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## **Historical Sciences**

# **FUNDAMENTALS OF LEGISLATIVE REGULATION OF RUSSIAN PRAVDA: HISTORICAL DEVELOPMENT TRENDS**

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### **Abstract**

The article examines the process of formation of the legal Russian state, which acquires great importance in the light of studying the extensive historical experience of the formation and functioning of various state-legal institutions. In this context, the study of the emergence and development of procedural relations, both at the stage of pre-trial proceedings and directly during the trial during the adoption of the "Russian Truth" by Prince Yaroslav the Wise, is of considerable interest. The article shows that the discussions on the problem of the organizational and legal foundations of criminal and civil proceedings at various stages of legal proceedings in Ancient Russia, which began more than two centuries ago, not only do not subside, but, on the contrary, become even more acute in the XXI century.

**Keywords:** law, history, source, prince, society.

### **I. INTRODUCTION**

Every transition period traditionally involves large-scale changes in economic, social, political, legal, etc. changes, a radical revision of established traditions and views in various fields of knowledge, including in historical and legal science. This process always arouses the keen interest of researchers in the historical heritage of certain legal phenomena, institutions, organizational and legal forms, etc. The issues of formation and development of procedural legal relations in Ancient Russia raised in this article are no exception in this regard. The ongoing disputes over the problems of Russian Truth (RP) in general and the nature, essence and content of criminal and civil proceedings in particular determine the relevance and significant scientific interest of this study.

The relevance of the article also lies in its methodological aspect. The modern period of global transformations in the Russian Federation entailed a radical restructuring of historical and historical-legal science, which required a revision of views not only on the historical past of the Russian state and law, but also on the methodology of their research.

If in Soviet literature historical and legal problems were covered from purely class positions, at present the elimination of this approach in the scientific works of most authors and the transition to purely civilizational foundations is becoming one of the methodological paradigms.

## II. METHODOLOGY

The study of the problem of procedural legal relations at the stage of pre-trial proceedings and directly in the trial of the Russian Truth is based on a comprehensive analysis of a wide range of sources of Byzantine, Old Russian and Western European origin. These include secular and spiritual legislative acts, statutory and private charters of princes, resolutions of cathedrals and church hierarchs, act material, princely judicial practice, birch bark charters, norms of customary law, Western European medieval collections of laws, the legal provisions of which were somehow imposed on the sphere of domestic state legislation, the main source of which for several centuries was the Russian Truth.

## III. RESULTS

According to various versions, the adoption of the first written Russian code of laws took place during the reign of Yaroslav the Wise in 1016 or 1036.

Prince Yaroslav's desire to limit pagan traditions in accordance with Christian values is usually cited as the reasons for the appearance, however, one of the dates (1016) coincides with clashes between Novgorodians and Varangian mercenaries invited by Yaroslav the Wise to serve, as a result of which the Novgorodians, who beat the Varangians for "violence over husbandly wives" were deceived by the prince, who promised them indulgence, and executed.



**Knyaz Yaroslav Mudryj.**

The main subject of the "Ancient Truth" is the husband - a free man.

In fact, there was a restriction of the right to blood feud, in many cases replaced by a fine, and the Varangian mercenaries were given a more privileged position.

The evolution of Russian Pravda was based on the gradual expansion of legal norms from the princely (dominal) law to the environment of the squad, the definition of fines for various crimes against the person. The law provided for the inequality of people belonging to different social groups (combatants, feudal lords, rural community members, servants).

Certain legal privileges were also provided for such groups of the population as princes, boyars, princely men, princely tiuns, firemen (managers of the estate), etc. For the murder of a representative of a privileged stratum, a higher criminal liability and a special procedure for the inheritance of real estate (land) were established. The Russkaya Pravda was discovered in 1737 by V.N. Tatishchev. The most ancient edition is considered to be a Brief Truth, in which there are traces of archaic law. Russian Truth is attributed to the strong influence of the church. So Isaev considers it a kind of reference book of the church court, created to familiarize the higher clergy (who were mostly from the Greeks) with Russian law. Indeed, religious worldview greatly influenced the writing of the Russian Truth, ordeal or the judgment of God, when the accused was tested with iron or water, was in practice with Yaroslav. But we do not find any mention of Ordalia in the oldest edition. The only kind of withdrawal to religion we see in article 42 of the Short Truth: "During the fast, give him fish. Finding the majority of the lists of Russian Truth in the collections of canon law is also not an indicator, since at that time the writing was mainly owned by monks, and the books were written with a God-spiritual content, and were of great value, so it is not surprising that most of its lists are in the Pilot Book. In the annals, it was recorded in the Novgorod first Chronicle. Such scientists as N.I. Lange, M.P. Pogodin, considered the Russian Truth an official monument of legislation. But the same great historian Klyuchevsky considered it a monument of church legislation.



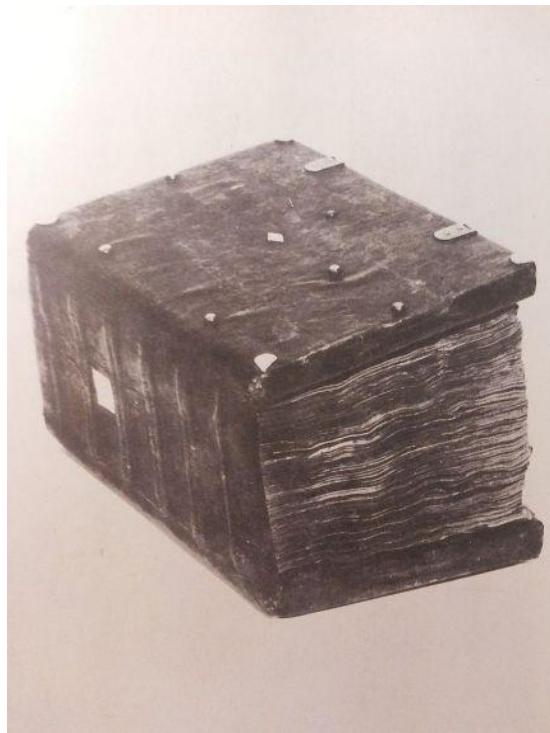
Russkaya Pravda.

There are three editions of the Russkaya Pravda. The brief truth has two lists: academic and archaeological. It consists of 43 articles. According to the majority of scientists, it included: The Truth of Yaroslav and the Truth of Yaroslavich. A later edition is considered to be a Lengthy truth, consisting of 121 articles.

It included the Charter of Yaroslav and the Charter of Monomakh, Kiev is considered to be the alleged homeland. The third edition is not distinguished by all scientists, it is the so-called Abbreviated Truth. It is considered a view-distorted extract of a Brief Truth. Legally and economically independent categories included townspeople and community smerds, who paid taxes and carried certain duties in favor of the state. So, a free smerd community member had the right to bequeath property to his children, but land - only to his sons. In the absence of heirs, the property came into communal ownership. Smerd also had the legal right to protect his person and property and was responsible for the crimes or misdemeanors committed. Along with free smerds, Russkaya Pravda mentions dependent people - purchases, ryadoviches, and others who had their own households, but for one reason or another fell into partial dependence on the feudal lord and worked out a significant part of their time on patrimonial lands. Thus, the Long Truth contains the Procurement Charter. A purchase is a person who has taken some valuable "kupa" (loan) from the feudal lord in the form of land or money, grain or livestock, etc. At the same time, the creditor himself determined the volume of debt work. Often, the purchase worked for the feudal lord only for interest, and the "kupa" taken at one time should have been returned in full. A certain limit to this bondage was set by Vladimir Monomakh. After the uprising of purchases in 1113, limits were set for the allowable interest on the "kupa". This law protected the person and property of the purchaser. However, for a crime, the purchase could be turned into a serf (slave). A similar fate awaited him in the event of non-payment of debt or escape. Thus, the page of enslavement, the gradual enslavement of former free community members, was opened.

A complete serf or "slave servant" did not possess any property, everything that he used belonged to the master. Meanwhile, the life of serfs, who constitute the special staff of the princely or boyar court (servants, educators of children, artisans, etc.), was protected by higher punishments.

Russkaya Pravda introduced a certain regulation into the sources of servility. Among them - self-sale into slavery of one person or the whole family, marriage to a slave or birth from a slave, loss of the status of a free person when entering the service without a special clause, committing a serious crime, fleeing a purchase from a master, etc. Captivity, however, as a source of slavery I did not find any reflection in Russian Pravda.



**Synodal Pilot, containing the Russkaya Pravdu, the end of the XIII century.**

And yet, for the Old Russian state, the enslavement of the peasants, their attachment to the land and the personality of the feudal lord was not yet typical.

The vira (fine) for murder or mutilation was highly differentiated. Its size depended on the category of the victim: 80 hryvnia (hryvnia - a unit of monetary account corresponding to 50 g of silver) for the "best people", 40 - for a simple free person, 20 - for inflicting grievous injuries, etc. At the same time, the vira entered the treasury, and the victim received a monetary reward. The life of dependent people was valued low: 12 or even 5 hryvnia, which was not considered vira.

In general, the norms of criminal law described in Russkaya Pravda correspond to the norms adopted in many early state societies of that period. It is worth noting that Russkaya Pravda describes fines in several currencies at once for the convenience of the judicial process in different territories.

The document also contained a lot of information about the process of legal proceedings, defined the basic principles and norms of procedural legislation. "Russkaya Pravda" also provided for the procedure for collecting funds from the debtor, there were prototypes of bailiffs who dealt with similar issues.

Another side described in Russkaya Pravda is social. The document defined different categories of citizens and their social status. Thus, all citizens of the state were divided into several categories: noble people and privileged servants, which included princes, combatants.

Then came ordinary free citizens, that is, those who were not dependent on the feudal lord (all residents of Novgorod were also included here). The lowest category was considered dependent - peasants and other people who were in the power of the feudal lords or the prince.

The law provided for a certain system of evidence. Among them, the testimony of witnesses occupied an important place. Ancient Russian law distinguished two categories of witnesses - vidoks and poslukhs. Vidoks are witnesses in the modern sense of the word, eyewitnesses of the fact. Rumors are a more complex category of witnesses: these are people who have heard about the incident from someone, who have second-hand information. Sometimes, by the proverbs, they also understood the witnesses of the good fame of the side. They had to show that the defendant (or plaintiff) is a trustworthy person. Not even knowing anything about the disputed fact, they just seemed to give a description of one or another party in the process. However, already "Russian Truth" does not always stand a clear distinction between the rumors and the views. It is characteristic that an element of formalism appears in the application of witness testimony. Thus, in some civil and criminal cases, a certain number of witnesses were required (for example, two witnesses to the conclusion of a contract of sale, two types of insults by action, etc.).

In the Old Russian state, a whole system of formal proofs appears - ordalia. Among them should be called a judicial duel - "field". The winner of the duel won the Case, because it was believed that God helps the right. In the "Russkaya Pravda" and other laws about the "field" is not mentioned.

Another type of God's judgment was iron and water trials. The iron test was used when there was not enough evidence - in more serious cases than the water test. Russian Pravda, which devotes three articles to these ordeals, does not disclose their content, the order of their conduct.

A special type of evidence was the oath - "company", which was used in small cases in the absence of additional evidence. The "company" could confirm the presence of an event or, conversely, its absence.

In some cases, external signs and physical evidence were of decisive importance. So, the presence of bruises and bruises on the body was enough to prove the beating. During the theft, the finding of stolen goods was essential.

In the ecclesiastical court, as many researchers believe, the inquisitorial (search) method was used with all its attributes, including torture. The ancient Russian Kievan state was an important milestone in the history of the country. Its legal system laid the foundation for the development of Russian law for many centuries to come. It also influenced the law of some neighboring peoples of Russia.

## IV. CONCLUSION

Russkaya Pravda is the first collection of all laws and legal norms that existed in the X-th-XI-th centuries. This document combined all the old legal acts, princely decrees, laws and other administrative documents issued by various authorities.

"Russkaya Pravda" is not only an important part of the history of law in Russia, but also an important cultural monument, as it reflects the life and life of Ancient Rus', its traditions, principles of housekeeping, and is also an important source of information about the written culture of the state, which at that moment was just beginning.

The composition of the document includes the norms of inheritance, commercial, criminal law and the principles of procedural law. "Russkaya Pravda" at that time was the main written source of information about social, legal and economic relations on the territory of Rus'.

The creation of this document is associated, first of all, with the name of Yaroslav the Wise - the prince collected all the legal documents and decrees that existed in Rus' and issued a new document around 1016-1054.

Unfortunately, today not a single copy of the original Russkaya Pravda has survived, only later censuses, so it is difficult to say exactly when it was created.

The document was rewritten several times by other princes, who made improvements to it according to the realities of the time.

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# ОСНОВЫ ЗАКОНОДАТЕЛЬНОГО РЕГУЛИРОВАНИЯ РУССКОЙ ПРАВДЫ: ИСТОРИЧЕСКИЕ ТЕНДЕНЦИИ РАЗВИТИЯ

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## Аннотация

В статье рассматривается процесс становления правового российского государства, который приобретает большое значение в свете изучения обширного исторического опыта формирования и функционирования различных государственно-правовых институтов. В этом контексте значительный интерес представляет изучение возникновения и развития процессуальных отношений, как на стадии досудебного производства, так и непосредственно в ходе судебного разбирательства во время принятия "Русской Правды" князем Ярославом Мудрым. В статье показано, что дискуссии по проблеме организационно-правовых основ уголовного и гражданского судопроизводства на различных стадиях судопроизводства в Древней Руси, начавшиеся более двух столетий назад, не только не утихают, но, наоборот, становятся еще более острыми в XXI веке.

**Ключевые слова:** закон, история, источник, князь, общество.

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