin-Tiapkin offers an idea that is both absurdly humorous and indicative of the judge’s professional callousness: “What are you worried about? Just stick clean nightcaps on your patients and no one will be any the wiser” (259/4:21). With this suggestion both to literally and figuratively “cover up” the hospital director’s problem, Liapkin-Tiapkin reveals the limited perspective typical of legal bureaucrats; he addresses not the actual problem (the lives of the patients are in jeopardy) but the bureaucratic one (the career of the hospital director is in jeopardy). The incongruity of the reality of a situation and legal-bureaucratic understanding of a situation produces humor; we laugh incredulously at the surprising absurdity of Liapkin-Tiapkin’s reading of the situation. This scenario, however, also reveals something much darker: the type of limited perspective is precisely what results in inhumane legal and bureaucratic decisions. It is in such moments in which the morally vacant legal character functions both comedically (to entertain audiences) and critically (to convey criticisms of the failings of a legal system that ignores the essence of a problem in favor of addressing externalities). The above example encapsulates how the limitations of the law (the rigidity of the legal perspective) leads to absurdity (the incongruous clash between an ordinary and a legal perspective), which in turn results in cruelty (the continued neglect of medical patients).

Gogol's Liapkin-Tiapkin represents the type of incongruity that Francis Hutcheson illustrates through his example of "great men on the toilet," the sharp and unexpected contrast between dignity, grandeur, and sanctity with qualities such as baseness, awkwardness, and profanity is a great source of comedy.<sup>277</sup> Whereas Kapnist's Krivosudov is a predictably vicious and cunning corrupt judge, Gogol's Liapkin-Tiapkin combines childish guilelessness with a banal amorality. While the stage notes sarcastically introduce the judge as "a man who has read five or six books and thus is something of a freethinker," Liapkin-Tiapkin later admits that he does not even have the mental capacity to function in his official position.<sup>278</sup> Gogol's stage notes amplify the humor of the incongruity between the judge's inflated sense of self and limited cognitive abilities through yet another incongruity in which Liapkin-Tiapkin unwittingly mimics an inanimate mechanism:

A great amateur of conjecture, he gives special weight to everything he says. The actor playing this part must always preserve a portentous look on his face. Talks in a bass voice, drawling his vowels and emitting wheezing and croaking noises, like an old clock hissing in preparation to strike the hour (248/4:10).

Gogol's introduction of the clock simile in his depiction of Liapkin-Tiapkin is a particularly important example of incongruity humor in the characterization of the morally vacant figure as a mechanical or mechanized figure. The limitations and formal rigidity of legal procedure is reflected in the association of morally vacant characters to imagery of inertia and mechanization.

---

<sup>277</sup> Stott, *Comedy*, 135.

<sup>278</sup> The humor in Liapkin-Tiapkin's character derives in one level from the incongruity of his powerful position with his low level of education or the incongruity between the importance of his duties and the triviality of his interests. Then the humor is amplified by his vanity, his inaccurate self-perception. As Henry Fielding notes, the physically, mentally, or socially disadvantaged are not humorous in themselves, but become so if they adopt affectation. Vanity, or an inflated sense of self, is a common symptom of the limited perspective characteristic to morally vacant characters. See Stott, *Comedy*, 136.

Because of his unquestioning, prescriptive, predictable actions, the morally vacant character appears not an independent living being, but as less than human—a replaceable component of a bureaucratic legal apparatus.

It is precisely this type of incongruity—the attribution of machine-like rigidity to organic living beings—that forms the basis of one of the most influential essays in comedic theory. In *Laughter: An Essay on the Meaning of the Comic*, Henri Bergson writes argues that laughter arises from situations in which “the mechanical is encrusted upon the living,” adding that “the attitudes, gestures, and movements of the human body are laughable in exact proportion as that body reminds us of a mere machine.”<sup>279</sup> Bergson notes that the mechanical is humorous in part because it is surprising: the laughable element in such a case consists in a mechanical inelasticity or rigidity in human physicality “where one would expect to find the ... adaptability and the living pliability of a human being.”<sup>280</sup> In the example above, the surface-level physical humor derives from this simple device of linking a human being to a clock. The trope of legal bureaucracy as a mechanical apparatus can be comical, but on a deeper level the mechanical functions as a critique of the legal system. This gives more meaning even to the words of a madman; In Gogol’s *Diary of a Madman* (*Zapiski Sumasshedshego*, 1835) for instance, Poprishchin declares in his penultimate entry, “The Grand Inquisitor...left me angry and threatening me with some sort of punishment. But I completely disregarded his impotent rage, knowing that he operates like a machine [*mashina*], a tool [*orudie*] of the English” (3:214)<sup>281</sup>

Bergson’s understanding of mechanization encompasses a variety of iterations relevant to the study of the function of the morally vacant character. The rigidity of momentum and

---

<sup>279</sup> Bergson, *Laughter*, 29.

<sup>280</sup> *Ibid*, 10.

<sup>281</sup> My translation.

inertia that characterize the morally vacant character's unquestioning fulfillment of legal directives is a symptom of morally vacant characters' professional callousness. A morally vacant character in Mikhail Evgrafovich Saltykov-Shchedrin's *The Golovlev Family* (*Gospoda Golovlevy*, 1880), for instance, illustrates the humor and the insensitivity of the character's rigidity of momentum. Saltykov-Shchedrin's novel chronicles the gradual decline of each member of the Golovlev family. The plot revolves around the central character, Porfirii Vladimirovich, and recounts the ways in which his actions contribute to that decline.

A subplot describing the fate of Porfirii's niece Annin'ka features a scene in which she has been called to testify in court. In this scene the counsel for the prosecution absurdly continues to perform his role in legal procedure even though his witness has lost consciousness: "Anninka fainted more than once but the counsel, bent on securing the plaintiffs' claims, took no notice of it and went on asking question after question" (312/13:244).<sup>282</sup> Like a machine functioning automatically, programmed to perform only one operation, the morally vacant character sees only what his limited perspective permits him to observe. The limitations of the law are reflected in and personified by the limited perspectives of such morally vacant characters.

Bergson considers the limited perspective of the bureaucrat to be a type of the "mechanization" encrusted upon the living that produces a particular type of humor. The professional callousness of the legal literary character, in Bergson's understanding, reveals a "moral infirmity" or "intellectual ossification" that is equally as humorous as any physical defect

---

<sup>282</sup> All page references in the text refer to the Natalie Duddington translation of *The Golovlyov Family*, (modified when necessary), followed by page number from Saltykov-Shchedrin's *Sobranie sochinenii*, e.g. *SS*, 2:160. Mikhail Shchedrin, *The Golovlyov Family*, trans. Natalie Duddington (New York: New York Review of Books, 2001). M.E. Saltykov-Shchedrin, *Sobranie sochinenii*, ed S.A. Mashchakin, 20 vols (Moskva: Izdatel'stvo Khudozhestvennaia literatura, 1972), 13: 7-543.

resulting from inelasticity.<sup>283</sup> The formal rigidity of a specialized profession creates a humorous incongruity when the external formalities of the profession are respected and valued above all else:

[Intellectual ossification] makes the lawyer, the magistrate and the doctor speak as though health and justice were of little moment, the main point being that we should have lawyers, magistrates and doctors, and that all outward formalities pertaining to these professions should be scrupulously respected. And so we find ... no longer is it the profession that is made for the public, but rather the public for the profession. Constant attention to form and the mechanical application of rules here bring about a kind of professional automatism analogous to that imposed upon the soul by the habits of the body, and equally laughable.<sup>284</sup>

Though she does not cite Bergson, in her dissertation, “Unrealism: Bureaucratic Absurdity in Nineteenth-Century Russian literature,” Nancy Workman also discusses professional callousness as a byproduct of the “condition” that she calls “bureaucratic myopia,” one of the essential features of a genre of nineteenth-century Russian literary texts that she identifies as “unrealism” or “bureaucratic absurdity.”<sup>285</sup> Workman describes bureaucratic myopia as the “tendency to ignore everything not related to [the bureaucratic point of view] or to see everything in terms of it.”<sup>286</sup> It is a condition, a byproduct, or a symptom of the “professional detachment that is the bureaucrat’s occupational hazard.”<sup>287</sup>

Both concepts –Bergson’s “professional callousness” and Workman’s “bureaucratic myopia” –are helpful in understanding the morally vacant legal character. Both scholars note the

---

<sup>283</sup> Bergson, *Laughter*, 55.

<sup>284</sup> *Ibid*, 53.

<sup>285</sup> Nancy Workman, “Unrealism: Bureaucratic Absurdity in Nineteenth-Century Russian Literature.” Ph.D. diss. Columbia University, 1998. 11.

<sup>286</sup> *Ibid*, 11.

<sup>287</sup> *Ibid*, 15.



connection between physical abnormalities or deficiencies and moral or intellectual limitations. Workman stresses that nineteenth-century authors use physical limitations such as short-sightedness or poor eyesight to indicate the limited perspective of the bureaucratic mindset in characters.<sup>288</sup> While Workman's analysis focuses on eyesight as the primary device with which authors suggest a degree of bureaucratic myopia in their characters, the limited perceptive abilities of morally vacant legal characters extends beyond eyesight to include a broader metaphorical understanding of "myopic" or limited capacities (such as deafness, illiteracy, speech impediments, and intellectual deficiencies).

In referring to a character having been "afflicted" with "condition" that is an "occupational hazard," Workman suggests that characters who 'suffer' from bureaucratic myopia are somehow disabled. In "ordinary" or "natural" logic, bureaucratic myopia and detachment do appear to be a deficiency or a limitation. Yet several morally vacant judges treat this very limited perspective or professional callousness as a desirable *skill*. Some morally vacant judges intentionally adopt the bureaucratic-myopic perspective, conceiving of their procedural tunnel vision as a hallmark of focus and professionalism.

A vivid example of a morally vacant character who embraces a strictly limited legal perspective occurs in Alexander Sukhovo-Kobylin's tragicomic play *The Case*. In this text a beleaguered merchant Muromskii appeals for mercy on behalf of his daughter, whom local authorities have framed for fraud. In an attempt to seek justice, Muromskii petitions the highest

---

<sup>288</sup> Workman writes: "For my purposes, myopia is an ideal metaphor for the intellectual and spiritual condition of the Unrealist bureaucrat, who is neither truly perceptive nor wholly blind (though closer to the latter than to the former). Another visual term I will sometimes use in this chapter, "tunnel vision," refers in its literal sense to the loss of peripheral vision but in its figurative one to the possession of a severely limited point of view, a slightly different but closely related way of describing what is wrong with the typical Unrealist hero's perception of the world and his place in it." See Workman, "Unrealism," 24.

local authority figure, the Prince, reputed to be a fair man. Unfortunately for Muromskii, however, the Prince reveals himself to be a typical morally vacant figure.<sup>289</sup>

When Muromskii attempts to elicit empathy from the Prince by enumerating the “sufferings” he has endured at the hands of the provincial legal system, the Prince quickly interrupts the merchant’s desperate pleas: “Explain, by all means—but only the case itself, not your sufferings. Here we do not take suffering into consideration—there’s a medical board for that.”<sup>290</sup>

The immediate joke of the Prince’s reaction derives from the incongruity between the “letter” or the literal, and the “spirit” or the actual; the Prince interprets Muromskii’s obvious references to his emotional suffering as suffering caused by a physical malady. The Prince’s interjection is indicative of a limited bureaucratic perspective, and indicative of an important feature of Bergson’s theory on laughter: the material or the bodily taking precedence over the soul. In Bergson’s understanding, humorous situations derive from moments where processes of judgment are overridden by actions of the body, especially those that “[call] our attention to the physical in a person, where it is the moral side that is concerned.”<sup>291</sup>

The Prince readily admits that he attempts to cultivate a narrow bureaucratic perspective that precludes human empathy. The stubborn Muromskii repeatedly attempts to appeal to the Prince’s humanity. Yet in a sentiment that appears to aspire to callousness rather than impartiality, the Prince informs Muromskii: “We are obliged to judge [*sudit*] —not feel

---

<sup>289</sup> The Prince’s characteristics coincide with the four main features of the morally vacant character: he is unsympathetic to Muromskii’s plight (moral unconcern); he is preoccupied with the status of his gastrointestinal health (unrelated interests); he is incapable of empathizing with Muromskii on a human level (bureaucratic myopia) and cites his professional obligation as an excuse not to intervene on behalf of justice (professional callousness).

<sup>290</sup> All references to Sukhovo-Kobylin’s *The Case* and *The Death of Tarelkin* in the text are from the Harold B. Segel translation (modified when necessary), followed by the page in Sukhovo-Kobylin’s original, e.g. 153/225. See *The Trilogy of Alexander Sukhovo-Kobylin*, trans. Harold B. Segel (New York: Dutton, 1969). Aleksandr Sukhovo-Kobylin, *Svad’ba Krechinskogo: pesy* (Moskva: Eksmo, 2007) 153/225.

<sup>291</sup> See Stott, *Comedy*, 96.

[*oshushit'*]” (156/230). The careworn merchant attempts to expose the inherent contradiction of such a declaration, declaring that it is “impossible” to judge without feeling. Consistent with the professional logic of his bureaucratic viewpoint, however, the Prince replies, “Nonetheless, we shall try” (156/231). The Prince’s interactions with Muromskii exemplify how the morally vacant character serves both a comedic function (through incongruity) and a critical one (illustrating the cruelty and absurdity of the limited legal perspective characteristic of the legal system).

Despite any pretensions to impartiality or fairness, the Prince’s behavior appears instead apathetic. In an earlier conversation with his wise bailiff, Muromskii optimistically declares, “This Prince, they say—he’s supposed to be a fair [*spravedlivyi*] man, impartial, and the kind of person who says ‘everyone’s equal before me’” (119/117). The wise and cynical bailiff, however, re-appropriates the Prince’s conflation of indifference and equality: “Just like flies before a swatter,” the bailiff tells Muromskii, “Whether it’s a small fly or a big one—it’s all the same” (119/177).

The humor in the incongruity between the spirit or truth of a situation and the literal legal understanding of it in this encounter illustrates a key difference between characters in eighteenth- and nineteenth-century comedies. As Nancy Workman points out, Kapnist’s *Chicanery* and other works “stemming from an essentially eighteenth-century mindset” differ from the type of bureaucratic humor begun by Gogol and continued in the nineteenth century in that the eighteenth-century works either castigate corruption among bureaucrats or use the corrupt bureaucrat as a stock villain. Characters in humorous nineteenth-century texts about bureaucrats may be just as flat as those in Kapnist’s and other eighteenth-century texts, but, as Workman

insists, only with the former “is the extent to which the character falls short of full humanity the *point* of the work.”<sup>292</sup>

The humor of the nineteenth-century morally vacant character mocks not merely an abstract vice, but also a dehumanized mindset that is characteristic of, and likely the result of the rigid bureaucracy of the legal system. In his article, “Satirical Themes in 18th-Century Russian Comedies,” D.J. Welsh writes in detail about three satirical trends emerged in Russian comedy in the mid-eighteenth century. The lampoon or personal satire (attacking individuals) and the general satire (attacking vices plaguing mankind in general) derived from French comedies. The third, however, focused upon those social or administrative abuses considered by the playwright to be particular to Russia:

These trends were not mutually exclusive, however; individuals whom the audience recognised might be derided as representative of some general vice or folly, and a vice common to all mankind might equally be satirised in a recognisably Russian setting. When ... Kapnist derided the corruption prevailing in law-courts, critics—both contemporary and later—complained that the plays were lacking in comedy. Discussing this aspect of 18th-century comedy in an article published in 1859, the critic N. A. Dobrolyubov drew analogies between his own age and that of Catherine when he said: ‘Hardly ever did the satirists of the 18th century penetrate to the main, essential evils. ... The satire directed against such abuses as bribe-taking by government officials gave the impression that the whole evil was dependent upon the personal tendencies of these officials. ...’ The writers of 18th-century satirical comedy ‘never considered the general evil of bureaucracy, nor the circumstances under which this had arisen and was developing.’<sup>293</sup>

---

<sup>292</sup> Workman, “Unrealism,” 16.

<sup>293</sup> D.J. Welsh, “Satirical Themes in 18th-Century Russian Comedies,” *The Slavonic and East European Review*, 42. 99 (June, 1964): 403-414, 406. Welsh quotes N.A. Dobroliubov in “*Ruskaia satira v veke Ekateriny II-oi*,” *Sobranie Sochinenii v trekh tomakh* (Moscow: 1950-1952), 2:317-38.

In eighteenth-century portrayals of judicial corruption, the unjust were summarily punished via an artificial or abrupt *deus ex machina*. The implication of such an ending may suggest that all that is necessary to right institutional wrongs is to remove a few blameworthy individuals. But in the nineteenth century, when comedies began to implicate the system in addition to corrupt individuals, the device of the *deus ex machina* was deferred, implied, or disappeared altogether, resulting in more ambiguous conclusions.

In two texts from the latter part of the nineteenth century, the question of cause and effect—of whether the legal system attracts or produces moral vacancy in individuals—is raised more explicitly. In both Anton Chekhov’s short story, “In the Court” (*V sude*, 1886) and Lev Tolstoi’s *The Death of Ivan Il’ich*, (*Smert’ Ivana Il’icha*, 1886), moral vacancy appears to a considerable extent to result from the atmosphere and culture of the Russian legal bureaucracy. Both Chekhov’s and Tolstoi’s depictions of the morally vacant judge use the same devices that Bergson and other theorists of comedy have identified as productive tropes for laughter; yet to consider either story as a comedy would require some imagination. Of course, Bergson’s formula for laughter (that we laugh whenever we perceive of a person as a thing, or whenever mechanical rigidity overrides human elasticity) depends to a great degree on context. Critics have pointed out that were this formula to be applicable in all cases, there would be no more hilarious a scenario than an epileptic suffering from a seizure.<sup>294</sup> Bergson rightly points out, however, that comedy works only in the absence of compassion. The propensity for laughter decreases in proportion to the extent to which our emotions are engaged, or to the extent to which we

---

<sup>294</sup> Matthew M. Hurley, D.C. Dennett, and Reginald B. Adams. *Inside Jokes: Using Humor to Reverse-Engineer the Human Mind*, (Cambridge: MIT Press, 2011), 55.

empathize with a character. Chekhov and Tolstoi's narrators encourage readers to develop a keen empathy for characters whose sufferings arouse emotion in the reader, thereby stifling the comedic aspects in these texts. While Gogol's and Saltykov-Shchedrin's aforementioned morally vacant characters are comedic butts—legal functionaries held up as figures to be ridiculed—the unnerving banality of the moral vacancy in Chekhov's and Tolstoi's texts is presented as something threatening and tragic.

Like Gogol's *Liapkin-Tiapkin* and Sukhovo-Kobylin's *Prince*, the morally vacant judge in Chekhov's "In the Court" demonstrates the limitations, and by extension, the cruelty, of the law through an anecdote in which the human condition clashes tragically with legal sphere. Chekhov's courtroom anecdote utilizes a surprise revelation to shock the members of the court (concurrently with the reader): the young court bailiff, who is escorting an older shackled prisoner accused of murdering his wife, is revealed to be none other than the defendant's own son (and the son of the murder victim). This revelation forces everyone in the court to recognize two truths: first, that the defendant, heretofore referred to by the court only as "the accused" or "prisoner," is indeed a man, a human being, and a father. Second, that this circumstance, in which a man accused of murdering his wife is being held in shackles by his very own son, is a horrifying and humiliating position for both father and son. The shocking introduction of the notion that the individual whom the members of the court had treated just as another court case in a long list of the day's proceedings is indeed a human being with a family and a life is an uncomfortable, alien concept for the members of the court to face.

The unnamed circuit court judge in Chekhov's story is another exemplary morally vacant character. The judge exhibits moral unconcern in the way he regards the litigants in his courtroom. The narrator describes how the judge, like the assistant prosecutor with his "frigid,

immovable boredom [*skuki*] which is commonly seen on the face of [those] who are forced from day to day to sit in the same place, to see the same faces, the same walls,” graces the defendants with the briefest of uninterested glances (170/345).<sup>295</sup> The presiding judge and his fellow circuit court members work in such haste that “no mind” could perceive the constant shuffling of innumerable defendants in and out of court as anything but a “partial-colored mass of faces, movements, words, misfortunes, truths and lies, all racing by like a river in a flood” (168/344).

The presiding judge exhibits the trivial preoccupation of the morally vacant judge by ignoring the secretary’s reading of the case details to inquire about a fellow judge’s lodgings, and then to ponder the fashion choices of the assistant prosecutor and other miscellaneous thoughts about the finances and appearances of various court attendees.

Chekhov’s judge also exhibits the limited perspective and the bureaucratic mindset characteristic of the morally vacant legal functionary through his gestures and physical description. Invoking the motif of near-sightedness, which Nancy Workman considers indicative of a myopic bureaucratic mindset, Chekhov’s narrator introduces the presiding judge as a “nearsighted” (*blizorukii*) man with “lusterless” or “lifeless eyes” (*posovelymi glazami*) (169/344). Underscoring the judge’s disinclination to engage in the court proceedings, the narrator describes the peculiar posture held by the judge: he holds his hand up to his brow “as though screening his eyes from the sun” (169/344). Here, the judge *literally* limits his perception, just as in the latter half of the story he *figuratively* obstructs his perception of the situation unfolding in the courtroom. Both gestures express the intent to circumscribe his perceptive

---

<sup>295</sup> References to Chekhov’s “In the Court” in the text are from volume 11 of *The Tales of Chekhov. Volume 11: The Schoolmaster and Other Stories* trans. Constance Garnett (New York: Macmillan) 1916-1922, 165-179. The page number of the translation (modified when necessary) is followed by the page of the original “V Sude,” in Volume 5 of Anton Chekhov, *Polnoe sobranie sochinenii i pisem*. 30 vols. Edited by N.F. Belchikov, et al (Moscow: Nauka, 1974-1982), 343-379.

abilities. Later, when the judge chooses to ignore the uncomfortable truth revealed in the courtroom, he exhibits the professional callousness of the morally vacant figure.

With its dull, hypnotic lull, a courtroom ventilator wheel functions as a thematic soundtrack to Chekhov's story, characterizing the courtroom as a place of numbingly mindless inertia. Chekhov uses the onomatopoeic "*zhuzhzhane*" to describe the sound and motion of the ventilator wheel. The narrator stresses the oppressive atmosphere created by this repetitive droning by repeating variations of the whirring sound: the presiding judge meditates to the "whirring ventilator wheel" (*zhuzhzhashchimi ventiliatsiiami*)(168/344); later the narrator describes the hypnotizing drone of the ventilator's rotations, "whirring tirelessly" [*neugomnno zhuzhzhavshaia*] behind the judicial stand, resulting in a "sound that imparted a soporific, sedating character to the silent chambers (169/344)"<sup>296</sup> The secretary ruminates "under the whir of the ventilator" (*pod zhuzhzhaniem ventiliatsii*)(169/344) the counsel for the defense falls into thought under the influence of the "stillness, dullness, and the whirring of the ventilator wheel" (*pod vlianiem tishiny, skuki, zhuzhzhashchei ventiliatsii*) (175/348).<sup>297</sup> Even the defendant himself succumbs to the oppression of the courtroom procedure. "The stillness, the general monotony and boredom [*skuka*] infected him too..." (171/345). The omnipresence of the dull courtroom ventilator whir emerges as an allegorical manifestation of the circular, repetitive monotony, and spiritless mechanisms of the legal process. The narrator explicitly underscores this association:

The dingy windows and walls, the voice of the secretary, the attitude of the prosecutor were all saturated with official indifference [*kantseliarskim ravnodushiem*] and produced

---

<sup>296</sup> My translation. Garnett's translation, "the result was a sound that gave a drowsy, narcotic character to the stillness of the hall," has an expressive and more literary quality, my rather literal translation more faithfully reflects the language used in the original.

<sup>297</sup> I use "under" to capture the oppressive quality of the original "*pod*," whereas Garnett uses "through."



an atmosphere of frigidity [*kholodom*], as though the murderer were simply an official [piece of] property [*kantseliarskuiu prinadlezhnost'*], or as though he were not being judged by living men, but by some unseen machine [*nevidimaia mashinka*], set going, god only knows how or by whom... (171/346).

As noted, the comparison between the judges not as living men but as an unseen machine employs incongruity, which often functions as a comedic device. Yet, as Nancy Workman articulates, the kind of dark humor associated with the bureaucratic mindset can only work in a “compassion-free environment”<sup>298</sup>

Yet the narrator arouses the reader’s compassion in the moment during which the familial relationship between the humiliated soldier and his wretched father. This revelation punctures the shield of professional callousness that prevents the morally vacant members of the court from recognizing that their decisions affect real individual human lives. The court servitors seem to grasp at figurative blinders or ear plugs in an attempt to unsee or unhear the painful truth: “Not one person in the court dared to look at the soldier's face. Everyone refused to trust his thought and believed that he misheard” (176/349).<sup>299</sup>

But the head judge of the court, as a consummate callous professional, quickly regains his composure, and he employs the rigidity of legal language successfully to restore the primacy of the bureaucratic mindset over the mindset of everyday humanity. With one word, the judge reduces Harlamov from his status as a father and a human being to his legally appropriate status as an anonymous defendant: “Prisoner,” the judge bellows, “conversation with the guards is forbidden” (176/349). Upon this cue, the court members resume business “as though nothing has

---

<sup>298</sup> Workman, “Unrealism,” 168

<sup>299</sup> I have changed “heard wrong” to “misheard.”

happened” (176/349). The status quo is reestablished, but it has been shaken, and Chekhov’s vignette ends on this note. The sudden and dramatic disruption of the soulless ventilator machine that is the judicial system leaves an unsettling sensation in the reader, as well: a glimpse of a system ready to deny the humanity in any individual.<sup>300</sup> Chekhov’s narrator explains how “the whole horror and hopelessness” of Harlamov’s position “lay just in this mechanical indifference [*mashinnom besstrasti*]” (171/346). The narrator adds another metaphor to the machine-like motif of legal rigidity by comparing the law to lifeless, immovable stone:

It seemed that if he were not to sit quietly but to get up and begin beseeching, appealing with tears for their mercy, bitterly repenting, that if he were to die of despair—it would all be shattered against blunted nerves and custom, like waves against stone. (171/346)

In Chekhov’s depiction, no dynamism in the human condition can affect the rigidity of the law. Though this “mechanism” is facilitated by human beings, the callousness of custom and the “blunted nerves” of these morally vacant characters dehumanize them and reduce them to mere components or unthinking mechanical operators of a bureaucratic machine. The tragedy of the story is that this unthinking machine has real consequences for real, individual human lives – sometimes including the morally vacant characters themselves.

Chekhov’s text suggests that the “custom” or habits of the legal system are at least in part responsible for some of the professional callousness and “blunted nerves” of those functionaries in whose hands justice is placed.<sup>301</sup> Tolstoi’s novella *The Death of Ivan Il’ich* similarly suggests

---

<sup>300</sup> Elements of Incongruity and Superiority theories of laughter are both present here, but, as Nancy Workman articulates, the kind of dark humor associated with the bureaucratic mindset can only work in a “compassion-free environment” See Workman, “Unrealism,” 168.

<sup>301</sup> Tolstoi also uses the motif of the rigidity of stone to describe the callousness of those in judicial system in *Resurrection*. Whereas the characterization of the legal culture itself as causing this callousness is implicit or inferred in Chekhov’s text, Tolstoi’s protagonist explicitly blames the legal system for causing the moral vacancy in its functionaries. “Tolstoi’s prince Nekhliudov declares that the men who work for the legal system are made “terrible” by their very work. Nekhliudov comes to the conclusion that “all those people—inspector, convey men, all those in the service—are for the most part kind men—cruel only because they are in service.” The narrator

that the problems of Russian justice are not merely due to a handful of corrupt individuals who infiltrate otherwise flawless institutions. Tolstoi's text shows how on his deathbed, the titular judge Ivan Il'ich begins to recognize that he has led his life—one typical for a highly successful morally vacant character—according to misguided and hollow values.

Tolstoi's Ivan Il'ich is worth mentioning for his role as a tragic morally vacant character in contrast to the comedic morally vacant butts of Gogol, Sukhovo-Kobylin, and Saltykov-Shchedrin. Tolstoi invites readers to empathize with (but not necessarily develop affection for) a dying man who, for the first time, confronts and questions his life decisions. Ivan Il'ich is an accomplished judge who, suddenly facing impending death due to an acute illness, belatedly recognizes that his life has been wasted on trivial social and financial pursuits. Ivan Il'ich personifies the limitations and cruelty of the law and the legal mindset.

With his focus on social status and external decorum rather than moral substance (moral unconcern), his predilection for daydreaming about improvements in home décor instead of focusing on his judicial cases (trivial preoccupation), his steadfast refusal to acknowledge his own complicity in a system that perpetuates human suffering (limited perception), and his prideful embrace of callousness as a hallmark of judicial professionalism (professional callousness), Ivan Il'ich is yet another typical morally vacant judge.

---

continues: "Nekhliudov recalled Maslennikov's indifference when he told him about what was being done in the prison, the inspector's severity, the cruelty of the convoy officer....all these people were evidently invulnerable and immune to the simplest feelings of compassion merely because they held offices. Perhaps these governors, inspectors, policemen are needed, but it is terrible to see men deprived of the chief human attribute, that of love and sympathy for one another..." Nekhliudov thinks to himself: these people consider lawful what is not lawful and do not consider the eternal immutable law, written in the hearts of men by God, as law. That is why I feel so depressed when I am with them. I fear them, and they are in reality terrible, more terrible than robbers. A robber might, after all, feel pity, but they can feel none; they are inured against pity as these stones are against vegetation. That makes them terrible. It is said that the Pugachevs, the Razins, are terrible. These are a thousand times more terrible...." (397/13:362).

Tolstoi's Ivan Il'ich consciously chooses to restrict what he perceives. His attempts to cultivate professional disinterest or judicial objectivity appear instead to be callous apathy regarding those who petition him. In characterizing Ivan Il'ich, Tolstoi's narrative employs similar devices to those analyzed in theories of laughter, especially Superiority Theory (when readers feel psychologically or philosophically superior to the morally deficient judge) and Incongruity Theory (the judge's worldview, which has internalized the bureaucratic formulas of his profession, clash with the natural world around him and the individuals in it). However, by granting the reader access to the judge's most intimate thoughts, and by dwelling on the recognizably human physical and spiritual anguish that the judge suffers, the narrator arouses the reader's compassion, preventing us from feeling mirthful scorn at his expense.

While Ivan Il'ich is not a comedic character, the comedic devices mentioned by Bergson and others nevertheless reveal relevant truths about the morally vacant judge. Bergson's comments, for instance, about the incongruity between a human being and his professional role, or between natural language and logic and professional logic, are acutely appropriate for Ivan Il'ich, save the comedic tone. Bergson writes that in comedy a professional is ridiculous because he is "...so tightly jammed into the rigid frame of his functions that he has no room to move or to be moved like other men..."<sup>302</sup> Tolstoi's narrator employs similar language in describing how well-suited Ivan Il'ich is to the environment of the law courts.

There the yoke in which he worked was already broken in; he fell into it at once. The petitioners, the inquiries at the chancery, the chancery itself, the court sessions—public and administrative. In all this one had to know how to exclude all that was raw, vital [*zhiznennoe*]—which always disrupts the flow of official business; one had to allow no relations with people apart from official ones, and the cause of the relations must be only

---

<sup>302</sup> Bergson, *Laughter*, 178.

official ... For instance, a man comes and wishes to find something out. As an unofficial man Ivan Ilyich can have no relations with such a man; but if there are relations with this man as a colleague, such as can be expressed on paper with a letterhead, then within the limits of those relations Ivan Ilyich does everything, decidedly everything he can, and with that observes a semblance of friendly human [*podobie chelovecheskikh druželiubnykh*] relations, that is, of politeness. This skill in separating the official side, not mixing it with his real life, Ivan Ilyich had mastered in the highest degree and through long practice... (58/12:74).<sup>303</sup>

Like Chekhov's defendant, who is treated like official property, the civilians present in Ivan Il'ich's court are treated not as human beings, but as official business. By denying the totality of the human experience of those with whom he has come into contact, Ivan Il'ich restricts his perception of the world; it is easier to maintain professional callousness when one can exclude everything "raw," and "vital" —that which makes human beings unique.

Again, comments by Bergson in the context of comedy add insight to Tolstoi's text: Bergson writes that when comedic writers try to "make a profession ludicrous," the most commonly used device is "to confine it, so to say, within the four corners of its own particular jargon."<sup>304</sup> Bergson writes that "judge, doctor and soldier are made to apply the language of law, medicine and strategy to the everyday affairs of life, as though they had become incapable of talking like ordinary people..."<sup>305</sup> While in Bergson's formulation, the contrast between the "particular" logic of a profession and the "universal" logical of ordinary life produces comic

---

<sup>303</sup> All references in the text are from the Pevear and Volokhonsky translation of *The Death of Ivan Ilyich* in Leo Tolstoy, *The Death of Ivan Ilyich and Other Stories*. trans. Richard Pevear and Larissa Volokhonsky (New York: Alfred A. Knopf, 2009) 39-209. English citations are followed by a dash and the volume and page number of the original. *Smert' Ivana Il'icha* in Volume 12, Lev Tolstoi, *Sobranie sochinennii v 22 tomakh*. ed. M. B. Khrapchenko. (Moskva: Khudozhestvannaia literatura, 1983) .

<sup>304</sup> Ibid, 179.

<sup>305</sup> Ibid, 179.

effects of a special nature, in Tolstoi's text, the incongruity of these two worldviews appears threatening and tragic.

Having become stricken with illness, Ivan Il'ich finds himself in the same vulnerable position, victimized by the same professional callousness that he had subjected to his petitioners. Helpless and uninitiated in the specialized field of medical care, Ivan Il'ich is dependent upon the expertise of the callous doctor. The narrator underscores the irony of the inversion of the powerful and powerless in a scene in which Ivan Il'ich recognizes the absurdity and cruelty of his own professional logic and language in the words of his doctor. When the judge asks the doctor whether his illness is serious, the latter addresses Ivan Il'ich sternly, "as if to say, 'Accused, if you do not keep within the limits of the questions put to you, I will be forced to order you removed from the court'" (62/12:78). At a moment in which the judge yearns for human comfort, the doctor merely mimics the judge's own emphasis on external forms and proper procedure, replying tersely that he has given Ivan Il'ich all of the relevant information that the doctor considers "necessary" and "appropriate" (62/12:78).

For the first time, perhaps, Ivan Il'ich experiences what those at the mercy of his legal expertise have experienced; the doctor's treatment of Ivan Il'ich as a specimen to be analyzed, rather than a human being, parallels the judicial system's treatment of litigants as formal cases belonging to specific categories, rather than individuals.

At this moment Ivan Il'ich, hitherto a steadfast morally vacant character, begins to evolve into a questioner—the third major character type in nineteenth-century literary legal texts—which will be described in detail below. What is important to note here is the revelation that comes along with Ivan Il'ich's newfound self-reflectiveness: vaguely recalling a time in his life before his ambitious efforts produced a "vile and meaningless" life, Ivan Il'ich identifies the

turning point at which he began to lead his life according to unworthy values as his decision to enter the law school (84/12:100). During his recollections, which begin pleasantly, “the further from childhood” he departed and the closer his thoughts drifted “to the present, the more worthless and dubious were those joys” (84/12:100). This decline began, Il’ich realizes, “with law school” (84/12:100). With this sentiment, the narrator implies that Ivan Il’ich is not necessarily inherently morally vacant, but rather that Ivan Il’ich’s development into a morally vacant character corresponds to his entry into the legal sphere.

While the scope of this chapter precludes an exhaustive analysis of the many excellent examples of morally vacant characters in Tolstoi’s last novel, *Resurrection*, one moment in the novel bears mention. The protagonist of the novel, Prince Nekhliudov, speaks at one point with a general who works in the judicial system. This general, the narrator states, is evidently eager to “show off his importance and humanity” to the Prince. The general discusses his own strict policy of bureaucratic tunnel vision: “In my position,” he declares, “I don’t permit myself to swerve one inch from the letter of the law [literally “from the strictest letter of the law” (*ot samoi strogoi bukvy zakona*)], simply *because I am a man*, and might be influenced by pity [*zhalost’iu*” (483/13:436). The general’s attempts to reconcile his professed “liberal and humane views” with “the profession,” however, result only in “impossibility” and “inner discord” (480/13:434). The general’s unconscious inner discord manifests in his addiction to drink. Like other morally vacant characters, the general dulls his senses, and stifles his conscience, through intoxication. Tolstoi’s general illustrates how complicity and participation in the judicial sphere makes it impossible to be humane—and therefore, difficult to be human.

By presenting the individuals who work in the judicial system as unquestioning extensions of a legal-bureaucratic apparatus, Tolstoi and other authors who characterize judges

with automaton-like features undermine the humanity of these characters. Whether to comedic effect, as in the works of Gogol, Sukhovo-Kobylin, and Saltykov-Shchedrin, or to dramatic or tragic effect, as in texts above by Chekhov and Tolstoi, this characterization of the morally vacant character is a reflection of the absence of consideration for human experience in the legal system. Though morally vacant judges are not malicious, and do not intend cruelty, the limitations and the absurdity of the law that they personify often result in cruelty.

It is as though nineteenth-century writers reinterpret the binary presented in *The Sermon on Law and Grace* (discussed in chapters one and two), which contrasts the static and empty law to the flexible spirited-infused Grace, as a contrast between the mindless inertia of inanimate legal mechanisms with the dynamic spirit of humanity. While morally vacant judges often serve as comedic butts, they also serve to communicate a positive message about important cultural values: narrators' use of the morally vacant characters suggest the importance placed on factoring in the totality of the human condition and the singularity of individual human beings in judging the fates of those individuals. A mechanized legal machine is incapable of such morally-based judgment.



## The Legal Predator

The law is like a spider's web: the bee will slip through, but the fly will get caught.

*Russian Folk Saying*

“There aren't any people here –just demons.”<sup>306</sup>

*Sukhovo Kobylin, The Case*

In addition to serving as a breeding ground for the cultivation of morally vacant characters, the judicial bureaucracy is also a hospitable environment for another major literary legal figure: the legal predator. Generally speaking, the legal predator is not a product of the legal bureaucracy; rather, he is attracted to it, as the law's limitations provide an excellent habitat in which the predator may flourish. Whereas moral vacancy often appears as the “occupational hazard” of the gradual inculcation into the machine-like, unthinking atmosphere of static, corrupt bureaucratic legal culture, legal predators are naturally rapacious. The legal predator thrives by cruelly exploiting the vulnerabilities that he identifies in the absurd limitations of the law.

Legal predators can appear in a variety of ranks, from lawyers (*striapchii* or *iuriskonsul't*), to legal clerks or assessors (*zasedatel'*). Whereas the morally vacant character typically holds some considerable power within the bureaucratic apparatus, some of the most memorable literary legal predators in nineteenth-century works have no formal connection to the law but are merely zealous litigants who conduct legal chicanery for sport or profit.

---

<sup>306</sup> Tarelkin, in *Smert' Tarelkina*, entrapped by the office of the duplicitous prosecutor Varravin: “*Chto eto...Liudei net – vse demony.*” 260/390.

The legal predator differs from the morally vacant character in disposition as well. Morally vacant characters may be complacent, negligent, and distracted, but generally do not exhibit ill will. Legal predators, on the other hand, are passionate, avaricious, often clever, driven, and always self-serving. Morally vacant characters either cultivate or suffer from a state of limited perception, which prevents them from acknowledging their role in the legal system. In contrast, the legal predator prides himself on his acute ability to detect legal loopholes with which to skillfully manipulate the legal system. Unlike the morally vacant figure, who uses the rigidity of the law as an excuse for inaction, legal predators use their specialized knowledge of the law as a tool to actively exploit the vulnerable and uninitiated, often in creative or entertaining ways. The legal system's emphasis on formal externality over substance allows legal predators to thrive. If there is no technicality to be exploited, the legal predator uses his knowledge of legal procedure and his familiarity with the corrupt milieu of the judiciary to enlarge, confuse, and obfuscate the circumstances of a case in order to intimidate and exhaust his intended targets until he achieves his desired outcome. The morally vacant character is a necessary, but often an unwitting, accomplice.

While narrators use metaphors of disability or mechanical rigidity to challenge the humanity of morally vacant characters, legal predators are described with seemingly supernatural or heightened predatory abilities that liken them to the mercilessness of fearsome or reviled animals, monsters, or demonic phenomena. Legal predators share the keen perceptive abilities of predators in the animal kingdom, or supernatural vampires or devils, who can detect the subtlest weaknesses in their intended prey.

Although Gogol's narrators often describe court assessors (*zasedateli*) as bearing demonic characteristics, it is a contemporary of Gogol's, Vladimir Odoevskii, who penned the

first iconic description of the nineteenth-century legal predator. Following Odoevskii's "Tale of a Dead Body, Belonging to No one Knows Whom" ("*Skazka o mertvom tele, neizvestno komu prinadlezhashchem*," 1833), subsequent examples of legal predators include Petr Aristidov in Odoevksy's *The Living Corpse* (written 1838, published 1844),<sup>307</sup> the unnamed lawyer in Gogol's *Dead Souls* (*Mertvye Dushi*, 1842), Prince Valkovskii in Dostoevskii's novel *The Insulted and the Humiliated* (*Unizhennye i oskorblennye*, 1861), Petr Petrovich Luzhin in *Crime and Punishment* (*Prestuplenie i nakaznie*, 1866), Maksim Kuz'mich Varravin and Kandid Kastorovich Tarelkin in Sukhovo-Kobylin's *The Case* (1861) and *The Death of Tarelkin* (*Smert' Tarelkina*, 1869), the unnamed lawyer in Tolstoi's *Anna Karenina* (1877), and Porfirii Vladimirovich Golovlev in Saltykov-Shchedrin's *Golovlev Family* (1880). Other characters that can be considered to be related to the legal predator type include Pushkin's Shabashkin in *Dubrovskii* (1841), Gogol's Pavel Ivanovich Chichikov in *Dead Souls* (1842), and a lawyer in Tolstoi's *Resurrection* (1899).

Beginning with Odoevskii's Sevastianich, Gogol's lawyer, and Saltykov-Shchedrin's Varravin, and continuing with brief analyses of Dostoevskii's Prince Valkovskii and Tolstoi's lawyer in *Anna Karenina*, this section examines a representative sampling of varieties of legal predators.

The legal predator distinguishes himself by a) an active desire to engage in legal trickery motivated either by power, profit, or the sheer sport of chicanery, b) skill in identifying

---

<sup>307</sup> In *Vladimir Odoevsky and Romantic Poetics*, Neil Cornwell says that "Whatever else Odoevsky may be doing, he is quite evidently poking fun at a particular social type – the complacent functionary – and at his social values..." 14. "Odoevsky sees the successful vulgarity of the aspiring bourgeoisie and lower aristocracy of the day as being worthless in itself and falsely based on utilitarian ethics and materialistic values. One of the objects of his satire and attack in a number of stories is the Western-based system of education." 15. (Aristidov wants to make his sons into "men of reason" ...and when Aristidov finds out about his son's scheme to get his hands on Liza's money, he recognizes that its reprehensible but yet sensible. (*blagorazumno*)). See Neil Cornwell, *Vladimir Odoevsky and Romantic Poetics: Collected Essays*. (Providence: Berghahn Books, 1998).

exploitable legal technicalities and an ability to confuse others, deflect suspicion, implicate the innocent, insert himself into a legal matter as an indispensable figure, or otherwise benefit from a legal matter c) behavior or mannerisms that liken him to dangerous or repulsive animals (especially carnivorous mammals, insects, and reptiles), menacing supernatural mythoi (“unclean” or dark forces known as *nechistye sily*: vampires, wizards, witches, etc.), and anti-Christian figures (devils, the Anti-Christ, Judas Iscariot). Whether functioning as a fearful, irascible villain or a ridiculous comedic butt, the monstrous legal predator demonstrates another example of the potential for cruelty inherent in the legal system.

The legal predator in Odoevskii’s neo-gothic tale is Sevastianich, the Rezhensk legal clerk (*zasedatel*).<sup>308</sup> The tale recounts one evening during which Sevastianich has been charged with keeping watch over an unclaimed body awaiting burial the following morning. With only a jug of vodka to keep him company, Sevastianich falls into nostalgic musing. Through Sevastianich’s musings about his previous successful legal maneuvers and his conversation with the bodiless individual, the narrator reveals the absurdities and limitations of the law, as well as the cruel way in which this legal predator exploits them.

A prototypical legal predator, Sevastianich demonstrates both his enjoyment of legal manipulation and his proficiency in the art of obfuscation:

With a smile he recalled one ploy which he had contrived [*izobretennom sredstve*]: deflecting a general search in any direction. He remembered how, quite recently by this innocent means, he had saved [*spas*] one of his associates: this associate had done

---

<sup>308</sup> (*Skazka* can mean folktale or fairy tale, hinting at the ostensibly fantastical elements in the story). Odoevskii’s epigraph to his story is taken from Gogol’s “The Night Before Christmas.” All references to “The Tale of a Dead Body, Belonging to No One Knows Whom” in the text are from the Cornwell translation, *The Salamander and Other Gothic Tales: Eight Stories by Vladimir Odoevsky* (Evanston: Northwestern University Press, 1992).17-26. English references are followed by citations from the original Russian, “Skazka o mertvom tele, neizvestno komu prinadlezhashchem” in V.F. Odoevskii, *Pestrye Skazki*. ed. M.A. Tur’ian (Moskva: Kniga, 1833). e.g. 17/30.

something for which he could well have had to undertake a certain not altogether pleasant journey. The questioning had taken place and the general search had been ordered; but on this occasion Sevastyanich suggested they hold responsible, before anyone else, a certain literate fellow and suitable confederate; a document was compiled in accordance with the words of the literate fellow, which the literate fellow duly signed, crossing himself; and Sevastyanich himself approached [the residents and] began to sort them out so quickly that, while the residents were still scratching their ears and bowing, preparing to reply, he managed to question every one of them; and the literate fellow, in view of the illiteracy of his comrades, again signed, crossing himself, their unanimous testimony. (19/36)

Like Gogol, Odоеvskii employs humorous irony (“by this innocent means”) as well as wry understatement (“a certain not altogether pleasant journey”) to treat something explicitly criminal (framing innocent individuals) in a smug tone.

As a legal predator, Sevastianich understands the disproportionate power of the official written word over common sense or even the truth in legal affairs. Knowing that the legal system will privilege the letter over the spirit of the law, he ensures that the account of the affair is documented in his favor. He also understands that the law operates on technicalities that can be easily exploited: in this scene Sevastianich also remembers “how many times he had transported dead bodies to the borders of the neighboring districts and thus spared his Chief-of-Police unnecessary trouble” (19/35). Again, the incongruity between his horrifying misconduct and the nonchalant, even boastful manner in which Sevastianich perceives of it results in a bitterly dark form of humor. In both of these scenarios, Sevastianich takes pleasure not so much from the knowledge that he has “saved” (*spas*) his cohorts, but rather from the fact that he is an indispensable figure to their salvation. As the assessor basks in a moment of “self-pride” (*samoliubie*), the narrator explains: whether it is “making decisions, or reporting to the authorities... everywhere and in everything, there is Sevastianich” (19/35).

Sevastianich is also described with motifs of the *nechistye sily* or unclean forces: his ability to confound and confuse is likened to a magic power. The narrator reports that Sevastianich, the sole possessor of the Rezhensk legal codex,

alone was capable of interpreting the mysterious symbols [*tainstvennykh simvolov*] of the Sibylline Book; that by means of its magic power [*magicheskoi sily*] he held in obedience both the Chief-of-Police and the assessors and compelled all the inhabitants of the precinct to come running to him for advice and instruction. (18/34)

Thus having influential personages under his influence, Sevastianich uses the tactics common among subsequent legal predators: he stirs up a complicated case of boundless proportions:

With no less pleasure, Sevastyanich recalled how he, when the Chief-of-Police was faced with a demand for the restitution of a considerable accounting deficit, managed to involve up to fifteen people in the mess, to spread the deficit over the whole lot of them, and then place all of them under open amnesty. In short, Sevastyanich saw that in all the remarkable cases of the Rezhensk district court he had been the one and only culprit, instigator and executor; that without him the assessor would have been finished, as would the Chief-of-Police, the District Judge and the Marshal of Nobility. (19/37)

Sevastianich, like other legal predators, is not a victim of the limited perspective of the bureaucratic viewpoint. Unlike morally vacant characters, whose inaction does not necessarily reflect malevolent intentions, the legal predator is always portrayed to be fully aware of his wrongdoings and unashamed, even proud of them. But legal predators do not necessarily function merely as the object of scorn, spite, or hatred in the text. Sevastianich, for instance, along with other legal predators, is a more complex character who engages the reader's comedic sensibilities.

After he finishes most of the vodka, Sevastianich's solitude is broken by a voice that identifies itself as the disembodied consciousness of the unclaimed corpse. Toward the end of the story, Sevastianich, demonstrates that he cannot pass up an opportunity to benefit from even the most ludicrous legal scenario: he prompts the bodiless ghost for a bribe, at which point the voice must remind Sevastianich of the physical impossibility of delivering a bribe without having a body, and subsequently hands, to do so (21/42).

This moment, along with others in the text, renders Sevastianich a comedic butt. While representing comedy in the Satiric tradition in general (someone to be laughed *at*), and invoking Superiority Theory in particular, Sevastianich's deft yet reprehensible manipulation of the law and intentional subversion of ordinary logic, norms, and societal values also situate him as a comedic figure in the Populist tradition. Like other legal predators, Sevastianich is skillful in making a mess of the normal order of things; he enacts a sort of chaotic, Dionysian liberation from the normal social and administrative order. Sevastianich is 'good' at being 'bad;' his tricksteresque dethroning of social mores inspires a certain pleasure in the audience. In this type of comedy, in which the audience identifies *with* the comedic butt, the ultimate object of ridicule is social conventions themselves.<sup>309</sup>

It is precisely this sort of enjoyment that readers might derive as well from the entertaining exploits of Gogol's most famous protagonist, Pavel Ivanovich Chichikov. In many ways the hero of *Dead Souls* shares the mentality of a legal predator, although Chichikov is more methodical than compulsive. Chichikov is determined in his acquisitive exploits, ingenious in identifying and manipulating legal loopholes, and a practiced obfuscator in whom others detect

---

<sup>309</sup> Hokenson, *The Idea of Comedy*, 121.

something mysterious, demonic, and even insect-like.<sup>310</sup> But Chichikov is ultimately only an amateur legal predator, and his legal predation accounts for only a part of this character's disposition.

The real legal predator in *Dead Souls* is the unnamed lawyer (*iuriskonsul't*), whom Chichikov consults in Part Two of *Dead Souls*. Chichikov seeks out the services of the notoriously unsavory lawyer after he has been implicated in a fraudulent scheme. (Chichikov has falsified a will in order to enrich his comrade, the nephew of the deceased.) Like Seviastanich, the *iuriskonsul't* seems to wield some sort of "mysterious" power by means of which he evades the law, confuses cases, and deflects suspicion. The narrator introduces him as:

a man of extraordinary experience (*opytnosti neobyknovennoi*). For fifteen years he had been on trial himself, but he had managed so that it was quite impossible to remove him from his post. Everyone knew him, and knew that he ought to have been sent into exile six times over for his deeds. There were suspicions of him all around and on every side, yet it was impossible to present any clear and proven evidence. Here there was indeed something mysterious (*tainstvennoe*), and he might have been boldly recognized as a sorcerer (*koldunom*) if the story we are telling belonged to the times of ignorance (400/7:231)<sup>311</sup>

The lawyer attempts to train Chichikov in the ways of the professional legal predator by explaining his two primary predatory tactics: harnessing the power of the written word in legal documentation, and using obfuscation to deflect suspicion and implicate the innocent. The

---

<sup>310</sup> "I confess, I find Pavel Ivanovich Chichikov a most mysterious person," said Murazov. (414/7:246) Later, the narrator reports that "...the Old Believers were astir. Someone had spread it among them that an Antichrist had been born who would not leave even the dead alone and was buying up dead souls." (427/7:260). The Prince exhibits "that inexplicable feeling of disgust that a man feels at the sight of an extremely ugly insect that he does not have the courage to crush underfoot" (419/7:251).

<sup>311</sup> References in English to Part Two of *Dead Souls* are from the Pevear and Volokhonsky translation; Russian original citations refer to *Drugie Redaktsii* in Volume 7: 129-280.



lawyer instructs Chichikov to take another look at the will, to notice whether or not there might be “a little addition,” hinting that Chichikov should forge an amendment to the will to ensure a favorable outcome. He elaborates:

Only make sure that the case is all based on documents, that nothing is merely verbal. And as soon as you see that the case is reaching a denouement and can conveniently be resolved, make sure – not really to justify and defend yourself – no, but simply to confuse things [*sputat*'] by introducing new and even unrelated issues...To confuse, to confuse – nothing more...to introduce into the case some other, unrelated circumstances that will entangle [*zaputali*] other people in it, to make it complicated – nothing more...(401/7: 233).

Like all legal predators, the lawyer takes special pride in his predatory skills. The lawyer looks into Chichikov's eyes with “extraordinary pleasure, the way a teacher looks into his pupil's eyes...” The lawyer elaborates:

In a complicated case there's gain for many [...] more people must be drawn into the case. Never mind that some of them will get into it for no reason [...] to pay themselves off...So there's bread in it...Believe me, as soon as circumstances get critical, the first thing to do is confuse. One can get it so confused, so entangled [*pereputat*'], that no one can understand anything. Why am I calm? Because I know: if my affairs get worse, I'll entangle them all in it—the governor, the vice-governor, the police chief, and the magistrate—I'll get them all entangled...The crayfish thrives in troubled waters. (402/7:233)

In these two excerpts, Gogol's legal predator repeats variations on the root word “to muddle” (*putat*') as though they were an incantation or a motto: *sputat*'/*zaputat*'/*vsputat*'/*pereputat*'.

Thoroughly coached in the methods of legal predation, Chichikov concludes: “the man is indeed

a wizard” (402/7:233).<sup>312</sup> And, true to his word, the lawyer sets to work, developing “a case of boundless proportions” (*delo razmera bespredel'nogo*) in the courts and chambers (414/7:259). In his last remark about the lawyer, the narrator emphasizes his connection to the dark arts, as well as the machine-like nature of the legal system: “The lawyer, like a hidden magician [*skrytyi mag*], invisibly controlled [*nezrimo vorochal*] the whole mechanism [*mekhanizmom*]; he entangled decidedly everyone” (414/7:259).

Gogol’s narrator characterizes Chichikov’s lawyer as both a bottom-feeding crayfish and a hidden magician with invisible powers. In doing so, the narrator contributes to the general characterization of nineteenth-century legal predators as monstrous and therefore inhuman or less than human. Nineteenth-century writers regularly employ monstrous imagery that is anti-Christian or pagan in nature to describe legal predators. By associating legal predators also with the anti-Christian “unclean forces” (*nechistye sily*) of Russian folk tradition (evil spirits, demons, witches, wizards, shapeshifters, and the undead) and such feared or reviled species from the animal kingdom, narrators present the litigious character as both threatening and revolting. With their anti-Christian associations, characters such as Chichikov’s lawyer are presented as spiritually threatening. With their associations to carnivorous beasts who kill and eat their prey, predators with poisonous venom, or parasitic creatures whose gain sustenance from extracting blood or energy (or the metaphorical parasitism of extracting finances) from a host, these predators can also be perceived as physically threatening. The link to such vicious beasts, insects, or bottom-feeding creatures can also be used for comedic purposes, to demean and ridicule lawyerly figures by reducing their humanity.

---

<sup>312</sup> Volokhonsky and Pevear translate “*mudrets*” as “wizard.”

In *The Insulted and the Humiliated* Dostoevskii's Prince Valkonskii is described as a "spider" and a "reptile;" Ostrovskii's legal officials in *A Profitable Marriage* (1857) characterize themselves as "wolves;" Sukhovo-Kobylin's Tarelkin is "a particular species of reptile that inhabits only the Petersburg Swamp," "the most loathsome toad" and "the most dangerous and venomous snake;" he is also described as multiple incarnations of an "unclean force" (*nechistaia sila*) a "vampire," a "changeling," a "werewolf," and an "evil spirit"(209). Varravin and Tarelkin are both "antichrists" who work in the "wolf-pit" of the legal system.<sup>313</sup> Saltykov-Shchedrin's Porfirii Vladimirovich is a "Judas" and a "bloodsucker" who "glides like a snake" and a "murderer" whose eyes "cast a poisonous spell" and whose words can "rot a man."<sup>314</sup> Like a hungry spider or bat, Karenin's lawyer in Tolstoi's *Anna Karenina* compulsively hunts flying moths.

These associations suggest that legal predators both lack the conscience and the behaviors that befit a human being. Interestingly, even though the observations that Iurii Lotman makes in his article "Agreement and Self-Giving" refer strictly to the period of Russian history before the nineteenth century, his insights nevertheless remain relevant to this discussion of nineteenth-century legal characters. As discussed in Chapter Two, Lotman identifies and compares two modes of human interaction: the "magical" system of the legalistic contract between equal individuals (*dogovor*) and the "religious" interaction of self-giving between individuals of differing status (*vruchenie sebia*). Lotman postulates that a human being can only carry out the legalistic exchange with pagan or demonic figures—never the divine. Lotman cites as illustrations the folktales "The Peasant and the Bear," "The Gypsy and the Dragon," and the

---

<sup>313</sup> "Antichrists:" 98/146; "wolf pit": 96/143.

<sup>314</sup> The narrator and other characters refer to Porfirii Vladimirovich as "Iudushka" throughout the text; "krovopivets" 80/13:66; "poisonous spell" and "snake:" 82/13:67; "murderer:" 166/13:131; "rot a man:" 222/13:174.

narratives of St. Theophilus and the devil and “The Tale of Savva Grudtsyn” (in which the devil has serpentine characteristics). In the Russian literary context of the nineteenth-century, the archetypal connection between the devil and a contract has grown to include a host of additional associations to undermine the spirituality and the humanity of those willingly immersed in the domain of legal exchanges.

Lotman argues that the legalistic exchange is only permissible in dealings with the devil and pagan figures because the conventional (and therefore corruptible) nature of the signs involved in such exchanges precludes an interaction with a holy figure, who cannot be subject to deception or manipulation. Lotman’s point about the manipulative nature of conventional signs is also important to consider in view of the aforementioned incongruity between professional legal logic and ordinary logic, and specialized legal language and ordinary language. An example of the way that literary legal predators use the differences between the legal and the ordinary to victimize the innocent is mentioned in passing in Tolstoi’s *Resurrection*: ““I have seen how one public prosecutor did his very best to get a conviction for an unfortunate boy who could have evoked nothing but sympathy in a normal mind...in fact, the whole business of the courts consists in senseless [*bessmyslenykh*] and cruel [*zhestokikh*] actions of that sort” (366/13:334).

This senseless and cruel type of manipulation is an important characteristic for the legal predators especially in the works of Fedor Dostoevskii. Several of the numerous predators and unsavory characters that populate Dostoevskii’s texts are connected to the law in some way, but only one character from one of his lesser known texts stands out as an exemplary legal predator. Dostoevskii’s *The Insulted and the Humiliated* (*Unizhennye i oskorbliennye*, 1861) features a legal predator who actively enjoys engaging in legal cases, exhibits a keen ability to manipulate

the law, and is described as a detestable creature. Like Odoevskii's Sevastianich and Gogol's lawyer, Dostoevskii's Prince Valkovskii prides himself on his ability to implicate an innocent victim by manipulating the law. As in Pushkin's *Dubrovskii* and Gogol's "The Two Ivans," Valkovskii initiates legal proceedings against his former friend and neighbor, the impoverished landowner Nikolai Sergeevich Ichmenev.

Valkovskii does this not out of greed, but out of a desire to punish, and to be recognized as superior to, his neighbor. Just as in Pushkin's *Dubrovskii*, the guilt or innocence in the case is determined not by the truth, but by the influence of the wealthier neighbor. In this case, Valkovskii, just like Pushkin's wealthy landowner Troekurov, recognizes that the lawsuit he initiates is not morally just. However, Valkovskii believes Ichmenev's ensuing punishment to be deserved. Valkovskii uses the conventionality of words as a weapon to manipulate and confuse the uninitiated. Like other successful legal predators, Valkovskii understands the importance of documentary evidence, and cruelly uses this ingenuity to deprive his enemy of his "last crust of bread" (39/25).<sup>315</sup>

Valkovskii uses manipulative logic in his attempt to convince Vania, the novel's narrator, that Valkovskii's future plan to offer the impoverished Ichmenev the money Valkovskii has won from the lawsuit is motivated by honorable intentions. While admitting that Ichmenev is not guilty of the purported crimes described in the lawsuit, Valkovskii nevertheless attempts to persuade Vania that the lawsuit was indeed "just" and "legal," and, therefore, that the money is

---

<sup>315</sup> References are taken from the Citations of the original are taken from the Shartse translation of Fyodor Dostoevsky, *The Insulted and Humiliated*, trans. Olga Shartse (Moscow: Progress, 1957). References to the translation are followed by references to the original, separated by a dash, e.g. 39/25. Original citations refer to Fedor Dostoevskii, *Sobranie sochinenii*. 15 vols. eds. Georgii Fridlender and T.I. Ornatskaia. (Leningrad: Nauka, 1988). *Unizhennye i oskorblennye*, Volume 4:5-338.

Valkovskii's to offer. Vania recognizes that Valkovskii's ostensibly benevolent gesture is yet another attempt to humiliate and punish Ichmenev. Vania describes his reaction:

He produced on me the impression of some sort of reptile [*gada*], some huge spider [*ogromnogo pauka*], which I felt an intense desire to crush. He was enjoying his taunts at me. He was playing with me like a cat with a mouse, supposing that I was altogether in his power. It seemed to me (and I understood it) that he took a certain pleasure, found a certain sensual gratification in the shamelessness, in the insolence, in the cynicism with which at last he threw off his mask before me. He wanted to enjoy my surprise, my horror. (284/235)

Valkovskii's pleasure in such manipulation reveals him to be the type of legal predator that is not so much motivated by money as he is by the enjoyment of the sport of legal manipulation itself.

This scene is not overtly humorous, but something about the depictions of legal predators, as this episode illustrates, is enjoyable; this "certain pleasure" that the malicious Valkovskii experiences elicits a certain pleasure within the reader. As comedic theorist John Morreal explains, cognitive shifts such as those featured in Incongruity Theory do not evoke laughter in other aesthetic categories, including the tragic, grotesque, macabre, and horrible, bizarre, and fantastic. Morreal explains that in these other modes, especially in the grotesque, horrible, and macabre, the strange source of pleasure we feel in seeing a villain engage in delicious evil comes not from our own enjoyment of negative emotions or cruelty, but from "something accompanying them, such as admiration for the tragic hero, titillation, or relief from boredom."<sup>316</sup>

But readers' responses to literature are fundamentally subjective and dynamic. If a reader does detect something humorous in the exchange between Valkovskii and Vania, the Populist

---

<sup>316</sup> Morreal, *Comic Relief*, 74

tradition of comedy might offer the following explanation: the reader may take pleasure in Valkovskii's audacious rejection of social mores and moral instruction. Superiority theory, meanwhile, along with the general thinking of the satiric tradition, offers another interpretation of any pleasure experienced by the reader of this scene: by identifying with Vania, we enjoy the vantage point of moral superiority and the shared desire to imagine such a despicable character as a revolting insect that could be satisfyingly crushed. Valkovskii, like other legal predators, is a villain that readers love to hate.

That Valkovskii can use the law as a weapon to punish his former friend illustrates the limitations of a legal system that produces legally correct decisions rather than morally correct ones.<sup>317</sup> It is important to note that the unjust decision of Valkovskii's malicious and wrongful lawsuit, just like Troekurov's lawsuit against his neighbor in Pushkin's *Dubrovskii*, is carried out in absolute accordance with the law (as Shabashkin says, "*po zakonu*"). The notion that the legal system facilitates the legally-sanctioned persecution of innocent individuals is apparent in these texts, as well as in an anecdote relayed by Tolstoi's narrator in his final novel, *Resurrection*. When Nekhliudov first arrives to the court, he happens upon a conversation in which a man describes the extraordinary abilities of a "genius" lawyer who "managed to give such a clever twist to the case in which an old lady, though she had the right on her side, would have to pay a large sum to her opponent" (22/13:25). The narrator explains that "the judges knew all about the case...but the move they had invented was such that it was impossible not to take the old

---

<sup>317</sup> It is also worth considering how Valkovskii in Dostoevskii's text might also function to characterize Ichmenev as a guileless "tragic hero" by contrast. In some of Dostoevskii's texts, certain detestable predatory characters are characterized as having professional links to the legal sphere. Perhaps Dostoevskii capitalizes on the negative associations of lawyers and legal servitors when he assigns legal professions to the characters such as the manipulative prankster Goliadkin Junior (in *The Double*, *Dvoinik*) or the lecherous scoundrel Luzhin in *Crime and Punishment* (*Prestuplenie i nakazanie*, 1866). In other words, perhaps rather than using predatory characters to portray the law negatively, perhaps the law with its inherently negative associations, is used as a tool to lend a negative aspect or to indicate nefariousness in specific characters.

woman's property and not to hand it over to the shrewd plaintiff," a person "well versed in law who had no right to it whatsoever" (22/13:28). The legal predators who successfully achieve unjust outcomes all the while acting in accordance with the law reveal the legal system to be deeply flawed. Whereas the morally vacant character is at best a dim-witted and obstinately unhelpful automaton, and at worst a passive accomplice, the legal predator is always presented as an intentional victimizer.

In Sukhovo-Kobylin's *The Case*, the legal predator Varravin illustrates the extent of the cruelties that can result from the rigidity and absurdity of the legal system. In this example, the legal predator employs tactics of obfuscation and technicalities to entrap an innocent individual. Muromskii's daughter, Lidochka, has unwittingly become engaged to a local swindler, Krechinskii. When the authorities descend upon Krechinskii, having caught him in an act of fraud, a distraught Lidochka cries out in his defense, "It was a mistake" (86/129). But, just as Gogol's lawyer suggests that Chichikov make "a little addition" which he must be sure to "document" in writing, the corrupt legal predator who directs the unnamed department in Sukhovo-Kobylin's tragicomic play orders his underlings to testify that they heard a 'little addition' to Lidochka's outburst. In order to incriminate the rich merchant's daughter, and subsequently enrich the prosecutorial staff, two witnesses on behalf of the prosecution sign affidavits indicating that Lidochka in fact said "It was *my* mistake" (134/197). Based on this false testimony about this single possessive pronoun, the legal predator in charge, Maksim Kuz'mich Varravin, orchestrates a case of such magnitude that Muromskii not only relinquishes his entire fortune to Varravin, but, like Pushkin's Dubrovskii senior, he also dies as a result of the abuse carried out by representatives of the legal system.



Maksim Kuz'mich Varravin exhibits the typical characteristics of the legal predator: he demonstrates both the enjoyment and the ability of implicating the innocent by means of legal technicalities and general obfuscation. He and his underlings are also described in 'monstrous' and anti-Christian terms. Varravin is the mastermind who controls the mechanism of the plot to extort large sums of money from Muromskii in exchange for Lidochka's freedom. Like Dostoevskii's Valkovskii plays with Vania, Varravin similarly 'toys' with his 'prey.' Employing double-entendre and engaging in the type of word play that Lotman associates with legalistic interactions, Varravin obliquely threatens Muromskii. In a comment that likely references the well-known proverb about the law, "The law is like an axle; it will go whichever way you turn it," Varravin tells Muromskii that his case is "shaky [*kachatel'nost'*]" and "two-sided," gesturing as he explains, "this is why the whole thing could go one way or the other...this way or that way... [*tuda...to i siuda*]" (135/199). Muromskii replies with irony, making a swinging gesture with his hands, "I see, either this way...or that way, eh?" (135/199). "Yes!" Varravin responds, continuing, "The Goddess of Justice, you know, Themis, is symbolized by the scales and the sword" (135/200).<sup>318</sup> With the sword, Varravin explains, the Goddess cuts. But "on the scales," Varravin says suggestingly, "she bargains" (135/200).<sup>319</sup>

Varravin's denigration of the Goddess of Justice to a merchant who uses a scale not to decide the fates of man but to determine the price of an acquittal is simultaneously humorous and tragic in its incongruity. The episode also features another type of humor in comedic theory that bears mention: Relief theory or Psychic release theory. As Varravin begins to explain to the

---

<sup>318</sup> Segel omits the name of the Goddess, *Femida*, which I have inserted to reflect the original.

<sup>319</sup> As noted, this could be a reference to the famous *poslovitsa*: "*Zakon chto dyshlo – kuda povernul, tuda i vyshlo*" (The law is like a steering rod; it goes whichever way you turn it). Julia Bekman Chadaga notices a similar realization of a metaphor used in the famous *poslovitsa*: An early draft of kapnist's *Chicanery* has them profaning the symbol of justice, using the *zertsalo*, the symbol of uncorruptible justice, as a weather vane, to realize the metaphor in the *poslovitsa*. See Chadaga, "Mirror Writing," 87.

merchant that “it’s as though the law in all its power to punish the guilty raised its sword up...and was asking, ‘Where am I to strike, Varravin?’” the legal predator suddenly raises his hand and dramatically advances upon Muromskii (135/199). The brief threatening moment dissipates when Varravin does not intend to strike Muromskii, but is merely posturing in order to scare the merchant into loosening his pockets, the reader may experience a moment of comic relief.

Comic Relief Theory, also known as Psychic Release Theory, suggests that laughter is the emission of nervous energy that occurs when disaster is averted or when our fears turn out to be unfounded.<sup>320</sup> Laughter in Relief Theory does not involve any feelings of superiority, but is rather simply a way of “discharging nervous energy found to be unnecessary.”<sup>321</sup> The dénouement of this scene occurs at the height of the perceived threat: Varravin has initiated what appears to be a physical attack on Muromskii, but suddenly abandons the attack, to reveal only that what he truly wants to achieve is to enrich himself. The threat is revealed to be overly dramatic posturing that poses no physical danger to Muromskii. As a result, there is a brief moment of relief. Yet, as with most comedy in legal-literary scenarios, the surface comedy merely provides a thin veil over a much darker reality; although Varravin does not strike Muromskii physically, ironically, Varravin’s attempts to extort and implicate Muromskii’s family ultimately does result in the merchant’s death.

Sukhovo-Kobylin’s legal predator employs obfuscation as a favorite method of legal predation. Lidochka’s aunt Atueva explains the affair to a family friend, Nelkin: “They went through the whole house examining, interrogating...you can imagine the confusion [*putanitsa*]”

---

<sup>320</sup> T.G.A. Nelson, *Comedy*, 7.

<sup>321</sup> *Ibid*, 17.

(97/145). Nelkin responds, “They really wanted to confuse [*putat’-to*] everything.” Atueva attributes malicious greed to the general legal profession, explaining that even the lawyer whom Muromskii had hired as an advocate only swindled him as well. She reports that Muromskii:

got a hold of his lawyer [*striapchii*], gave him money, and they worked out some arrangement...I’ll tell you, though, that as soon as he gave the money, the case was lost. Things got even worse. Now everything was lost. You give the money and then they say they never got it...Don’t believe them, they’re all thieves [*vory*], and the lawyer keeps half for himself. Then they start asking questions...Afterward it went to court, and then even further. What went on, I really don’t know. The case kept getting bigger and bigger...They dragged us from one office to another, and that’s how it’s been for five years now. (99/146)

The “director” of this legal department, Varravin, is associated with the trifecta of motifs (supernatural monsters, predatory animals, and anti-Christian forces) assigned to legal predators by their fellow characters: Krechinskii, Lidochka’s swindling fiancé, calls Varravin’s operation a “wolf pit [*volch’ikh iam*] of legal procedure” (97/143). Muromskii likens Varravin’s office to the biblical tale of Daniel in the lion’s den, thinking to himself, “My God...a wolf pit [*volch’ia-to iama*], that’s what this place is” (103/265).

When speaking about her interactions with Varravin and his underling Tarelkin, Lidochka’s aunt reports that she “spit in their faces and called them antichrists” (98/146). Muromskii’s wise steward Razuvaiev similarly characterizes Varravin and his entire species of officials as a new “breed of antichrists.” Having personally fallen victim to Varravin’s vicious departmental predecessor, Razuvaiev explains that this previous master legal predator, after receiving the requisite bribe, resolved the matter with “one wave of his hand” (as though invisibly or magically) and therefore represented a “golden idol,” and one of many “wolves” and

“reptiles without number” (112/165-166). Razuvaiev explains that Varravin’s predecessor, Varravin, Tarelkin, and their milieu belong to a particular type of parasite that has become like a plague in Russia:

... that this antichrist hasn’t just been born but has been living for a long time....This antichrist is in the government service...and he himself has fathered an abundant and predatory race [*plemia obil’noe i khishchnoe*], and all these big and small officials, this race of antichrists, has surrounded our whole Christian land...(112/167).

Varravin’s very name is an anti-Christian reference, evoking the biblical figure of Barabbas, the notorious thief whose death sentence was commuted in place of Christ’s, thereby indirectly contributing to the crucifixion of Christ.

Despite Varravin’s cruelty, there is nevertheless some pleasure to be gained in witnessing a character who is so ‘good’ at being ‘bad.’ The comedy survives despite the tragic cruelty done to the victims because Sukhovo-Koblyin does not present the victims as sympathetic characters: Muromskii is irritatingly obstinate; Lidochka is ridiculously naïve; Atueva is meddlesome and commandeering. The audience’s compassion for these victims is aroused just enough to create a sense of drama, but not enough to overwhelm the comedic moments in the trilogy. The pleasure we derive in watching Varravin torture his victims by “catching” them on the “rod of legal procedure” may in part derive from that populist humor mentioned in the above discussion of Odoevskii’s *Sevastianich*: we can either laugh *at* the comic protagonist as an intended object of derision or correction, “as a deviant from social norms (thereby reinforcing superior socio-moral values),” or we can laugh *with* the comic character as a protagonist who is “doing battle with the social establishment (thereby ratifying the insurgent impulse to alter the social order.”<sup>322</sup> In some

---

<sup>322</sup> Hokenson, *The Idea of Comedy*, 24

ways, then, the legal predator can be perceived as a form of trickster, whose clearly taboo actions might appeal to that part of human nature which seeks to rebel against the norms that comprise a system of social order. In this sense, the legal predator, like the trickster, can be simultaneously appealing and repugnant.<sup>323</sup>

Sukhovo-Kobylin's employment of humor in his trilogy also illustrates another function of comedy in the literary-legal scenario: the Theory of Play. This theory promotes the notion that humor emerges as a way to signal the lack of a threat. Twentieth century ethnologists, who study play among animals, have speculated that human laughter evolved as a play signal. Jan van Hooff, the major pioneer of such research, suggests that social smiling likely evolved from facial displays such as the grin or the grimace exhibited by earlier primates. These displays originally began as protective or defensive responses to startling stimuli (as in the instinctive preparation to bite, for instance). Over time, this display evolved into a signal of submission and non-hostility. The silent bared-teeth display of the smile became a friendly signal, and correspondingly, laughter became a signal to distinguish play fighting from real fighting.<sup>324</sup> In modern society, individuals use smiles and unmotivated laughter to signal friendliness, and humor is used by individuals to soften criticisms of others in a variety of social settings.

Play theory offers another dimension to the understanding of the use of humor in literary depictions of the law: to present the criticism of the law in a package that is wrapped in humor, innuendo, and wordplay is a way for authors to soften the sting or the blow caused by exposing the flaws of the legal administration. In other words, perhaps one of the reasons that the legal scenario so often involves comedy is that it is one of the few ways to distract a reader from the

---

<sup>323</sup> For a detailed analysis of "righteous tricksters" who manipulate legal mechanisms in the name of justice, see Anna Krivoruchko, "Justice and How to Attain it," 171-180.

<sup>324</sup> Morreal, *Comic Relief*, 40-41.

horror of a situation while subtly also calling attention to that situation. Without its humor, the scene in which the childishly dimwitted Liapkin-Tiapkin suggests to cover up the abusive neglect of the hospital patients would likely be received in a much different manner. It may seem shocking to modern day readers that the reactionary Nicholas I was amused by the performance of *Revizor*, which many readers and viewers regarded as a humorous but biting satire of provincial Russian administration. However, the comedic elements of the play distract so powerfully from any outrage at the abuses and corruption of the provincial authorities that likely the comedy did not appear as an aggressive attack on the Russian imperial administration. In terms of Play Theory, the work can appear to be innocuous “play fighting” rather than “real fighting.”<sup>325</sup>

---

<sup>325</sup> Several authors use a technique of distancing in which they claim that the abuses that are being derided or mocked in a text are not a criticism of the current conditions of the judicial administration but are rather mocking them as vestiges of the past. Gogol’s *How Ivan Ivanovich Quarrelled with Ivan Nikiforovich*, for instance, had a preface that indicated that Dem’ian Dem’ianovich and Petr Fiodorovich are representatives of a long-gone corrupt judicial system, and that all of the current legal functionaries are good. (Долгом почитаю предуведомить, что происшествие, описанное в этой повести, относится к очень давнему времени. Притом оно совершенная выдумка. Теперь Миргород совсем не то. Строения другие; лужа среди города давно уже высохла, и все сановники: судья, подсудок и городничий люди почтенные и благонамеренные.) This preface was removed. See the Commentary to “The Two Ivans” in the *PSS*, 2:682-685. This technique was used frequently in the preceding eighteenth century, as J.D. Welsh writes: “Malpractices in the administration, especially the workings of the provincial law-courts, had been the object of satire since the 16th century, where it was expressed in popular sayings, rhymes and songs. Kantemir derided the conditions of Russian legislation in the 1730s, as did other writers. Catherine’s own fondness for laying down the law caused her to make several attempts to improve the chaos, and when Novikov published articles in 1769 condemning bribery in the law-courts, she refuted his charge as ‘lies.’ However, she added the proviso that if sporadic cases still occurred in the provinces, they were merely ‘vestiges of the past’ rapidly being amended. All the playwrights who dealt with this topic adopted Catherine’s view, and made it clear that bribery, as a vestige of the past, was disappearing or had already done so. Fonvizin’s *Sovetnik* was able to admit in *Brigadir* (1769) that he had taken bribes when serving in a provincial court, but had been forced into retirement as a result of Catherine’s decree against bribery of 1762. In the same play, *Dobrolyubov* declares ‘formerly it was possible to expedite a judgment by bribing court officials,’ but that ‘nowadays, judges dare not accept bribes’ (III, 6). A variation on this method of satirising bribery was employed by Volkov in *Vospitaniye* (‘Education,’ 1773), where it is the judge’s wife who takes money in order to keep her husband’s hands ‘clean.’ Similarly the court secretary in Veryovkin’s *Tak i dolzhno* (‘How Things Ought to Be,’ 1773) accepts bribes on behalf of his master, the *voyevoda Bezchotnyy*. The hero of this play emphasises that such abuses would not occur if ‘the authorities’ (i.e. Catherine) knew what was happening. Kapnist’s *Iabeda* (‘Chicanery,’ 1793) was the apotheosis of satirical comedy aimed against corruption in the provincial law-courts. But, in addition to implying in his denouement that the officials he depicted were exceptions, Kapnist also insisted that the portrayal of the judge Krivosudov and his court officials was no longer true of Russian legislation. In his preface to *Iabeda*, Kapnist declared: ‘I must point out that in my comedy I have depicted members of a former civil court, the composition and powers of which have, as the result of various faults, long since been altered by the Sovereign ... I hope impartial readers will not accuse me of

A final noteworthy legal predator who cuts quite a comedic figure appears in a work by an author not normally known for his comedic tendencies. In Lev Tolstoi's *Anna Karenina*, the titular character's husband visits a divorce lawyer to inquire about his options. This unnamed lawyer exhibits the characteristics of the legal predator (a manipulative legal prowess and likeness to a predatory animal). The narrator uses proximity to liken Karenin's lawyer to an insect-hunting creature. As he sits uncomfortably before the lawyer upon whose expertise he depends, Karenin appears as vulnerable as the moths that the lawyer catches with his bare hands:

[The lawyer] himself sat down in the presiding seat, rubbing his small...hands...and inclining his head to one side. But he had no sooner settled in this position than a moth flew over the desk. With a dexterity one would not have expected of him, the lawyer spread his arms, caught the moth, and resumed his former position. (366/8:403)<sup>326</sup>

The lawyer's physical gesture of rubbing together his hands resembles the common, often unconscious universal human gesture made before indulging in a meal. The narrator indicates the lawyer's satisfaction at catching the moths, as well as at 'catching' a powerful man such as Karenin in a vulnerable situation.

"You know my name?" Alexei Alexandrovich continued.

"I know you and your useful" – he again caught another moth – "activity, as every Russian does," the lawyer said with a bow...

"I have the misfortune," Alexei Alexandrovich began, "of being a deceived husband, and I wish to break relations with my wife legally"...

---

having exposed to ridicule the blame-worthy activities of a court which has now ceased to exist. ...' It is doubtful whether any of Kapnist's precautions deceived contemporary audiences, and the play was hastily with- drawn after four successful performances in St Petersburg." See also: N. A. Dobroliubov, 'Russkaya satira v veke Ekateriny II-oy,' in *Sobraniye sochineniy v tryokh tomakh* (Moscow 1950-2) 2:350.

<sup>326</sup> All references in the text are from the Pevear and Volokhonsky translation of *Anna Karenina*, followed by the volume and page number of Tolstoy's *Polnoe sobranie.*, e.g. 366/8:403). Leo Tolstoy, *Anna Karenina*, trans. Richard Pevear and Larissa Volokhonsky (New York: Penguin, 2001). Leo Tolstoi, *Anna Karenina* in *Sobranie sochinennii v 22 tomakh*, ed. M. B. Khrapchenko (Moskva: Khudozhestvannaia literatura, 1983).

The lawyer's grey eyes tried not to laugh, but they leaped with irrepressible joy, and Alexei Alexandrovich could see that it was not only the joy of a man who was receiving a profitable commission – here there was triumph and delight, there was a gleam that resembled the sinister [*zloveshchii*] gleam he had seen in his wife's eyes. (367/8:403)

Recognizing the inappropriateness of his gleeful reaction to Karenin's words, the lawyer allows a third moth to escape unharmed. The lawyer dropped his eyes to Alexei Alexandrovich's feet, sensing that his look of irrepressible joy might offend his client. He saw a moth flying just in front of his nose and his hand jumped, but he did not catch it, out of respect for Alexei Alexandrovich's position. (367/8:402)

Tolstoi's example is a testament to the allure of the predatory theme and the use of dark comedy in the literary depictions of legal characters. Whether because these characters appear to be enigmatic workers of dark magic, ravenous beasts, or devils, legal predators are depicted as inhuman figures who are threatening to the human spirit. And though the malicious, hungry, fervent nature of the personalities of these legal predators are not presented as a product of their involvement with the legal system, the legal system is nevertheless implicated by their actions. Without the absurd or rigid limitations of the legal system that make it prone to abuse, legal predators would not be able to thrive. The composite portrait of these legal characters, from Gogol's Dem'ian Dem'ianovich to Karenin's lawyer, suggests that in the legal system, an individual may find him or herself at the mercy of a dehumanized mechanism operated by unthinking automatons and manipulative 'monsters.' Redemption, mercy, or moral justice are not to be found in the legal sphere.



## The Questioner

“Imagine!” said Nekhliudov to the lawyer. “This is appalling. A woman who has been kept in solitary confinement for seven months turns out to be quite innocent... Why have they been keeping her?”

“Oh, it’s best not to look too deeply into it.”

Fanarin continued... “[I]f I am not in prison, and you, and all of us, it is only owing to their kindness. To deprive us of our privileges, and send us all to Siberia, would be easy for them.”

“Well, if this is so, and if everything depends on the prosecutor and others who can, at will, either enforce the laws or not, what are trials for?”

The lawyer burst into a merry laugh.

“You do put strange questions. My dear sir, that is philosophy.”

*Tolstoi, Resurrection*

A third important recurring legal character in nineteenth-century literature, the questioner, illustrates the futility of attempting to combat both the inertia of legal mechanisms or the rapaciousness of legal predation. The questioner is often a member of the legal bureaucracy—either a legal predator, a morally vacant character, or an underling—whose consciousness is disturbed (often suddenly or abruptly) by the limitations, absurdity, or cruelty of the law. By demonstrating enough of an expanded consciousness to be able to acknowledge these faults of the system (as well as their own complicity in it), the questioners reveal a surprising modicum of humanity in the dehumanized legal sphere. Ultimately, however, the questioner only reiterates the futility of searching for something meaningful or humane in the legal system: every questioner’s efforts are ultimately defeated, truncated, or rendered irrelevant.

Legal questioners appear in two varieties: *lifelong* questioners, who struggle due to their failure to conform to the bureaucratic or predatory legal environment, and *sudden* questioners:

veteran legal bureaucrats who experience belated or momentary revelations. The lifelong questioners consciously oppose the cruelty and absurdity that occurs in the legal system, while the questioning of the latter characters usually only develops in response to a nagging sensation of sudden doubts about operations done according to the law. Because their moral sensibilities prevent them from developing the moral vacancy that is both the “occupational hazard” and the primary skill necessary to become a successful legal bureaucrat, lifelong questioners never attain a high enough rank to effect any change. These characters, exemplified by Vasilli Nikolaevich Zhadov and the *striapchii* Dosuzhev in Ostrovskii’s *A Profitable Position* (1857), the clerk Shilo in Sukhovo-Kobylin’s *The Case* (1861), and the chief prison inspector and an unnamed general in Tolstoi’s *Resurrection* (1899) suffer for their vain attempts to oppose the pernicious culture in which they work. The only outcome for the lifelong questioner is rejection from the system (as happens to Zhadov and Tolstoi’s inspector) or ruin (as happens to Ostrovskii’s *striapchii*, Sukhovo-Kobylin’s Shilo, and Tolstoi’s general).

The lifelong questioners in the texts by Ostrovskii, Sukhovo-Kobylin, and Tolstoi above recognize that they cannot change the system in which they participate. These characters are unable to adopt the myopic tunnel vision and are thus unable to sublimate their objections to the cruel and unfair system. These characters maintain their opposition to the system in a variety of subtle ways for which the system punishes them.

The *striapchii* (lawyer or legal clerk) Dosuzhev in Ostrovskii’s *A Profitable Position* epitomizes the sufferings and experiences of the lifelong questioner. In this play, the central character is Nikolai Vasil’evich Zhadov, a young man just beginning his career. Much to the dismay of his fiancée’s family, Zhadov refuses to participate in the pervasive culture of bribe-taking. This earns Zhadov the animosity of his colleagues and the dissatisfaction of his

impoverished bride. Zhadov despairs over his inability to contradict his moral stance, knowing that this decision will result in financial destitution. Zhadov's encounter with an unnamed *striapchii* in a tavern illustrates the limited options available to those who question the moral foundation of legal procedures. The *striapchii* recognizes a fellow questioner in Zhadov, and begins to explain his own survival strategy, in which he makes good money by writing unnecessarily wordy legal petitions for clients, and charging by the page:

I'm an awfully good lawyer [*iurist*]. You were a student, I can see that, and I was a student too. I took a job with a small salary. I can't take bribes, that just isn't my nature, but a man has to have something to live on. Then I had an inspiration. I took up law and went in for writing up touching legal requests for merchants....so I started writing them to suit their taste [...] You need a lot of will power not to take bribes from them. They laugh at an honest official, and they're only too ready to humiliate him because they find him inconvenient. So you have to be hard as flint [*kremnem*!] But really now, what's the point in being a hero! Just worm a fur coat out of him and be done with it. The trouble is, I can't do that. So I just take money from them for their ignorance, and I drink it up.  
(49/2:79)<sup>327</sup>

The *striapchii* represents an example of how a questioner can 'make a living' even while refusing to accept bribes. Yet due to the legal culture, the *striapchii* still feels compelled to engage in deceptive behavior, and, as often happens with questioners, the lawyer's moral repugnance manifests itself externally through alcoholism. As Marjorie Hoover explains in her biography of Ostrovskii, "However profitable it may be, though, [the *striapchii*'s] work has so undermined his self-respect that he has taken to drink. He even sends Zhadov, usually a

---

<sup>327</sup> All references to Ostrovskii's "A Profitable Position" in the text are from the Harold B. Segel translation (modified when necessary), followed by the volume number and page of Ostrovskii's original PSS, e.g. 79/2:225. Aleksandr Ostrovskii, *Polnoe sobranie sochinenii*, 16 vols. (Moskva: Gosudarstvennoe izdatel'stvo khudozhestvennoi literatury, 1949-1952). See Alexander Ostrovsky, *Without a Dowry and Other Plays*, trans. Norman Henley (Dana Point: Ardis, 1997).

teetotaler, home drunk.”<sup>328</sup> The *striapchii* may disagree with the amoral legal culture in which he works, but he recognizes the futility of opposing it.

Sukhovo-Kobylin’s play *The Case* similarly features a lifelong questioner despised by the corrupt legal predators and morally vacant figures under whom he works. In the stage notes, Sukhovo-Kobylin lists the underlings who work in the office of the legal predator Maksim Kuz’mich Varravin. These include the generically-named clerks Gerts, Sherts, and Shmerts, who are identified not as living beings but as parts of the bureaucratic machine: the stage notes describe these three figures as the “wheels, pulleys, and pinions of bureaucracy” (92/137). In opposition to these generically-named clerks, Kasian Kasianovich Shilo stands out as a nonconformist individual detested by those ‘wheels’ and ‘pulleys’ who consider him an irritating obstacle to the smooth (criminal) operations of the department.

A recent transfer to Varravin’s department, Shilo is the only official to cast doubt on the legitimacy of its operations. His correct characterization of the case against Lidochka as “mere intrigue” based on “nothing more than supposition” proves an irritating if inconsequential nuisance (122/181). Varravin’s assistant Tarelkin tells Varravin “we ought to get rid of” Shilo because he is a “troublemaker” who “gets in [the] way” (129/190). Two other generically-named clerks share Tarelkin’s sentiments. The underling Chibisov says to his fellow clerk, Ibisov about Shilo: “I’d hang him with pleasure,” to which Ibisov responds, “And I’d buy the rope” (126/188).

Like Ostrovskii’s Zhadov, Shilo suffers financially as a result of his unique moral grounding. Shilo admits to a colleague that he can afford neither to eat regular meals nor to heat

---

<sup>328</sup> Marjorie L. Hoover, *Alexander Ostrovsky*, (Boston: Twayne, 1981), 92. See Aleksandr Ostrovskii, *Dokhodnoe Mesto* (Moskva: Iskusstvo, 1950) 64-66.

his apartment. A hostile colleague notes that Shilo “has had a rough time of it” and taunts Shilo for having been ejected from two previous offices (127/188). A lifelong questioner, Shilo is not welcome in any department in which corruption lurks, leaving him few options. Tarelkin’s eagerness to dispose of Shilo suggests that the clerk will not long remain in the service of the vicious Varravin.

Tolstoi’s *Resurrection* also contains an episode in which a lifelong questioner is punished for defying the cruelty or unfairness of the legal system. When the novel’s protagonist, Prince Nekhliudov, first begins his quest to rectify the wrongful conviction of his former mistress, Katerina Maslova, he encounters an elderly chief prison inspector. Nekhliudov comments on the inspector’s apparent emotional weariness and dissatisfaction with his occupation:

It was evident that, artful, old and common as were the devices enabling men to do evil to others without feeling responsible for it, the inspector could not but feel conscious that he was one of those who were guilty of causing the sorrow in this [jail]...[It] was apparent that this troubled him greatly. Terrible were the brutalized jailers...who were certain that they were fulfilling an important and useful duty; but most terrible of all seemed this sickly, elderly, kindhearted inspector... (207/13:194)

In opposition to the morally vacant characters, who use the rigidity of the law as an excuse to avoid regarding those implicated in the legal system as human beings, the elderly inspector agrees to ignore certain rules and allow special exceptions in order to ease the suffering of the incarcerated. Because such humane behavior contradicts the culture of the justice system, however, the inspector does not last long in his position.

When Nekhliudov returns to the prison for the last time, he is not permitted to meet with Maslova because, as Nekhliudov learns, the old inspector has been dismissed and “a new, very severe official” has been appointed in his place (345/13:315). The guard who delivers this news

repeats the narrator's previous characterization of the situation: "they are so strict nowadays, it's terrible" (345/13:315). One terrible situation in which a man is ordered to perform duties he considers to be cruel is merely replaced by a new terror; a morally vacant character who unquestioningly facilitates the procedures of a terrible and cruel system. Like other lone questioners, the kindhearted inspector manages to create a nuisance or a hindrance to the system, but as in other texts, the system inevitably prevails.

In contrast to the lifelong questioners, the sudden questioners are career bureaucrats who only begin to reevaluate the legal system as a result of sudden stirrings of conscience. The revelations made by these powerful bureaucrats, however, are either incomplete or occur too late in a case or a career to reverse cruelties perpetrated by the legal system. Powerful morally vacant characters and legal predators who become sudden or momentary iconoclasts include Gogol's Prince in Part Two of *Dead Souls* (1842), Sukhovo-Kobylin's Tarelkin in *The Death of Tarelkin* (1869), Saltykov-Shchedrin's "pompadour" (governor) in the story "The Doubting Thomas" (*Somnevaiushiisia*, 1873), Saltykov-Shchedrin's Porfirii Vladimirovich in *The Golovlev Family* (1880), Tolstoi's Ivan Il'ich of *The Death of Ivan Il'ich* (1886), Tolstoi's appellate judge Selenin, and, in an sense, the protagonist Prince Nekhliudov in *Resurrection* (1899).

In many of these instances, the powerful questioner eventually recognizes that despite his rank, he is merely an insignificant member of the hierarchical machine of legal bureaucracy, and that his influence is in fact limited (Tolstoi's Ivan Il'ich, Saltykov-Shchedrin's Pompadour, Sukhovo-Kobylin's Tarelkin, and Tolstoi's Nekhliudov). In other cases, the delayed revelations occur too late either to redeem the character's conscience or to achieve absolute vindication of the wronged party (Gogol's Prince, Saltykov-Shchedrin's Porfirii Vladimirovich Golovlev, Sukhovo-Kobylin's Tarelkin, and Tolstoi's Selenin).

In the legal culture as it is depicted in these literary texts, there is no room for questioners; the inertia of the system is strong, and it subsumes or rejects those who attempt to fight the momentum. The way in which the legal culture ‘destroys’ these vulnerable questioners is yet another form of the law’s cruelty. The second type of questioners, men of consequence who belatedly or suddenly begin to question their profession, similarly fail to rectify wrongdoings or make lasting changes to the system.

The sudden questioning that occurs with this type of character can usually be ascribed to a particular catalyst. Gogol’s unnamed Prince, for instance, proposes an unorthodox approach toward the judicial system as a direct result of a particularly egregious case of judicial corruption (perpetrated by Gogol’s legal predator, Chichikov’s lawyer). Sukhovo-Kobylin’s Tarelkin becomes a questioner when he finds himself the victim of the very legal system for which he had worked; Saltykov-Shchedrin’s Porfirii Vladimirovich Golovlev and Tolstoi’s Ivan I’lich both become questioners due to deathbed regrets; Saltykov-Shchedrin’s Pompadour becomes a questioner when he learns that his governing powers are not absolute; finally, Tolstoi’s Selenin becomes a questioner when Nekhliudov reminds Selenin of the value of morality over legality.<sup>329</sup>

Saltykov-Shchedrin’s story “The Doubting Thomas” (1873) is an unusual vignette dedicated entirely to a brief period of questioning experienced by a morally vacant career bureaucrat. Saltykov-Shchedrin’s story illustrates the extremely profound and difficult shift in mindsets required to force a lifelong morally vacant bureaucrat event to begin to begin a critical

---

<sup>329</sup> Nekhliudov is something of an outsider, but shares many characteristics with the questioner. He doesn’t necessarily have power within the judicial system, but has enough status to affect certain outcomes of cases. His catalyst, of course, is seeing his former mistress in court, and realizing that by abandoning a young woman with very few resources, he contributed to the degradation of her social and moral standing. His guilt brings about an awakening of consciousness, but rather than sublimating it like a questioner, Nekhliudov investigates and pursues it. He succeeds in experiencing redemption or a “resurrection” of sorts, but fails to secure a full pardon for Maslova’s wrongful conviction.

or self-reflective mental process. It also demonstrates how the culture of legal administration ultimately eradicate such doubts (or the doubters).

The story begins when a provincial governor, introduced by the narrator as The Pompadour, suddenly learns “of the existence of the law, which, it seemed, put certain limits to what a pompadour could and could not do” (128/8:123).<sup>330</sup> Absurdly and comically, the governor, it appears, had been hitherto unaware that his authority is not boundless. This newfound knowledge of the law’s existence, combined with his lack of understanding of his own authority in relation to it, sends the pompadour into a dizzying, shortsighted, and ultimately short-lived existential crisis.

After learning of the law’s existence, the Pompadour is suddenly aware of its threatening power (which the narrator describes with predatory and demonic imagery). When passing by the cupboard of laws in his office, the pompadour feels “as though someone had touched his bare skin with a red hot poker” and suspects that “a serpent was hiding in that cupboard” (128/8:124). The pompadour finds the law threatening because its presence means that he could at any time be found in violation of the “mysterious” law contained in the cupboard’s volumes (128/8:123). To his repeated inquiries of whether he can continue to administer his “uncomplicated justice” (*neslozhnogo pravosudiia*) as he had done before he knew of the laws, he receives only conditional responses: Everything, the secretary tells him, is acceptable, “Up-to-a-point” and “For-the-time-being” (128/8:124; 130/8:126).

The pompadour begins to realize that the whole judicial and administrative system is a bureaucracy built upon empty signifiers of professional titles, that those who serve under those

---

<sup>330</sup> All citations are from the Magarshack translation “The Doubting Thomas” followed by a page number from Saltykov-Shchedrin’s *Sobranie sochinenii*. Mikhail Saltykov-Shchedrin, *The Pompadours: A Satire on the Art of Government*, trans. David Magarshack (Ann Arbor: Ardis, 1985). Mikhail Saltykov-Shchedrin, *Pompadury i pompadurshi, Sobranie sochinenii*. 20 vols. (Moscow: Khudozhestvennaia literatura, 1969) 8:123-141.



titles are merely provisional placeholders. He reasons, “Today I’m a pompadour and I stand briskly and upright, while tomorrow another pompadour, a pompadour to the second degree, arrives and he breaks me across his knee” (135/8:129).<sup>331</sup> The Pompadour recognizes that the legal bureaucracy functions similarly to a perpetual-motion machine: even if the Government Inspector, for instance, were to arrive and reprimand him for the “uncomplicated justice” he administers, it scarcely matters, for, after all, he reasons, “the Government Inspector himself is only just another pompadour... (134/8:129)” Not only does he recognize the conditionality of his rank; he begins to doubt his own purpose. The governor wonders, “if there’s a law and if that law can do everything, then what am I doing here as pompadour?” (139/8:134).

The pompadour’s inability to reconcile the distribution of authority between his position and the heretofore unknown law results in an existential crisis. The former morally vacant bureaucrat longs for his previous ‘myopic’ perspective, which prevented such questioning: “If I had not seen ‘the law’ with my own eyes, I shouldn’t have minded so much: I could have gone on drawing my salary and the law could have gone on standing on a shelf in the cupboard” (139/8:134).

Unable to unsee the law or unlearn of its existence, however, the pompadour sets out to determine whether ordinary citizens view the law or the governor as the prevailing authority. While at the market, the disguised Pompadour questions the locals, who only reinforce the prospect of the pompadour’s irrelevance. “I’m telling you, sir, everything’s up-to-a-point and for the time being,” says a local. “You leaves your home and goes to the market but whether you comes back safe and sound, that, sir, you can’t say for certain... They may issue a new law

---

<sup>331</sup> Magarshack has: “Today I’m a Pompadour and I walk about like a monarch in all his glory.” My rendering is more literal.

against you or something” (139/8:137). The commoners live neither according to the precepts of the law nor to the ‘uncomplicated justice’ of the Pompadour; they ignore both, trusting instead in predestination. Offended, the Pompadour attempts to re-adopt his formerly limited perception: “he hastened to suppress [*skomkat*] this chief result of his investigation and to swallow [*proglotit*] the insulting implication it contained by pretending that he had never noticed it” (145/8:140).<sup>332</sup>

Just as Shilo’s and Zhadov’s colleagues rush to suppress any sign of doubt in their subversive colleagues, the Pompadour’s colleagues reflexively attempt to stifle his newfound curiosity about the mysterious law. The Pompadour asks for advice for those in attendance at the noblemen’s club. One *striapchii* tells him, “Chuck it!” adding, “The law be damned! The law’s on a shelf in the cupboard. Don’t pay any attention to it, old man, just press harder! [*napirai plotnee*]” (145/8:140). When the Pompadour protests, “But didn’t you tell me yourself that I could do that only up to a point and for the time being?” The *striapchii* responds: “Exactly, that means—press harder!” (145/8:140).

The Marshal of Nobility responds similarly, telling the Pompadour “Forget it...Leave it alone” (146/8:146). Finally, to silence the Pompadour, from “every corner of the room” noblemen shout unanimously, “Forget it!” and “Press harder” (146/8:146). In the face of such an overwhelming pressure to ignore both the conditionality of his position, to ignore the law, and to resume his former ways as a morally vacant character, the pompadour finally agrees to sublimate his doubts once and for all. Thus encouraged to resume his “let him have it” style of “uncomplicated justice,” the Pompadour strides into his general office the very next morning “feeling at peace with the world” (146/8:146). Though this questioner is in a position of power,

---

<sup>332</sup> Magarshack’s translation reads “humiliating” instead of “insulting” to render “*obida*.”

he succumbs to the greater power of the legal culture, which successfully denies any attempts to question the automated inertia of the status quo. The legal culture forbids any potentially meaningful revelations that might have come with his momentary widening of his perception.

Two other literary examples illustrate how questioners who occupy positions of consequence experience revelations that appear too late and in too incomplete a form to develop into any sort of real challenge to the shortcomings of the law. Only on their deathbeds do Porfirii Vladimirovich (of Saltykov-Schedrin's *Gospoda Golovlevy*, 1880) and Ivan Il'ich (in *The Death of Ivan Il'ich*, 1886) begin to question the lives the respective predacious and morally vacant lives they have led. Porfirii's past comes back to haunt him in the form of specters of his deceased family members, whom he manipulated and exploited, and to whose deaths he indirectly contributed. Only when confronting his own death does Porfirii question the abuses he has habitually committed against others, by means of legal and emotional manipulation. In the height of his legal predation, the narrator writes, Porfirii "was free to entangle the whole world in a network of litigation, oppression, and trickery... He enjoyed the thought of tormenting people, ruining them, spoiling their lives, bleeding them" (276/13:216). It is too late, however, for the compulsive victimizer to ask for forgiveness, and Porfirii's last-minute attempts at repentance are insufficient.

Ivan Il'ich is similarly belated in arriving at his incomplete revelation, wondering as he dies: "Maybe I did not live as I ought to have done [*ne tak, kak dolzhno*], but how could that be when I did everything properly [*kak sleduet*]?" (85/12:101). A lifetime functioning on auto-pilot has stunted Ivan Il'ich's ability to pursue this line of critical thinking. Because Ivan Il'ich has operated as an unquestioning, complicit member of bureaucracy and a society that rewards professional success in such a bureaucracy, it is difficult for him to reject outright the path he has

so obediently followed. He begins to rave and protest: “What do you want now, then? To live? To live how? To live as you live in court, when the usher proclaims: ‘Court is in session!’... ‘Here is that court! But I’m not guilty!’ he cried out angrily...” (85/12:101). But Ivan Il’ich *is* guilty: of having led a life in which he had treated his fellow man mechanically and formulaically—without humanity. The narrator explains:

[H]owever much he thought, he found no answer. And when it occurred to him, as it often did, that it was all happening because he had not lived right [*zhil ne tak*], he at once recalled all the correctness [*pravil’nost’*] of his life and drove this strange thought away. (85/12:101)

Ivan Il’ich and Porfirii Vladimirovich view themselves as victims, and don’t fully recognize their role as abusers or perpetrators of wrongdoing. Porfirii Vladimirovich emits similar protestations at the end of his life, in which he has only ever engaged in predatory relationships, manipulating and victimizing every one of his acquaintances and relations. Having lived his life as a predator, not as a human being, Ivan Il’ich declares that he is not guilty. Porfirii Vladimirovich, upon experiencing a fatally belated awakening of conscience, cries out in confusion, “I need forgiving!” but fails to confront his own sins, asking distractedly, “What happened?” and “Where are *they all*?” referring to his relatives, in whose deaths and miserable lives he played a large, indirect part (333/13:261).

These sudden questioners, both powerful in their respective realms, are unable to embrace a fully conscious assessment of the human cost of their legal predation and moral vacancy. Their dehumanized perspectives have prevented them from making human connections; therefore the glimpses of the horror of their dehumanized lives, the horror that they have not truly lived, are themselves limited. Whereas Saltykov-Shchedrin’s Pompadour portrays a high-ranking sudden questioner humorously, mocking the automatic inertia and

unscrupulousness of the legal administrative culture, his Porfirii Vladimirovich and Tolstoi's Ivan Il'ich portray the stunted epiphanies of their respective sudden questioners with unmistakable overtones of an existential horror. Both types of portrayals of sudden questioners demonstrate the hostility of the legal culture to the human condition, the human spirit, or human vitality.

Whether as lowly underlings or high-ranking judges, these questioners demonstrate the formidability of the legal bureaucracy. In the debate about whether 'bad' individuals corrupt otherwise praiseworthy institutions, or whether 'bad' institutions corrupt otherwise 'good' individuals, the questioners serve as evidence to bolster the latter argument. These characters (some more genuinely than others) aspire to something better than is allowed by the legal status quo; they momentarily invite the narrative of "normal" logic and a consideration of the complexities of the human condition into the monolithic master narrative of the law. The most perceptive questioners recognize, if only briefly or tardily, the difference between the letter and the spirit of the law. But their attempts to privilege the truth over the law fail. Their solitary voices of opposition are deafened by the din of the monstrous machinery that is the nineteenth-century Russian fictional legal system.

To complete the analysis of representative samples of the typology of the varieties of legal characters, it is essential to include one final questioner—a high-ranking sudden questioner whose revelation, it appears in the text, promises to effect meaningful and lasting change to the legal culture, the corrupted nature of which the questioner consciously and willingly acknowledges. Gogol's Prince in Part Two of *Dead Souls* is indeed the first example of this type

of legal character in nineteenth-century literature.<sup>333</sup> Yet because of the surprising continuities evident between Gogol's *first* depiction of a questioner, and Tolstoi's *last*, discussion of Gogol's Prince has been reserved for discussion here.

Gogol's text appears to introduce the Prince in a manner similar to the eighteenth-century *deux-ex-machina*. The Prince immediately uncovers the "dishonest" and "hidden" affairs orchestrated by the legal predator (Chichikov's lawyer), which have involved people that the Prince had "hitherto considered honest" (390/7:267). The Prince fulminates against the rampant corruption in the judicial system. The Prince expresses his doubts about the legal system's ability to deal justly with these circumstances, and (as yet another alternative to the law) proposes a speedy court-martial, sanctioned by the Tsar, to replace the thorough investigation of formal documents as required by normal legal procedures. The Prince promises to strip the main instigators of rank and property, and (as in eighteenth-century style conclusions to comedies featuring legal corruption) to remove the corrupted elements from their posts.

However, unlike the simplified plots of the eighteenth century, the Prince expresses profound doubts that even these severe actions will result in any lasting change. He admits that the problem of injustice in the legal system is indeed systemic. He declares:

I know that it will not even be a lesson to others, because to replace those who are thrown out, others will come, and the very people who hitherto were honest will become dishonest, and the very ones who are found worthy of trust will deceive and sell out.  
(391/7:268)

---

<sup>333</sup> The limited context provided in the fragment of Gogol's text makes it impossible to tell whether the Prince is a lifelong questioner or a sudden questioner. However, the decisiveness with which he decides to act, and the egregiousness of the circumstances sparked by the behavior of Chichikov's lawyer, clearly spark something in the Prince to sound an unprecedented call to action. Though the Prince may have been a lifelong questioner, his words, as a person in a position of power, seem to be an exceptional, if not the first, case in which he explicitly questions the legal system in a manner he admits to be unprecedented.

What sets Gogol's Prince apart from other questioners is his professed commitment to the pursuit of true justice *even* in the face of almost certain failure.

I know that no methods, no fears, no punishments can eradicate falsity: it is too deeply rooted. The dishonest practice of accepting bribes has become a need and a necessity even for people who were not born to dishonesty...But now, as at a decisive and sacred moment, when there is need to save the fatherland, when every citizen brings everything and sacrifices everything—I must call out at least to those in whose breast there beats a Russian heart...nothing will be successful until each one of us feels that...he must rise up against falsity... (393/7:270).

Save for the hyperbolic language, the sentiments expressed by this first questioner (both the doubt that injustice can be removed from the law, and the determination to try to do so nevertheless) share much in common with the last major questioner depicted in nineteenth century literary legal canon: In Tolstoi's *Resurrection* (1899), Prince Nekhliudov, a high-ranking, sudden questioner, similarly expresses doubts about the ability of the judicial system to bring about justice.

Like Gogol's Prince, Nekhliudov concludes that it is impossible to fix such a system. In response to his brother in law's comment that "the shortcomings of the penitentiary system do not invalidate the law itself," Nekhliudov concludes that the penitentiary system, as a form of enforcement of legal justice, "cannot be improved" and that "there is no remedy for these shortcomings [*nedostatki*]" (365/13:334). Yet Nekhliudov takes the conclusion of Gogol's Prince to a much further extreme. He declares: "What is done now is cruel, and not only ineffective, but so stupid that one cannot understand how people in their right minds can take part in so absurd [*nelepom*] and cruel [*zhestokom*] a business as criminal law" (365/13:344). Having thus isolated absurdity, cruelty, and limitations (shortcomings), as three inherent and persistent faults of the

law (that are highlighted throughout nineteenth-century depictions of the law), Nekhliudov concludes, as Gogol's Prince does, that even though it may be futile to improve such a system, that one must try nevertheless.

Nekhliudov recognizes the impossibility of seeing this epiphany realized, but he expresses it nevertheless. While Gogol's Prince makes subtle allusions to the notion that the reasons for the failure of the judicial system to bring about justice are endemic and systemic to the legal institutions, Nekhliudov explicitly identifies the institution itself as the very cause or source of injustice. Tolstoi's questioner declares that, just as two wrongs cannot make a 'right', an institutional judicial system is on principle incapable of reaching just outcomes: "...Vicious men were trying to correct other vicious men, and thought they could do this by mechanical means [*mekhanicheskim putem*]" (504/13:455).

In *Dead Souls*, Gogol's Prince proposes a speedy court-martial, sanctioned by the Tsar, as an alternative to normal legal channels. Whether this alternative, yet another secular institutional method in which human beings determine the fates of other human beings, will succeed is unclear. Gogol's manuscript cuts off in the middle of the Prince's unfinished speech calling Russians to the cause of the pursuit of true moral justice. Tolstoi's Prince, however, finds a different alternative—one that does away altogether with the notion of secular and institutional judgment. This idea of the Prince's is presented as his ultimate epiphany:

Now he saw clearly the source of all the terror he had seen, and what ought to be done to put a stop to it. The answer he could not find was the very one that Christ gave to Peter. It was that we should forgive infinitely because there are no men who have not sinned themselves, and therefore none can punish or correct others. (504/13:454)

To find such an earnest appeal for Christian forgiveness in Tolstoi's most didactic novel is unsurprising. It is perhaps less surprising to encounter this sentiment in Gogol's most didactic



text, *Selected Passages from Correspondence with Friends*, in which he writes, as mentioned, on the topic of justice, that “no man is right, that only God, and God alone, is right.” Yet even in *Dead Souls* a parallel sentiment can be found by considering the words of the wise adviser to Gogol’s Prince. While the enraged Prince desires to punish the “scoundrels” who plague the empire with corruption and rampant injustice, the meditative Murazov offers the Prince an important reminder:

Whoever the man may be whom you call a scoundrel, he is still a human being. How not defend a man if you know that he does half his evil out of coarseness and ignorance? For we do unjust things at every step, and at every moment are the cause of another’s misfortune, and not even with any bad intention... (385/7:262)

The words differ, but the sentiment is very similar to that expressed by Prince Nekhliudov: because there are no sinless men, no man can judge another.

Both Gogol’s and Tolstoi’s manuscripts end before a fictional questioner can bring about a victory of humanity over the monstrous legal machine that is the law. Yet more than illustrating the futility of combating the injustices of that monstrous machine, as the other questioners discussed above, Gogol’s and Tolstoi’s Princes also communicate the positive values that are lacking in the law, and therefore render it a negative entity.

We can see that the literary legal system is made up of monsters, machines, and futile or aborted attempts at humanizing the legal institution and its functionaries. The cruelty, absurdity, and limitations are difficult to parse out as separate characteristics of the legal system, because, as exemplified excellently in Tolstoi’s indictment of administrative institutions, *Resurrection*, demonstrates, the limitations of the law lead to absurdities, which can result in cruelty.

Tolstoi's Nekhliudov inveighs against the legal system whose limitations cause it to violate the "chief law" that appeals for "mutual love" between human beings. Although the writers mentioned above, from Odoevskii and Gogol to Ostrovskii and Chekhov, express a complex, heterogeneous, dynamic, and diverse array of opinions on political and judicial institutions in imperial Russia, these depictions share a common criticism: the absence of consideration for the human spirit in the law, its institutions, and its servitors. Whether by likening the law and its servitors to spiritless things or inhuman beasts, whether through humor or through terror, literary depictions from diverse authors law reveal critical continuities in negative treatment of the legal sphere throughout the nineteenth century.

## Conclusion: Liminality

“The soul is immortal.”

“True, isn’t it? Immortal, that means that mortals do not die.”

*Sukhovo-Kobylin, The Death of Tarelkin*

The preceding chapters present several ways in which Gogol and other nineteenth-century writers depict the law as flawed: it is rigid, mechanical, menacing, foreign, limited, demonic, absurd, toxic, obdurate, and cruel. These motifs emerge in the works of Gogol and other nineteenth-century writers both implicitly in texts that engage with principles of legality as well as explicitly in texts that feature fictional legal scenarios. As the above analyses show, the most enduring principle in shaping images of the law throughout the nineteenth century is the notion of the law as an entity hostile to the spiritual, psychological, and physical vitality of the individual.

The third chapter analyzes the trope of dehumanization in the legal realm mainly in terms of how dehumanization can function as a comedic device to mock the flaws of the legal system. A fruitful area for study remains to be explored: to examine dehumanization not in terms of its use as a comedic device or a satire on the failures of legal procedure, but for the expression of a deeply unsettling sensation that can be called metaphysical terror or existential dread. Whereas the famous cliché characterizing Gogol’s fiction as inducing “laughter through tears,” the legal scenarios in the nineteenth century also are capable of eliciting nervous laughter through *fears*.<sup>334</sup>

---

<sup>334</sup> Andrei Belyi calls Vissarion Belinskii’s formula of Gogol’s comedy as “laughter through tears” (“*smekh skvoz’ slezy*”) a “classroom truism” that Gogol himself later embraced. See Belyi, *Masterstvo Gogolia*, 33. In *Reflective Laughter: Aspects of Humor in Russian Culture*, Leslie Milne writes that “the paradox of Gogol’s art was most famously defined by the author himself...as ‘laughter through tears,’ a definition that was to become almost prescriptive for Russian humour in general.” See Milne, *Reflective Laughter*. (London: Anthem Press, 2004), 5.

Lotman writes that “ambivalent carnival laughter” characterizes Gogolian laughter, which is “inseparable from horror” and “related to the world of diabolical confusion.”<sup>335</sup> The incompatibility of legality with physical human life may be tragic, but the incompatibility of legality with spiritual or psychological aspects of human life is terrifying.

A project of more substantial scope could investigate this sense of existential dread that underlies many depictions of the law in nineteenth-century literary-legal texts, specifically the way in which the theme of blurring the line between life and death, or existence and nonexistence, produces such an unsettling sensation of a threat not only to physical or material wellbeing, but to existence itself.

Chapter Three touches upon the comedic mockery of legal bureaucrats as less than human. Sukhovo-Kobylin’s Nelkin, for instance, declares that the legal lackey Tarelkin is “not really a human being” but rather a “dust rag, an official piece of crumpled paper” because Tarelkin’s “brain is made out of paper-mache” (103/152); stage notes introduce Gerts, Sherts, and Shmerts as “wheels, pulleys, and pinions of bureaucracy” (92/137); Gogol’s “Madman” Poprishchin declares that the Grand Prosecutor is merely a “machine” and a “tool” (3:214); the narrator of Gogol’s *Dead Souls* mentions that it is only after local prosecutor dies that the townspeople “learn...that the deceased indeed had had a soul” (240/6:210).

There are many other textual examples, however, that associate the legal sphere not with the denial of life, but rather the denial of death. Legal technicalities often facilitate the *official* recognition of the dead, undead, or the nonexistent as living beings. While such scenarios can be

---

<sup>335</sup> Iurii Lotman, “Gogol’ and the Correlation of “the Culture of Humor” with the comic and serious in the Russian national tradition,” *Soviet Studies in Literature: A Journal of Translations* 12.2 (1976): 40–43. See also R.W. Hallet, “The Laughter of Gogol,” *Russian Review*, 30. 4 (October, 1971): 373-384. See also Dmitry Merezhkovsky, “Gogol and the Devil,” in *Gogol from the Twentieth Century*, ed. Robert Maguire (Princeton University Press, 1995), 55-103.

presented comedically, as examined in Chapter Three, further examination is necessary to examine the deeply serious philosophical and existential implications of such depictions of the law.

In addition to the abovementioned explicitly humorous examples of the denial of individuals' humanity, there are several weightier moments in these nineteenth-century texts in which authors emphasize a callous disregard for human life exhibited by the legal system and its servitors. By denying the humanity, existence, or identity of literary characters entrapped in the dehumanizing and impersonal legal system, these moments portray the legal realm as capable of blurring the demarcation between existence and nonexistence. A strange digression, for example, in *Dead Souls* describes a serious cover-up committed by local officials in which an assessor is brutally murdered by vengeful locals from a neighboring district. The subsequent court case brought against the assailants uses the absurdly hyper-logical rationale typical of Gogol's provincial courts; since the assessor "was a dead man, meaning that it would not be much use to him even if he did win the case," the court acquits the accused (222/6:194). This type of reasoning suggests that this individual's *current* lack of existence renders his *former* existence irrelevant.<sup>336</sup>

This lack of respect for human life and the blurring between existence and nonexistence appears elsewhere, notably in Saltykov-Shchedrin's *The Golovlev Family*, in which the narrator describes how the character Annin'ka, having been doubly victimized by her uncle Porfirii Vladimirovich (a legal predator) and the aftermath of an arduous trial, ceases to exist as a

---

<sup>336</sup> Another interesting blurring between life and death (a fake suicide) occurs in Tolstoi's *The Living Corpse* (written in 1900, the play premiered posthumously in 1911). See Andrew Wachtel, "Resurrection À La Russe: Tolstoy's the Living Corpse as Cultural Paradigm," *Pmla*, 107.2 (1992): 261-273.

complete human being. Her ghostly state of existence is typical of nineteenth-century legal victims: “She was really dead and yet all the outer signs of life were there” (319/13:250).

Attitudes revealing a shameless disregard for the human cost of legal procedures are expressed directly by the legal predators in Sukhovo-Kobylin’s trilogy as well. To the authorities, human beings are “no more than a taxable item” (119/177). The legal predator’s main lackey defiantly proclaims: “I’d take the hide right off a corpse” (128/190); “The private person is nothing—a zero!” (125/185); and, addressing a victim of legal chicanery, “Which of them cares whether or not you die from your troubles?” (149/219).

Other examples illustrate the demonic power of the law to raise the dead. Likely the most famous example illustrating the sacrilegious and metaphysically terrifying power of the law to redraw the boundaries between the realms of the living and the dead appears in a text by Gogol. In the most famous legal swindle in Russian literary history, the hero of Gogol’s *Dead Souls*, Pavel Ivanovich Chichikov, attempts to purchase the deceased serfs (“*mertvye dushi*,” with the paradoxical second meaning of “dead souls”) from local landowners, in the hopes of using the subsequent proof of his wealth to acquire a loan. By means of the law, Chichikov is able legally to resurrect the dead. This contractual transaction of the purchase of dead souls, ratified by the local courts of the town of N, is at once at odds with laws of nature, science, and religion. Like a vampire capable of spawning fellow undead brethren, Chichikov, an aspiring legal predator, resurrects dead peasants through legal procedure.<sup>337</sup>

This is not the only resurrection of the dead that Chichikov attempts; his scandalous attempt at inheritance fraud in Part Two of *Dead Souls* (the very act for which his eventual

---

<sup>337</sup> For an interesting study of the lawyerly aspects of Bram Stoker’s *Dracula*, see Ann McGillivray, ““He would have made a wonderful solicitor”: Law, Modernity, and Professionalism in Bram Stoker’s *Dracula*” in *Lawyers and Vampires: Cultural Histories of Legal Professions*, eds. W. Wesley Pue and David Sugarman (Portland: Hart, 2003), 225-267

capture compels him to seek the services of the unnamed lawyer discussed above) involves a scheme in which Chichikov dresses up a peasant in clothes belonging to his acquaintance's deceased aunt in order to impersonate her and amend her will in a way that favorably disposes Chichikov's acquaintance. More than just an exercise in the grotesque, this lack of respect for human life communicates a profound unease with a legal system that sanctions such grave moral violations.

Texts by other authors similarly feature legal predators who resurrect the dead: in "The Tale of a Dead Body, Belonging to No one Knows Whom," Odoevskii's Sevastianich, under the influence of alcohol, attempts to extract a bribe from the disembodied soul of the corpse over which he watches. In Saltykov-Shchedrin's *The Golovlev Family*, the litigious Porfirii "Bloodsucker-Judas" Vladimirovich, who has an "uncanny [nose] for death [*u nego naschet pokoinikov kakoi-to d'iavol'skii niukh*]" (174/13:137) mentally resurrects the relatives whose demise he has indirectly caused in order to be able to torture them anew.<sup>338</sup> Porfirii, who longs "to turn from actual life to the soft bed of phantoms [*prizrakov*]," ultimately joins the ranks of the undead himself (266/13:209). From "every corner" of his "hateful house," "death seemed creeping...grey ghosts were stirring everywhere...All of them drunken, lecherous, tortured and bleeding...And a living ghost [*zhivoi prizrak*] was hovering above all those shadows—he himself" (327/13:256).

Motifs of living death, vampiric extraction of human vitality, and demonic resurrection of the dead appear vividly in Sukhovo-Kobylin's *The Death of Tarelkin* as well. In order to evade his debtors, Tarelkin fakes his own death and assumes the identity of a neighbor who has recently died by confiscating the deceased's passport. The thinly-disguised Tarelkin is soon

---

<sup>338</sup> Like a dog, he can "sniff" it out.

found out and arrested by his former employer, Varravin, who has become Tarelkin's nemesis. Varravin threatens Tarelkin, "I'll extract the soul from your fail body with such an instrument that there won't even be a squeak" (192/286). This instrument, the narrator implies, is the very "rod of legal procedure" upon which Muromskii and his daughter Lidochka have been "caught" (94/143). Tarelkin is accused of being a "passportless vampire" (234/350).<sup>339</sup> Under torture, Tarelkin admits that he and Varravin are vampires; that they are but two representatives of an entire race of vampires; and that they have killed Muromskii: "We sucked all his blood out," Tarelkin confesses explicitly, "we killed people...just like you're killing me now" (260/389).

Continuing the theme of the liminal state between the dead and the living, which characterises the legal realm, Tarelkin's interrogator demands to know more about his fellow vampires: "Did they transform themselves and take on other shapes? Do they have stingers and poison? Are there any who are alive but have really died, or any who died but in the meantime live, in opposition to the law?" (244/365). While these excerpts contribute to the shape of the law in literature, and though the motifs are very similar to, if not extensions of, those discussed in Chapter Three, the horror apparent in these specific moments of fictional legal scenarios supercedes the comedy.<sup>340</sup>

In addition to these excerpts, the association between the law and the purgatorial realm of the undead can also be addressed in terms of the law's connection to *nechistye sily*, especially in Gogol's texts. Every depiction of a provincial courtroom by Gogol emphasizes its lack of

---

<sup>339</sup> The original text reads, "*vuidalak*" referring to "*vurdalak*," meaning "vampire" or "ghoul."

<sup>340</sup> The role of the influence of the Hoffmannesque uncanny and the fantastic on nineteenth-century writers such as Odoevskii and Gogol has been addressed, but not in the context of the legal-literary canon. See Peter Sawczak, "Heterogeneity of the Sacred in Gogol's 'Dikan'ka' Stories," *Canadian Slavonic Papers*, 41 (1999): 351-366. See also Svitlana Krysz, "Allusions to Hoffmann in Gogol's Early Ukrainian Horror Stories," *Canadian Slavonic Papers*, 51 (2015): 243-266.



cleanliness (*ne...chistotoiu*).<sup>341</sup> The description of *physical* external impurities in Gogol's fictional depictions of courts functions doubly as superficial social criticism (provincial nineteenth-century courtrooms were indeed physically unkempt) as well as a more serious criticism exposing the *inner* figurative impurity of the ironically-named "incorruptible heads of the priests of Themis" (141/6:141). Another dimension of the demonic connotations of the trope of the unclean forces, or *nechistye sily* in addition to Chapter Three's exploration of lawyers as demonic or anti-Christian figures also deserves mention. In his study on the "diabolical" in Gogol, Christopher Putney writes:

In Slavic and other folk traditions...the gap between life and death was...considered an important demonic access route. Those deceased who fell into the category of 'unclean dead' (*zalozhnye pokoiniki*) which literally means "pledged" or "contracted dead" would at once become the devil's subjects."<sup>342</sup>

That the law is physically housed in a space that is literally "unclean," while occupying a similarly "unclean" spiritual or metaphysical space, seems only fitting.

These motifs create a deeply unsettling atmosphere in depictions of the law in Russian literature. More threatening than the cruelty, absurdity, and limitations of the law discussed in the previous chapter is the ability of the law to destroy individuals not just physically or financially, but morally, psychologically, and spiritually. This notion, expressed in more or less subtle ways in these depictions, is likely the source of the profoundly haunting initial encounter with Gogol's "The Two Ivans," that inspired the research for this dissertation. Gogol's tale

---

<sup>341</sup> E.g. the ink-soaked, litter-strewn, Mirgorod District Court staffed by a barefooted wench and spirit-effusing clerks in "The Two Ivans;" the chaotic mess of Liapkin-Tiapkin's chambers in *The Government Inspector*; the filthy chambers of the court of *Dead Souls*, in which a personified Lady Justice, [like a prostitute] receives guests in nothing but her negligee and dressing gown (141/6:141).

<sup>342</sup> Christopher Putney, *Russian Devils and Diabolic Conditionality*, 61.

recounts the slow deterioration of the Ivans' formerly colorful personalities to the morally, physically, financially, and spiritually degraded state of living ghosts, skeletal fragments of their former selves, all as a result of contact with the destructive legal realm. The narrator communicates the existential dread caused by this lawsuit in the tale's famous conclusion: "It is dull in this world [*skuchno na etom svete*], gentlemen."

The invocation of the existential dread, signified by the concept of dullness (*skuka*) in this story, is a compelling moment in Gogol's tale (the first major literary-legal text of the nineteenth century), that is also reflected in the last major literary text of the nineteenth century: Lev Tolstoy's *Resurrection*. As in Gogol's text, Tolstoy uses the trope of dullness and its accompanying sense of existential despair to close a chapter. In Book Two of *Resurrection*, Nekhliudov pleads with a particularly repugnant morally vacant general to put a stop to the sufferings of individuals he believes to have been unjustly incarcerated. Relieved to depart from this meeting, Nekhliudov approaches his awaiting driver, who tells the Prince:

"Ah, it's dull [*skuchno*] here, sir," he said, addressing Nekhliudov. "I almost wished to drive off without waiting for you."

Nekhliudov agreed. "Yes, it is dull [*skuchno*]," and he took a deep breath, and looked up with a sense of relief at the gray clouds that were floating across the sky...

(305/13:279)<sup>343</sup>

More than just a banal descriptor, the importance of *skuka* in these literary legal proceedings can signify something more serious, as it appears to do as well in Chekhov's story "In the Court,"

---

<sup>343</sup> As in Gogol's, Tolstoy's scene similarly uses the drab color "grey" to characterize the weather in this scene. Amended translation: The Maude translation adds the adverb "awfully" to the original, but omits the sentiment that the driver "wished" to leave. Saltykov-Shchedrin also uses similar imagery of the oppressive grey sky with its monotonous cloudiness to characterize the decline of the first Golovlev victim, Stepan Vladimirovich. See Irwin Foote, *Saltykov-Shchedrin's The Golovlyovs: A Critical Companion* (Evanston: Northwestern University Press, 1997), 108-110.

discussed in Chapter Three. In Chekhov's seven-page tale of a spontaneous moment of personal tragedy clashing with routine legal callousness, his narrator characterizes the court atmosphere with no fewer than five variations on the root "*skuka*," declaring at one point, simply, "It is dull! [*Skuchno!*]" (171/345).<sup>344</sup>

This emphasis on the dullness of the law that appears in Gogol's portrayal continues to endure in Russian culture even to the present century. A character in Nikita Mikhalkov's 2007 film *Twelve*, a Russian remake of Sidney Lumet's 1957 Hollywood classic *Twelve Angry Men*, explains Russian antipathy toward the law in a simple phrase that refers both to the dullness of the law as well as its proximity to death. A juror announces authoritatively to his fellow jurymen: "There's no way that a Russian will ever live according to the law [*ne budet nikogda russkii chelovek po zakonu zhit*']...Because it is dull [*skuchno*] for him. According to the law...The law is dead [*mertv*]. There's nothing personal [*lichnogo*] in it."<sup>345</sup>

Two passages from Gogol's *Selected Passages* distill the tensions between the law and its alternatives by criticizing the flaws of the legal system and simultaneously promoting values in extralegal forms of resolution. Gogol sets up the law as rigid and callous by comparing the European-chivalric (rational/formulaic) understanding of the law to a spiritless thing: "The law is wooden [*derevo*]; in the law a man perceives [*slyshit*] something cruel [*zhestoko*] and unbrotherly [*nebratskoe*]. You won't get far with the literal [*odnim bukval'nym*] fulfillment of the law alone" (8:253).<sup>346</sup> In this passage Gogol also criticizes the emphasis of the letter over than the spirit of the law. The "unbrotherly" criticism of the law implies that a favorable

---

<sup>344</sup> For more on the topic of *skuka* in this context, see de Oliveira, Cassio, "Skuka and the Absurd in Gogol's Tale of the 'two Ivans'." *Canadian Slavonic Papers*. 51.2 (2009): 287-303.

<sup>345</sup> *12*, directed by Nikita Mikhalkov, TriTe: 2007. As cited in Naomi Olson, "Codifying Mercy: Nikolai Gogol and the Russian Courts of Conscience." Unpublished conference paper. Association for Slavic, East European and Eurasian Studies 44th Annual Convention, delivered Nov 16, 2012.

<sup>346</sup> My translation.

alternative would involve community, empathy, and conscience. In addition to a more neighborly alternative to the law (as in horizontal law), this passage suggests direct intervention by the monarch (the imperial petition) as a superior means of deciding human fates.

He continues to explain that in order to “soften the law, a high power, a higher mercy [*vysshaia milost*] is needed, one that can be manifested among the people *only* by an all-powerful sovereign” (8:253). Without a divinely-sanctioned leader, justice in other states is hollow, inferior. “A state without an all-powerful monarch,” he writes, “is an automaton [*avtomat*]” (8:253). Citing the United States as an example, Gogol writes that such states that operate according to this wooden, unbrotherly, cruel, and automatic law are devoid of life and spirit, no better than dead meat: “And what is the United States?” he asks, “Carrion [*mertvechina*]. A man there is so decayed [*vyvetrilsia*] that he is not worth a damn” (8:253).<sup>347</sup> Gogol’s nonfictional sentiments anticipate the law’s callous disregard for human lives as worthless; in the words of Sukhovo-Kobylin’s Tarelkin: “the private individual is...a zero” (125/185).

In contrast to premodern, informal mediation among local community members, or the centuries-old mythologized practice of petitioning directly to the monarch, the formalized, centralized, state-run legal system is an innovation.<sup>348</sup> As opposed to these domestic traditions, the law (in the context of thought that stresses the difference between Western innovations and national traditions commonly associated with Slavophilism) seems an imported imposition. By nature, the law is limited; it must reduce the whole of the human experience into a documentary form digestible by the fragmented departments of the bureaucratic legal apparatus. By doing so,

---

<sup>347</sup> Gogol’s original uses the phraseologism: “*vyedennogo iaitsa ne stoit.*”

<sup>348</sup> For a study of the historical practice of petitioning the monarch, see Valerie Kivelson, “Merciful Father, Impersonal State: Russian Autocracy in Comparative Perspective” *Modern Asian Studies*. 31.3 (1997): 635-663.

the increasing bureaucratization of the legal sphere can be seen as a symptom of the secularization, social isolation, dehumanization, fragmentation, and mechanization that inspire anxieties about modernization.

The characterization of the law communicated in fictional texts by Gogol and nineteenth-century writers may be unambiguously negative, but the response to legal bureaucracy is not unambiguous. As demonstrated in the first chapters of this dissertation, depictions of alternatives to the modernized legal system reveal critical disadvantages. The disparaging depictions of the law do not represent an endorsement of returning to premodern judicial forms, no matter how appealing the idealized or nostalgic aspects of them may be. Donald Fanger writes that for Gogol, the nineteenth century is an age of “coldly dreadful egoism” and “mercantile souls,” a debased successor to the remote ages when, in “Gogol’s mythical view, harmony and unity prevailed.”<sup>349</sup> Fanger notes that Gogol’s disenchantment with modern bureaucratized life stems from its fragmented nature. In his his essay “On Present-Day Architecture,” Gogol writes: “As soon as the enthusiasm of the Middle Ages died down and man's thought was fragmented...as soon as unity and integrity of the whole disappeared—greatness disappeared with them...”<sup>350</sup> According to Fanger, Gogol’s ideas about the long-lost greatness of times past are not merely “romantic commonplaces,” but rather:

They seem to have the deepest meaning for Gogol, as if modernity, variety, and pluralism were a personal burden and a personal threat from which he dreamed of escape into an ideal society...where divine order manifested itself...<sup>351</sup>

---

<sup>349</sup> Fanger quotes from Gogol’s essay, “Sculpture, Painting, and Music,” (“Skul’ptura, zhivopis’ i muzyka”) in *Arabesques* (*Arabeski*, 1835). See Donald Fanger, *The Creation of Nikolai Gogol*, (Cambridge: Harvard University Press), 2009. 65 Gogol’s original calls for music to “wake our mercantile souls” (“*budi nashi merkantil’nye dushi*”) and to rouse, agitate, and “drive away, if only for a moment, that cold, terrible egoism [*kholodno-uzhasnyi egoism*] which increasingly threatens to dominate our world.” See Gogol, *PSS* 8:12.

<sup>350</sup> Fanger, 65/*PSS* 8:58.

<sup>351</sup> Fanger, 66.

And indeed, the implicit comparisons in Gogol's texts between informal, brotherly horizontal law and cold stately law, or between the calculated contract and the spiritual act of self-giving, do suggest relatively favorable alternatives to the anxiety-inducing legal bureaucratization. Yet Gogol's depictions of idealized alternatives are by no means representations of what Fanger calls an "ideal society" in which "divine order" manifests itself. On the contrary, Gogol's narrator explicitly refers to premodern decisionmaking as belonging "to times of ignorance."

While berating the shortcomings of the post-reform judicial system, even such harsh critics as Dostoevskii and Tolstoi do not go so far as to promote a return to times past; the hero of Tolstoi's *Resurrection*, who indicts the judicial system itself as the very cause of all vice, admits: "I don't know whether I am a Liberal or not; but I do know that however bad the present way of conducting a trial is, it is better than the old" (189/13:178). Despite ambivalent attitudes towards modernity, literary depictions of alternatives to the law suggest that going backward in time, no matter how utopian extralegal alternatives may seem in imaginary form, would only result in an exchange of fundamental old flaws for fundamental new ones.

The pursuit of legal justice results only in directionless liminality; it corrupts; it stifles conscience and empathy; it blunts and fragments perception; it transforms human beings into lifeless legal documents buried in filthy court chambers. Literary legal scenarios by Gogol and others portray the legal justice of this world (*na etom svete*) as dull, callous, and lifeless. Moral justice is not something that can be attained in this world through prescriptive secular means; it is only in some *other* world (*na tom svete*) in which it is possible to imagine the realization of the promise of moral justice. True justice, as literary depictions imply, can be bestowed only from without (through the divine mercy of a *deus ex machina*); deferred, (as in Lotman's "potential for

truth,"); or generated from within one's conscience ("the voice of God within man"). To alter the famous dictum of Pushkin's drama *Mozart i Sal'eri*: there may not be true justice in a higher realm, but there is indeed no true justice on earth.

## BIBLIOGRAPHY

Aksakov, S.K. "On the Internal State of Russia." In *Russian Intellectual History: An Anthology*. Edited and translated by Marc Raeff. New York: Harcourt, Brace & World, 1966.

Alexander, Alex E. "The Two Ivans' Sexual Underpinnings." *The Slavic and East European Journal*. 25.3 (1981): 24-37.

Aleksandrova, I.V. "'Net povesti pechal'nee' ('Povest' o tom, kak possorilsia Ivan Ivanovich s Ivanom Nikiforovichem' N.V. Gogolia i komediia A. A. Shakhovskogo 'Ssora, ili Dva sosedas')" in *Fenomen Gogolia: Materialy Iubileinoi Mezhdunarodnoi Nauchnoi Konferentsii, Posviashchennoi 200-Letiiu so Dnia Rozhdeniia N. V. Gogolia*. Edited by M.N. Virolainen and A.A. Karpova. Sankt-Peterburg: Petropolis, 2011.

Al'tman, M.S. "Chitaia Pushkina." In *Poetika i stilistika russkoi literatury: Pamiati V. V. Vinogradova*. Edited by M. P. Alekseev. Leningrad: Nauka, 1971.

Baberowski, Jorg. "Law, the Judicial System and the Legal Profession." In *The Cambridge History of Russia. Volume Two: Imperial Russia, 1689-1917*. Edited by Dominic Lieven. Cambridge: Cambridge University Press, 2006. 559-578.

Bakhtin, M M. *Rabelais and His World*. Translated by Helene Iswolsky. Bloomington: Indiana University Press, 1984.

Barkun, Michael. *Law Without Sanctions: Order in Primitive Societies and the World Community*. New Haven: Yale University Press, 1968.

Belyi, Andrei. *Masterstvo Gogolia: Issledovanie*. Moscow: Gosudarstvennoe izdatel'stvo khudozh. lit-ry, 1934.



- Bethea, David. "Literature." In *The Cambridge Companion to Modern Russian Culture*. Edited by Nicholas Rzhevsky. Cambridge: Cambridge University Press, 1998. 161-205.
- . *Realizing Metaphors: Alexander Pushkin and the Life of the Poet*. Madison: University of Wisconsin Press, 1998.
- . "Slavic Gift-giving, the Poet in History, and Pushkin's *The Captain's Daughter*." In *Russian Subjects: Empire, Nation, and the Culture of the Golden Age*. Edited by Monika Greenleaf and Stephen Moeller-Sally. Evanston: Northwestern University Press, 1998.
- Berdiaev, Nikolai. *Russkaia ideia: Osnovnye problemy russkoi mysli xix veka i nachala xx veka*. Parizh: YMCA-Press, 1946.
- . Nicolas. *The Russian Idea*. Translated by R.M. French. Boston: Beacon Press, 1962.
- Bergson, Henri, *Laughter: An Essay on the Meaning of the Comic*. Edited and translated by Cloudesley S. H. Brereton and Fred Rothwell. London: Macmillan, 1921.
- Billington, James. *The Icon and the Axe: An Interpretive History of Russian Culture*. New York: Knopf, 1966.
- Blagoi, D D. *Ot Kantemira do nashikh dnei*. Moskva: "Khudozhestvennaia literature," 1972.
- Botting, Fred. *Gothic*. New York: Routledge, 1996.
- Browne, Irving. *Law and Lawyers in Literature*. Boston: Soule and Bugbee, 1883.
- Burbank, Jane. *Russian Peasants Go to Court: Legal Culture in the Countryside, 1905-1917*. Bloomington: Indiana University Press, 2004.

———. "Mercy, Punishment, and Law: The Qualities of Justice at Township Courts." *Kritika: Explorations in Russian and Eurasian History* 7.1 (Winter 2006): 23-60.

Butler, William E. "Foreign Impressions of Russian Law to 1800." in his *Russian Law: Historical and Political Perspectives*. Leyden: Sijthoff, 1977. 65-92.

———. *Russian Law*. Oxford: Oxford University Press, 2006.

Byrd, Charles. "Prophetic Stammering in V. V. Kapnist's *Iabeda* (1798)." *The Slavic and East European Journal*. 41.4 (1997): 541-553.

Carson, Hampton L. *The Trial of Animals and Insects: A Little Known Chapter of Mediaeval Jurisprudence*. Philadelphia, 1917.

Chadaga, Julia B. "Mirror Writing: the Literary Traces of the Zertsalo." *The Russian Review*. 61.1 (2002): 73-93.

Chekhov, Anton P. *Polnoe sobranie sochinenii i pisem*. 30 vols. Edited by N.F. Belchikov, et al. Moscow: Nauka, 1974-1982.

———. *The Tales of Chekhov*. 13 vols. Translated by Constance Garnett. New York: Macmillan, 1916-1922.

Cherkasova, N. V., and E. A. Skripilev. *Formirovanie i razvitie advokatury v Rossii: 60-80 gody XIX v.* Moscow: Nauka, 1987.

Cohen, Harry. *The Demonic of Bureaucracy; Problems of Change in a Government Agency*. Ames: Iowa State University Press, 1965.

Corcos, Christine. *An International Guide to Law and Literature Studies*. Buffalo: W.S. Hein, 2000.

Cornwell, Neil. *Vladimir Odoevsky and Romantic Poetics: Collected Essays*. Providence: Berghahn Books, 1998.

Crotty, Kevin. *Law's Interior: Legal and Literary Constructions of the Self*. Ithaca: Cornell University Press, 2001.

Dayan, Colin. *The Law Is a White Dog: How Legal Rituals Make and Unmake Persons*. Princeton: Princeton University Press, 2011.

———. "Legal Terrors." *Representations*. 92.1 (2005): 42-80.

Derrida, Jacques. *Acts of Literature*. London: Routledge, 1992.

Dewey, Horace W. *Muscovite Judicial Texts*. Ann Arbor: University of Michigan, 1966.

Dolinin, Aleksander. "Poema Pushkina 'Andzhelo': istochniki i zhanrovye osobennosti." *Pushkin i Angliia: tsikl statei*. Moskva: Novoe literaturenoe obozrenie, 2007. 130-154.

Dostoevskii, Fedor M. *The Insulted and Humiliated*. Edited by Olga Shartse. Moscow: Progress Publishers, 1957.

———. *Sobranie sochinenii*. 15 vols. Edited by Georgii Fridlender and T.I. Ornatskaia. Leningrad: Nauka, Leningradskoe otdelenie, 1988.

Emerson, Caryl. "Grinev's Dream: The Captain's Daughter and a Father's Blessing." *Slavic Review* 40.1 (Spring 1981): 60-76.

Esaulov, Ivan A. *Kategoriia sobornosti v russkoi literature*. Petrozavodsk: Izdatel'stvo Petrozavodskogo universiteta, 1995.

Evans, Edward P. *Criminal Prosecution and Capital Punishment of Animals*. Sligo: Hardpress Publishing, 2013.

Fanger, Donald. *The Creation of Nikolai Gogol*. Cambridge: Harvard University Press, 2009.

Fedosiuk, Iurii. *Chto neponiatno u klassikov, ili, entsiklopediia russkogo byta xix veka*. Moskva: Izdatel'stvo "Flinta" 1998.

Fedotov, Georgii P. *The Russian Religious Mind, Vol. 1, Kievan Christianity, the Tenth to the Thirteenth Centuries*. New York, Evanston and London: Harper & Row, 1960.

Foote, Irwin P. *Saltykov-Shchedrin's The Golovlyovs: A Critical Companion* (Evanston: Northwestern University Press, 1997), 108-110.

Frick, David. "Misrepresentations, Misunderstandings, and Silences: Problems of Seventeenth-Century Ruthenian and Muscovite Cultural History." In *Religion and Culture in Early Modern Russia and Ukraine*. Edited by Samuel H. Baron and Nancy Shields Kollmann. DeKalb: Northern Illinois University Press, 1997. 149-68.

Fusso, Susanne and Priscilla Meyer. *Essays on Gogol: Logos and the Russian Word*. Evanston, Ill.: Northwestern University Press, 1992.

Gaakeer, Jeanne. "'The Art to Find the Mind's Construction in the Face,' Lombroso's Criminal Anthropology and Literature: the Example of Zola, Dostoevsky, and Tolstoy." *Cardozo Law Review*. 26.6 (2005): 2345-2378.

Gemmette, Elizabeth. *Law in Literature: An Annotated Bibliography of Law-Related Works*. Troy: Whitston, 1998.

Gippius, Vasilii. *Gogol*. Translated by Robert Maguire. Durham, Duke University Press, 1989

———. *Ot Pushkina do Bloka*. Leningrad: Nauka, 1966.

Gleason, Walter J. *Moral Idealists, Bureaucracy, and Catherine the Great*. New Brunswick: Rutgers University Press, 1981.

Gogol, Nikolai. *The Collected Tales of Nikolai Gogol*. Translated by Richard Pevear and Larissa Volokhonsky. New York: Pantheon Books, 1998.

———. *The Complete Tales of Nikolai Gogol*. Translated by Leonard Kent. Chicago: University of Chicago Press, 1985.

———. *Dead Souls*. Translated by Richard Pevear and Larissa Volokhonsky. New York: Pantheon Books, 1996.

———. *The Inspector General*. In *Plays and Petersburg Tales*. Translated by Christopher English Oxford: Oxford University Press, 1995. 245-336.

———. *Selected Passages from Correspondence with Friends*. Translated by Jesse Zeldin. Nashville: Vanderbilt University Press, 1969.

———. *Polnoe sobranie sochinenii*. Edited by N. L. Meshcheriakov. 14 vols. Moscow and Leningrad: Izdatel'stvo Akademii Nauk SSSR, 1937-1952.

Goliakov, I.T. *Sud i Zakonnost' v russkoi khudozhestvennoi literature xix v.* Moskva: Izdatel'stvo Moskovskogo universiteta, 1956.

Hagan, John. "Chekhov's Fiction and the Ideal of "Objectivity." *PMLA* 81.5 (1966): 409-17.

Halle, Morris. *For Roman Jakobson: Essays on the Occasion of His Sixtieth Birthday, 11 October 1956*. The Hague: Mouton, 1956.

Hallet, R.W. "The Laughter of Gogol." *Russian Review*, 30.4 (October, 1971): 373-384.

Hellie, Richard. "Introduction." In *The Laws of Rus- Tenth to Fifteenth Centuries*. Edited and translated by Daniel Kaiser. Salt Lake City: Charles Schlacks Jr., 1988

———. trans. *The Muscovite Law Code (Ulozhenie) of 1649*. Irvine: Charles Schlacks Jr, 1988.

Hokenson, Jan. *The Idea of Comedy: History, Theory, Critique*. Madison: Fairleigh Dickinson University Press, 2006.

Hoover, Marjorie L. *Alexander Ostrovsky*. Boston: Twayne, 1981.

Hurley, Mathew M., D.C. Dennett, and Reginald B. Adams. *Inside Jokes: Using Humor to Reverse-Engineer the Human Mind*. Cambridge: MIT Press, 2011.

Iakusheva, T.Yu. "Kontseptualizatsiia "spravedlivosti" v pravoslavnoi kul'ture." *Vestnik Nizhegorodskogo universiteta imeni N.I. Lobachevskogo* 1.9 (2008): 208-215.

Ilarion, "Sermon on Law and Grace." In *Sermons and Rhetoric of Kievan Rus'*. Edited and translated by Simon Franklin. Cambridge: Harvard University Press, 1991.

———. *Slovo o Zakone i Blagodati*. Edited by V. A. Deriagin, L. P. Zhukovskaia, and A K. Svetozarskiii. Moskva: Stolitsa, 1994.

Illiustrov, Iakinf. *Iuridicheskiia poslovitsy i pogovorki russkago naroda: opyt sistematicheskago, po otdelam prava, sobraniia iuridicheskikh poslovits i pogovorok russkago naroda*. Moskva: Krasand, 1885.

Kaiser, Daniel. *The Growth of the Law in Medieval Russia*. Princeton: Princeton University Press, 1980.

Kapnist, V. V. *Izbrannye Sochineniia*. Edited by A.N. Chudinova. Sankt Peterburg: Tip. Glazunova, 1907.

Karlinsky, Simon. *The Sexual Labyrinth of Nikolai Gogol*. Chicago: University of Chicago Press, 1992.

Karpuk, P A. "Gogol's Research on Ukrainian Customs for the Dikan'ka Tales." *Russian Review* 56.2 (1997): 209-232.

Khemnitser, Ivan Ivanovich, "Dva Sosed" *Polnoe sobranie stikhotvorenii*. Moskva: Biblioteka Poeta, 1963.

Kivelson, Valerie. "Merciful Father, Impersonal State: Russian Autocracy in Comparative Perspective." *Modern Asian Studies*. 31.3 (1997): 635-663.

———. "Muscovite 'Citizenship': Rights without Freedom" *The Journal of Modern History*, 74.3 (September, 2002) 465-489.

Kivelson, Valerie A, and Robert H. Greene. *Orthodox Russia: Belief and Practice Under the Tsars*. University Park: Pennsylvania State University Press, 2003.

Kliuchevskii, Vasili. *Kurs lekstii po russkoi istorii*. Moskva: Gosudarstvennoe sotsial'no-ekonomicheskoe izdatel'stvo, 1937.

Kollman, Nancy Shields "The Quality of Mercy in Early Modern Legal Practice." *Kritika: Explorations in Russian and Eurasian History* 7.1 (Winter 2006): 5-20.

Kornblatt, Judith Deutsch, Stuart Goldberg, and Naomi Olson. "Divine and (In)Human Justice: the City Hall in Gogol's *Dead Souls*." Forthcoming volume in honor of Robert Maguire. Edited by Douglas Greenfield, Emily Johnson, and Cathy Nepomnyashchy.

Kotsonis, Yanni. "'Face-to-Face': The State, the Individual, and the Citizen in Russian Taxation, 1863-1917." *Slavic review* 63.2 (2004): 221.

Krivoruchko, Anna. "Justice and How to Attain it in Russian Literature and Film." Ph.D. diss. University of Southern California, 2014.

———. "Law, Justice and Mercy in Russian and English Literature." Unpublished conference paper. American Association of Teachers of Slavic and East European Languages, delivered January 8, 2011.

Krys, Svitlana. "Allusions to Hoffmann in Gogol's Early Ukrainian Horror Stories." *Canadian Slavonic Papers*. 51 (2015): 243-266.

Kucherov, Samuel. *Courts, Lawyers, and Trials Under the Last Three Tsars*. New York: F.A. Praeger, 1953.

Kuleshov, V.I. "Znachenie poniatia 'zakon' v khudozhestvennom mire A.S. Pushkina." In *Pushkin i sovremennaiia kul'tura*. Edited by Kniazevskaia, T B, and Evgenii P. Chelyshev. Moskva: Nauka, 1996. 78-91.

Kustanovich, Konstantin. "Law and Grace: Religious Roots of Legal Tradition in Russia." Unpublished conference paper. Association for Slavic, East European and Eurasian Studies 44th Annual Convention. Delivered Nov 16, 2012.

Lavrin, Janko. *Russia, Slavdom and the Western World*. London: Bles, 1969.

Likhachev, D S. *The Great Heritage: The Classical Literature of Old Rus*. Translated by Doris Bradbury. Moscow: Progress, 1981.



- Lotman, Yurii. “Agreement and Self-Giving as Archetypal Models of Culture.” In *The Semiotics of Russian Culture*. Ju. M. Lotman and B. A. Uspenskij. Edited and translated by Ann Shukman. Ann Arbor: Michigan Slavic Contributions 11, 1984. 125-176.
- . “‘Dogovor’ i ‘vruchenie sebja’ kak arkhjetipicheskie modeli kul’tury.” In his *Stat’i po semiotike kul’tury i isskusstva*. Sankt-Peterburg: Akademicheskii proekt, 2002. 466-483.
- . “Gogol’ and the correlation of ‘the culture of humor’ with the comic and serious in the Russian national tradition.” *Soviet Studies in Literature: A Journal of Translations* 12.2 (1976): 40–43.
- . “The Truth as Lie in Gogol’s Poetics,” In *Gogol: Exploring Absence: Negativity in Nineteenth-Century Russian Literature*. Translated by Christopher Putney. Edited by Sven Spieker. Bloomington: Slavica, 1999. 35-55.
- Maguire, Robert A. *Exploring Gogol*. Stanford: Stanford University Press, 1994.
- Malik, Madhu. “Vertep and the Sacred/profane Dichotomy in Gogol’s Dikan’ka Stories.” *The Slavic and East European Journal*. 34.3 (1990): 332-347.
- Mann, Iurii. *Poetika Gogolia*. Moscow: Khudozhestvennaia literatura, 1978.
- . “Vstrecha v labirinte” *Voprosy literatury* 2 (1999): 162-186.
- McDonald, Paul. *The Philosophy of Comedy*, Humanities E-Books, 2012.
- McGillivray, Anne. Pue, “‘He would have made a wonderful solicitor’: Law, Modernity, and Professionalism in Bram Stoker’s *Dracula*.” in *Lawyers and Vampires: Cultural Histories of Legal Professions*. Edited by W. Wesley Pue and David Sugarman. Portland: Hart, 2003, 225-267.

McLean, Hugh. *Gogol's Retreat from Love: Toward an Interpretation of Mirgorod*. The Hague: Mouton, 1958.

Merezhkovsky, Dmitry. "Gogol and the Devil." In *Gogol from the Twentieth Century*. Edited by Robert Maguire. Princeton: Princeton University Press, 1995, 55-103.

Mikhalkov, Nikita. *12*. TriTe, 2007. Film.

Milne, Leslie. *Reflective Laughter: Aspects of Humor in Russian Culture*. London: Anthem Press, 2004.

Morreall, John. *Comic Relief: A Comprehensive Philosophy of Humor*. Chichester: Wiley-Blackwell, 2009.

Murav, Harriet. *Russia's Legal Fictions*. Ann Arbor: The University of Michigan Press, 1998.

Nabokov, Vladimir. *Nikolai Gogol*. New York: Penguin, 1959.

Nedzvetskii, V.A. and E. Iu. Poltavets, *Russkaia literature XIX veka: 1840-1860-e gody*. Moskva: Izdatel'stvo Moskovskogo Universiteta, 2010.

Nelson, T.G.A. *Comedy: An Introduction to Comedy in Literature, Drama, and Cinema*. Oxford: Oxford University Press, 1990)

Nepomnyashchy, Catharine T. *Abram Tertz and the Poetics of Crime*. New Haven: Yale University Press, 1995.

Newcity, Michael. "Why is there no Russian Atticus Finch? Or even a Russian Rumpole?" *Texas Wesleyan Law Review* 12 (2005-6): 271-302.

- Odoevskii, Vladimir F. "Skazka o mertvom tele, neizvestno komu prinadlezhashchem." In *Pestrye Skazki*. Edited by M.A. Tur'ian. Moskva: Kniga, 1833.
- . *The Salamander and Other Gothic Tales*. Evanston: Northwestern University Press, 1992.
- de Oliveira, Cassio. "Skuka and the Absurd in Gogol's Tale of the 'Two Ivans'." *Canadian Slavonic Papers*. 51.2 (2009): 287-303.
- Olson, Naomi. "Codifying Mercy: Nikolai Gogol and the Russian Courts of Conscience." Unpublished conference paper. Association for Slavic, East European and Eurasian Studies 44th Annual Convention. Delivered Nov 16, 2012.
- Ostrovskii, Aleksander. *Dokhodnoe Mesto*. Moskva: Iskusstvo, 1950.
- . *Polnoe sobranie sochinenii*. 16 vols. Moskva: Gosudarstvennoe izdatel'stvo khudozhestvennoi literatury, 1949-1952.
- . *Without a Dowry and Other Plays*. Translated by Norman Henley. Dana Point: Ardis, 1997.
- Peace, Richard A. "Gogol's Old World Landowners," *The Slavonic and East European Review*, 53.133 (Oct., 1975), 504-520.
- . *The Enigma of Gogol: An Examination of the Writings of N.V. Gogol and Their Place in the Russian Literary Tradition*. Cambridge: Cambridge University Press, 1981.
- . "The Logic of Madness: Gogol's 'Zapiski sumasshedshego.'" *Oxford Slavonic Papers* 9 (1976): 28-40.

*Polnoe Sobranie Zakonov Rossiskoi Imprii: Sobranie pervoe: C 1649 do 12.12.1825.* Sankt-Peterburg: 1830. Gosudarstvennaia Publichnaia Istoricheskaia Biblioteka Rossii. Vol. 20. Elektronnaia Biblioteka GPIBR. Web. <http://elib.shpl.ru/ru/nodes/178>

Popova, E.A. "Poniatie sovesti v russkoi literature" *Russkaia rech'* 4 (August, 2003): 19-24.

Posner, Richard A. *Law and Literature: A Misunderstood Relation.* Cambridge: Harvard University Press, 1988.

Poulin, Francis P. "The Creation of a Russian Moral Law in Philosophy and Fiction: The Cases of Dostoevskij, Solov'ev, and Tolstoj." Ph.D. diss. University of Wisconsin-Madison, 1995.

Pravilova, E.A. *Zakonnost' i prava lichnosti: Administrativnaia iustitsiia v Rossii (vtoraia polovina XIX v.- oktiabr' 1917 g.).* St. Petersburg: Izdatel'stvo SZAGS, 2000.

Pushkin, Aleksandr. S. *Dubrovskii.* In *The Poems, Prose and Plays of Alexander Pushkin,* Translated by T. Keane and edited by Avrahm Yarmolinsky. New York, The Modern Library: 1936.

———. *Polnoe sobranie sochinenii.* Edited by B.V. Tomashevskii. 10 vols. Leningrad: Nauka, 1977-1979.

Putney, Christopher R. "Acedia and the Daemonium Meridianum in Nikolaj Gogol's 'povest' O Tom, Kak Possorilsja Ivan Ivanovič S Ivanom Nikiforovičem'." *Russian Literature.* 49.3 (2001): 235-257.

———. *Russian Devils and Diabolic Conditionality in Nikolai Gogol's Evenings on a Farm near Dikanka.* New York: Peter Lang, 1999.

- . “Nikolai Gogol's ‘Old-World Landowners’: A Parable of Acedia.” *Slavic and East European Journal*. 47 (2003): 1-23.
- Rabow-Edling, Susanna. *Slavophile Thought and the Politics of Cultural Nationalism*. Albany: State University of New York Press, 2006.
- Remnick, David. “Letter from Moscow: Danse Macabre, A Scandal at the Bolshoi Ballet.” *The New Yorker*, March 18, 2013.
- Reyfman, Irina. “Poetic Justice and Injustice: Autobiographical Echoes in Pushkin's the Captain's Daughter.” *The Slavic and East European Journal*. 38.3 (1994): 463-478.
- Rezvitsky, L. I. *Lichnost', individualnost', obshchestvo: problema individualizatsii i ee sotsial'no-filosofskii smysl*. Moscow: Izdatel'stvo poli. lit-ry, 1984.
- Rosenbaum, Thane. *Law Lit: From Atticus Finch to the Practice: a Collection of Great Writing about the Law*. New York: New Press, 2007.
- Rosenshield, Gary. *Western Law, Russian Justice: Dostoevsky, the Jury Trial, and the Law*. Madison: University of Wisconsin Press, 2005.
- Rukavishnikova, M.V. “Sovest' kak mnogogrannii fenomen: etimologicheskii i leksicheskii analiz: Filosofiia. Kulturologiia, Vestnik Nizhegorodskogo Universiteta im. N.I. Lobachevskogo. seriia sotsial'nye nauki. (2009): 121-126.
- Ryavec, Karl W. *Russian Bureaucracy: Power and Pathology*. Lanham: Rowman & Littlefield, 2003.
- Saltykov, Mikhail E. (N. Shchedrin). “The Doubting Thomas.” In *The Pompadours: A Satire on the Art of Government*. Translated by David Magarshack. Ann Arbor: Ardis, 1985.

- . *The Golovlyov Family*. Translated by Natalie Duddington. New York: New York Review of Books, 2001.
- . *Sobranie sochinenii*. Edited by S.A. Mashchakin, 20 vols. Moskva: Izdatel'stvo Khudozhestvennoi literatury, 1972.
- Sawczak, Peter. "Heterogeneity of the Sacred in Gogol's "Dikan'ka" Stories." *Canadian Slavonic Papers*. 41 (1999): 351-366.
- Schonle, Andreas. *Lotman and Cultural Studies: Encounters and Extensions*. Madison: University of Wisconsin Press, 2006.
- Siniavskii, Andrei. *Ivan the Fool: A Cultural History: Russian Folk Belief*. Translated by Joanne Turnbull and Nikolai Formozov. Moscow: Glas, 2007.
- Slonimsky, Alexander. "The Technique of the Comic in Gogol." In *Gogol from the Twentieth Century*, ed. Robert Maguire. Princeton: Princeton University Press, 1995. 323-375.
- Solov'ev, Eric "The Philosophical-Legal Depths of Chekhov's Story a Malefactor." *Russian Studies in Philosophy*. 50.2 (2011): 70-82.
- Solov'ev, Vladimir S. *Opravdanie Dobra: Nравstvennaia Filosofiia*. Moskva:1899.
- . *Politics, Law, and Morality: Essays*. Translated and Edited by Vladimir Wozniuk. New Haven: Yale University Press, 2000.
- . *The Justification of the Good: An Essay on Moral Philosophy*. Translated by Nathalie Duddington. London: Constable and Co: 1918.
- Sreznevskii, Izmail. *Slovar' drevnerusskogo iazyka v 3-kh tomakh*. Moskva: Kniga, 1989.

Starr, Frederick. *Decentralization and Self-Government in Russia, 1830-1870*. Princeton: Princeton University Press, 1972.

Stott, Andrew McConnel. *Comedy*. New York: Routledge, 2005.

Sukhovo-Kobylin, Alexander. *The Trilogy of Alexander Sukhovo-Kobylin*. Translated by Harold B. Segel. New York: E.P. Dutton, 1969.

———. *Svad'ba Krechinskogo: pesy*. Moskva: Eksmo, 2007.

Swensen, Andrew. "Vampires in Gogol's Short Fiction." *The Slavic and East European Journal* 37.4 (Winter, 1993): 490-509.

Tolstoi, Lev. *Anna Karenina*. Translated by Richard Pevear and Larissa Volokhonsky. New York: Penguin, 2001.

———. *The Death of Ivan Ilyich and Other Stories*. Translated by Richard Pevear and Larissa Volokhonsky. New York: Alfred A. Knopf, 2009.

———. *Resurrection*. Translated by John W. Strahan. New York: Washington Square Press, 1963.

———. *Sobranie sochinennii v 22 tomakh*. Edited by M. B. Khrapchenko. Moskva: Khudozhestvannaia literatura, 1983.

———. *War and Peace*. Translated by Richard Pevear and Larissa Volokhonsky. New York: Vintage Classics, 2007.

Uspenskii, Boris A. and Viktor Zhivov. *Tsar and God and Other Essays in Russian Cultural Semiotics*. Edited by Marcus C. Levitt, D Budgen, and Liv Bliss. Boston: Academic Studies Press, 2012.

- . “*Tsar i bog: semioticheskie aspekty sakralazatsii monarkha v Rossii.*” In *Semiotika Istorii, Semiotika Kul'tury*. Moskva: Gnozis, 1994. 110-193.
- Vaiskopf, Mikhail. *Siuzhet Gogolia: Morfologiia, Ideologiia, Kontekst*. Moskva: Rossiiskii gosudarstvennyi gumanitarnyi universitet, 2002.
- Von, Geldern J, and Louise McReynolds. *Entertaining Tsarist Russia: Tales, Songs, Plays, Movies, Jokes, Ads, and Images from Russian Urban Life, 1779-1917*. Bloomington: Indiana University Press, 1998.
- Vinogradov, Viktor V. *Poetika Russkoi Literatury: Izbrannye Trudy*. Moskva: Nauka, 1976.
- Wachtel, Andrew. “Resurrection À La Russe: Tolstoy's the Living Corpse As Cultural Paradigm.” *Pmla*. 107.2 (1992): 261-273.
- Weisberg, Richard H. “Wigmore’s Legal Novels Revisited: New Resouces for the Expansive Lawyer” *Northwestern University Law Review* 71 (1976-1977): 17-28.
- Welsh, D.J. “Satirical Themes in 18th-Century Russian Comedies.” *The Slavonic and East European Review*, 42. 99 (June, 1964): 403-414.
- Whisehunt, William B. *In Search of Legality: Mikhail M. Speranskii and the Codification of Russian Law*. Boulder: East European Monographs, 2001.
- Wigmore, John H. "A List of One Hundred Legal Novels." *Illinois Law Review* 17 (1922): 26-41.
- Williams, David. *Deformed Discourse: The Function of the Monster in Mediaeval Thought and Literature*. Montreal: McGill-Queen’s University Press, 1996.



Wilson, Jessica C. "Russia's Cultural Aversion to the Rule of Law." *Columbia Journal of East European Law* 2.2 (2008): 195-232.

Wirtschafter, Elise K. "Russian Legal Culture and the Rule of Law." *Kritika: Explorations in Russian & Eurasian History* 7:1 (Winter 2006). 61-70.

Workman, Nancy. "Unrealism: Bureaucratic Absurdity in Nineteenth-Century Russian Literature." Ph.D. diss. Columbia University, 1998.

Wortman, Richard. *Development of a Russian Legal Consciousness*. Chicago: University of Chicago Press, 1976.

———. *Scenarios of Power: Myth and Ceremony in Russian Monarchy*. Princeton: Princeton University Press, 2010.

Zamanova, I F, and N V. Bardykova. *Vechera Na Khutore Bliz Dikan'ki N.V. Gogolia: Prostranstvo I Vremia*. Belgorod: Izdatel'stvo BelGU, 2001.

Zaslavsky, Oleg. "Problema milosti v 'Kapitanskoi dochke.'" *Russkaia literatura* 4 (1996). 41-52.

Zholkovsky, Alexander. "Rereading Gogol's Miswritten Passages." In his *Text Counter Text: Rereadings in Russian Literary History*. Stanford: Stanford University Press, 1994. 17-35.

Ziolkowski, Theodore. *The Mirror of Justice: Literary Reflections of Legal Crises*. Princeton: Princeton University Press, 1997.