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THE RELIGIOUS FACTOR IN THE IMPERIAL JUDICIAL POLICY OF THE RIGHT-BANK UKRAINE (1797-1830)

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Abstract

The article examines the religious factor in the imperial judicial policy on the territory of Right-Bank Ukraine (1797-1830). The transformation of the region's judicial system after its incorporation into the Russian Empire is analyzed through the prism of confessional relations. On the basis of archival materials and published sources, the peculiarities of the functioning of judicial institutions in the context of religious stratification of society are revealed. The specifics of staffing of judicial institutions by representatives of different denominations, particularly the dominance of the Catholic *szlachta* (nobility) in the county and major courts, are highlighted. The author traces the evolution of the religious factor in municipal justice from the confessional separation of judicial institutions to the introduction of unified magistrates with proportional representation of Christian and Jewish communities. Particular attention is paid to the analysis of the interaction between the imperial policy of preserving Catholic influence in the judiciary and the gradual integration of the region into the general imperial legal space. The study demonstrates that the religious factor was an essential tool for balancing traditional social and legal practices and modernization processes in the judicial system of Right-Bank Ukraine.

Keywords: Right-Bank Ukraine, Russian Empire, judicial system, the religious factor, Catholic *szlachta* (nobility), county courts, major courts, magistrates, confessional policy, legal integration.

Formulation of the Problem

At the end of the 18th century, the territory of Right-Bank Ukraine was incorporated into the Russian Empire. The second and third partitions of the Polish-Lithuanian Commonwealth opened a new stage in the life of the region. A state with weak royalty, the hegemony of magnates, and an independent judiciary were replaced by an autocracy that demanded submission from all classes of the population (nobility, clergy, citizens, and peasants) and used

the courts to enforce “legality” (preventing violations of the law). In the 19th century, religious affiliation was one of the most important markers of national identity, especially in areas with mixed populations. The occupied territories of the former Polish-Lithuanian Commonwealth were ethnically and religiously complex, as Jews who practiced Judaism lived in towns (shtetls) and cities, while in villages, the landlords were Polish *Szlachta*¹ and the serfs were Ukrainians who at that time practiced Greek Catholicism (Uniate). For the supreme power and local administrators, the ultimate goal was the full integration of the Western provinces into the imperial power space. At the same time, the state policy at the initial stage was flexible and aimed at ensuring stability and social and religious peace. Various instruments were used for this purpose: concessions in the agrarian sphere (the rights of ownership of land and serfs for the szlachta were confirmed), ensuring participation of the elite in administrative power through the election of minor positions, and cooperation in the work of the judiciary. The imperial authorities, planning to use the skills of noble landowners (in growing and exporting grain) and burghers (in crafts and trade), sought to reach an understanding with them. At the same time, in order to strengthen its position in the region, it had to win over serfs without undermining the power of landowners over their serfs. The imperial authorities intended the judiciary to serve as one of the tools for solving this complex set of problems. From the point of view of St. Petersburg, the judiciary played a secondary role in the autocratic state, while for the local people, especially the elite, it was a way to protect their rights not only from the arbitrariness of other people but also from encroachments by the state.

Analysis of Recent Publications

The issue of the religious factor in the imperial judicial policy in the incorporated right-bank territories of the late 18th and first third of the 19th centuries has not been adequately reflected by the scientific research of historians. The reasons for this include the fact that this issue is at the intersection of history, jurisprudence, and religious studies; the laboriousness of working with archival materials (tens of thousands of archival files from different archives, some of which have more than a thousand pages, etc.); and the influence of ideological factors, especially in the Soviet Union. Among the researchers who studied the judicial system before

¹ The *szlachta* (Polish-Lithuanian nobility) were the privileged elite of Right-Bank Ukraine, holding significant political power, land ownership, and social influence, and were analogous to the nobility in Western Europe.

1917, the works of K. Kavelin,² F. Dmitriev,³ and A. Gradovsky⁴ are worthy of note, as they positively assessed the changes in the judiciary under Catherine II. At the same time, G. Dzhanshiev,⁵ I. Hessen,⁶ and D. Samokvasov⁷ criticized the estate judiciary for corruption and control over administrative authorities. M. Klochkov believed that Paul I, in carrying out his reforms, sought to keep the staffing issue in his hands and needed flexible and disciplined officials, not elected representatives of the estates. As a result of the Pavlovian reforms, the number of judicial institutions decreased, the judicial process was simplified, and the judicial system itself weakened the principle of estate.⁸

Soviet historians assessed the work of the estate judicial institutions in an exclusively negative light, focusing on the facts of bribery and fraud (I. Emelyanova⁹), the dominance of the nobility in the judicial structures (N. Eroshkin,¹⁰ M. Pavlova-Silvanskaya,¹¹ and A. Dubrovina.¹² P. Shcherbina, studying the courts of the Right-Bank Ukraine, saw the main drawback in the inequality of people before the law due to the application of different laws to representatives of different estates and argued that the functioning of the courts during 1797-1832 was essentially no different from Polish times until 1793.¹³

² К. Кавелин. *Основные начала русского судоустройства и гражданского судопроизводства в период времени от Уложения до Учреждения о губерниях*. [K. Kavelin. The basic principles of the Russian judicial system and civil proceedings in the period of time from the Udozhenie to the Uchrezhdenie about provinces], Москва: тип. А. Семена, при Императорской мед-хирург. Академии, 1844, 191.

³ Ф. Дмитриев. *История судебных инстанций и гражданского апелляционного судопроизводства от Судебника до Учреждения о губерниях*. [F. Dmitriev. History of judicial instances and civil appellate proceedings from the Judgment to the Uchadeniya about provinces], Москва: В Унив. тип., 1859, 525, 532–533.

⁴ А. Градовский. “Исторический очерк учреждения генерал-губернаторств в России.” [A. Gradovsky. Historical sketch of the establishment of governor-generalships in Russia. Politics, History and Administration. Critical and political articles]. *Политика, история и администрация. Критические и политические статьи*. Санкт-Петербург: издание книгопродавца-типографа М. О. Вольфа, 1871, 419–420, 435.

⁵ Г. Джаншиев. *Основы судебной реформы (К 25-ти летию нового суда). Историко-юридические этюды*. [G. Dzhanshiev. Foundations of Judicial Reform (To the 25th Anniversary of the New Court). Historical and legal sketches]. Москва: Тип. М. П. Щепкина, 1891, 11, 20.

⁶ И. Гессен. *Судебная реформа*. [I. Hessen. Judicial reform]. Санкт-Петербург, 1905, 267.

⁷ Д. Самоквасов. *История русского права*. [D. Samokvasov. History of Russian law]. Москва, 1906, 581–582.

⁸ М. Ключков. *Очерки правительственной деятельности времени Павла I*. [M. Klochkov. Sketches of governmental activity of the time of Paul I.]. Петроград: Сенатская типография, 1916. 628 с. С. 407–433

⁹ И. Емельянова. *Высшие органы государственной власти и управления России в дореформенный период*. [I. Emelyanova. The highest bodies of state power and administration of Russia in the pre-reform period]. Казань, 1962, 23.

¹⁰ Н. Ерошкин. *История государственных учреждений дореволюционной России*. [N. Eroshkin. History of state institutions of pre-revolutionary Russia]. Москва: Высшая школа, 1983, 114, 120, 123–124.

¹¹ М. Павлова-Сильванская. Социальная сущность областной реформы Екатерины II. [M. Pavlova-Silvanskaya. Social essence of the regional reform of Catherine II]. *Абсолютизм в России (XVII–XVIII вв.): Сб. статей*. Москва: Наука, 1964, 460–491.

¹² А. Дубровіна. *Суспільний лад, механізм управління та право України в період розкладу феодально-кріпосницької системи і зростання капіталістичних відносин (перша половина XIX ст.)*. [A. Dubrovina. Social system, mechanism of governance and law of Ukraine in the period of decomposition of the feudal serfdom system and growth of capitalist relations (first half of the nineteenth century)]. Київ: КДУ, 1966, 77, 82–86.

¹³ П. Щербина. *Судебная реформа 1864 года на Правобережной Украине*. [P. Shcherbina. Judicial Reform of 1864 in Right-Bank Ukraine]. Львов: Вища школа, 1974, 36–58.

The absence of ideological control and the openness of archives gave rise to new research on religious factors and the judiciary in imperial politics. A. Kamensky considers the transformation of the empire into a police state with a rigid power structure and the preservation of social balance, taking into account the interests of different social groups, without violating the interests of the supreme power, to be positive.¹⁴ L. Pisarkova notes that the judicial system under Paul I lost its class and elective character, as the emperor sought centralization and bureaucratization, while restoring privileges and features of the judiciary in the Western provinces to correct the shortcomings of the 1775 reform.¹⁵ V. Shandra made a successful attempt to study the role and place of conscience courts in Ukrainian society in the late 18th and early 19th centuries, noting that the judiciary of worthy local figures was respected.¹⁶ Researchers M. Dolbilov,¹⁷ L. Horizontov,¹⁸ A. Kappeler,¹⁹ and T. Snyder²⁰ note that imperial policy in the western provinces was characterized by flexibility and attempts to reach a compromise between the supreme power and the local elite, which did not want to accept the loss of its own statehood.

The reign of Catherine the Great and the functioning of the judiciary in the late 18th and first third of the 19th centuries have attracted great interest among American and European historians. R. Wortman conducted an in-depth analysis of the development of ideas about law, legality, and justice in Russia in the 18th and 19th centuries and came to the conclusion that in the first half of the 19th century the negative situation of the judiciary was due to insufficient

¹⁴ А. Каменский. *От Петра I до Павла I: реформы в России XVIII века (опыт целостного анализа)*. [A. Kamensky. From Peter I to Paul I: Reforms in Russia of the XVIII century (experience of holistic analysis)]. Москва: РГГУ, 2001, 403, 423, 429–430.

¹⁵ Л. Писарькова. *Государственное управление в России с конца XVII до конца XVIII века: Эволюция бюрократической системы*. [L. Pisarkova. Public Administration in Russia from the End of the XVIII to the End of the XVIII Century: Evolution of the Bureaucratic System]. Москва: Российская политическая энциклопедия (РОССПЭН), 2007, 498–501.

¹⁶ В. Шандра. *Совісні суди в Україні (остання чверть XVIII–середина XIX ст.)*. [V. Shandra. Conscience Courts in Ukraine (the last quarter of the eighteenth and mid-nineteenth centuries)]. Київ: Інститут історії України, 2011, 266.

¹⁷ М. Долбилов. *Русский край, чужая вера: Этноконфессиональная политика империи в Литве и Белоруссии при Александре II*. [M. Dolbilov. Russian Land, Alien Faith: Ethno-confessional Policy of the Empire in Lithuania and Belorussia under Alexander II]. Москва: Новое литературное обозрение, 2010, 18.

¹⁸ Л. Горизонтов. *Парадоксы имперской политики: Поляки в России и русские в Польше (XIX – начало XX в.)*. [L. Horizontov. Paradoxes of Imperial Politics: Poles in Russia and Russians in Poland (XIX - early XX century)]. Москва: Издательство «Индрик», 1999, 7–8.

¹⁹ А. Каппелер. *Росія як поліетнічна імперія: виникнення, історія, розпад*. [A. Kappeler. Russia as a multiethnic empire: emergence, history, collapse.]. Львів: Вид-во Католицького Українського університету, 2005, 67–68, 70.

²⁰ Т. Снайдер. *Перетворення націй. Польща, Україна, Литва, Білорусь, 1569–1999*. [T. Snyder. The Transformation of Nations. Poland, Ukraine, Lithuania, Belarus, 1569-1999]. Пер. з англ.: А. Котенко, О. Надтока. Київ: Дух і Літера, 2012, 151.

funding and lack of staff.²¹ I. de Madariaga also draws attention to the lack of qualified professional staff in the judiciary.²² J. Burbank, studying the problems of state provision of justice, argues that the incorporation of local “customs” into imperial legislation was a kind of deal: the empire supported local courts in exchange for the payment of taxes by the population.²³ E. Thaden and M. Thaden note that the incorporated regions were laboratories of reform, and Russia did not have sufficient human or institutional resources to carry out rapid administrative, social, and legal integration. These provinces were extremely diverse in terms of their national, social, and religious composition and political structure.²⁴ A. Korobovich is convinced that the radical changes in the judicial system of the western provinces are connected with the beginning of the reign of Paul I, who restored the judicial system of the former Polish-Lithuanian Commonwealth.²⁵

Thus, researchers have analyzed the transformation of the judicial system mainly through the prism of centralization, bureaucratization, and social balance, focusing on the problems of estate, corruption, and lack of professional staff. At the same time, the religious aspect of the judiciary has been ignored by most historians.

Presentation of the Main Material

Throughout its existence, the Polish-Lithuanian Commonwealth was a state dominated by Roman Catholicism. At the same time, religious policy was initially quite moderate, but later the processes of Catholicization intensified and the Greek Catholic Church was established with the support of the state at the Council of Brest in 1596. These events led to a long religious controversy and interfaith confrontation, which affected interchurch relations.²⁶ The lack of religious consensus led to social and religious conflicts that weakened the state. Attempts to find harmony in the religious sphere were met with resistance from magnates and *szlachta* who

²¹ Р. Уортман. *Властители и судии: Развитие правового сознания в императорской России*. [R. Wortman. *Rulers and Judges: The Development of Legal Consciousness in Imperial Russia*]. Пер. с английского М. Д. Долбилова при участии Ф. Л. Севастьянова. Москва: Новое литературное обозрение, 2004, 96, 121–122.

²² И. де Мадариага. *Россия в эпоху Екатерины Великой*. [I. de Madariaga. *Russia in the Age of Catherine the Great*]. Пер. с английского Н. Л. Лужецкой. Москва: Новое литературное обозрение, 2002, 439–463.

²³ Дж. Бербэнк. Местные суды, имперское право и гражданство в России. [J. Burbank. *Local Courts, Imperial Law and Citizenship in Russia*]. *Российская империя в сравнительной перспективе. Сборник статей*. Москва: Новое издательство, 2004, 320–358.

²⁴ E. Thaden, M. Thaden. *Russia's Western Borderlands, 1710–1870*. Princeton: Princeton University Press, 1984, 53–55. https://shron1.chtyvo.org.ua/Edward_Carl_Thaden/Russias_Western_Borderlands_1710-1870_en.pdf

²⁵ А. Коробович. Судебная система на занятых Россией восточных землях Речи Посполитой (XVIII–XIX вв.). [A. Korobovich. *Judicial System in the Eastern Lands of the Polish-Lithuanian Commonwealth Occupied by Russia (XVIII–XIX centuries)*]. *Актуальні проблеми держави і права*. No. 49 (2009): 104–110.

²⁶ Б. Гудзяк, О. Турій. Берестейська церковна унія 1596 р. [B. Gudziak, O. Turiy. *The Union of Brest in 1596*]. *Енциклопедія історії України*: Т. 1: А–В / Редкол.: В. А. Смолій (голова) та ін. НАН України. Інститут історії України. К.: В-во “Наукова думка”, 2003: 231–233.

professed Catholicism. In 1768, in response to the policy of King Stanisław-Augustus Poniatowski (1764-1795) to ease confessional conflicts in the Polish-Lithuanian Commonwealth and to resolve the problem of dissidents (apostates who departed from the dogmas of the dominant religion), the Polish *szlachta* proclaimed the Bar Confederation (uprising). The Confederates, acting under the slogans of defending the Catholic faith and *szlachta* privileges, launched an uprising on the territory of Right-Bank Ukraine, which, among other things, led to the events of the national liberation of Ukrainians under the slogans of defending Orthodoxy, the *Koliivshchyna* (1768). In 1772, the Bar Confederation was defeated,²⁷ but Catholics continued to dominate the public life of the Polish-Lithuanian Commonwealth.

Failures in domestic politics led to three partitions of the Polish-Lithuanian Commonwealth (1772, 1793, and 1795) and the elimination of Polish statehood. However, the territories acquired by the Russian Empire were more developed in a number of areas (agrarian relations, elite involvement in power). The judicial system was particularly effective, with its independence from the administrative authorities, the immutability and election of officials, the existence of the advocate, and the stability of the legal framework, which had the main effect of ensuring order and stability.

On the other hand, the Polish-Lithuanian Commonwealth was a monarchy of the estate, where the *szlachta* received the main advantages. The judicial system was characterized by a unique structural complexity, which included different types of courts with clearly defined powers and procedures. According to the II Lithuanian Statute (1566), the main elements of the judicial structure were *zemstvo*, *grodzki* and *podkomorskyi* courts, which were formed in each county,²⁸ and the the tribunal was the appellate institution.²⁹ The *zemstvo* courts, which decided civil cases (sale and purchase of estates, inheritance, ownership, etc.) of the *szlachta*, consisted of a judge elected by the local elite and approved by the king, who served for life and appointed a clerk and a scribe. Candidates for the position were subject to professional, moral, class, settlement, and confessional qualifications. The judges received a salary from the parties for their services, and the sessions (“*rochky*”) were held three times a year for two weeks--in

²⁷ В. Смолій. Барська конфедерація 1768. [V. Smoliy. The Bar Confederation of 1768]. *Енциклопедія історії України*: Т. 1: А-В / Редкол.: В. А. Смолій (голова) та ін. НАН України. Інститут історії України. К.: В-во “Наукова думка”, 2003: 195.

²⁸ Статут Вялікага княства Літоўскага 1566 года. [Statute of the Duchy of Lithuania, 1566]. Мінск, 2003. http://litopys.org.ua/statut2/st1566_05.htm

²⁹ С.Ковальова, М. Крумаленко, П. Музиченко. Коментар [S. Kovaleva, M. Krumalenko, P. Muzychenko. Commentary]. Статути Великого князівства Литовського. Т.ІІІ: Кн.2. *Статут Великого князівства Литовського 1588 р.* Одеса, 2004: 393.

June, from September 29 and January 6.³⁰ To ensure order, the *grodno* court was more important, as it decided criminal cases. A judge was appointed by the *voivode* or *starosta* on the condition of being a member of the *szlachta*, living in the county, and being a Christian. His remuneration was the same as in the *zemstvo* court, but the terms of the court sessions began every month and lasted two weeks.³¹ The establishment of land ownership boundaries, given its importance for the society of the time, was subject to a special judicial procedure. To regulate land relations, an authoritative *podkomorskyi* court was established, which consisted of a *podkomorian* who independently formed the court's composition and was supported by the work performed on the delimitation of possessions.³² The Lublin Tribunal, the highest court of appeal for the *szlachta* courts of the Ukrainian voivodeships, consisted of elected “lay” (initially 27, later 50) and “clerical” (initially 6, later 8) judges, elected annually in September by the *szlachta sejmiks* and bishops' councils, respectively. Sessions were traditionally held in spring and summer.³³ The judicial system of the Polish-Lithuanian Commonwealth had a distinctly Catholic character. The confessional requirement was that judges belonged to Christianity (in fact, to the dominant religion), which ensured the dominance of Catholic values and worldview in the judiciary. The Catholic *szlachta*, especially at the last stage of the Polish-Lithuanian Commonwealth's existence, not only controlled the judicial system, but also used it as a tool to preserve their own estate privileges and religious hegemony, which clearly demonstrated the close relationship between the judiciary, estate interests, and religious affiliation.

In the context of the Polish-Lithuanian Commonwealth's municipal court system, magistrates in royal cities³⁴ with Magdeburg law constituted a specific institution that handled civil cases for the Christian population. Criminal proceedings, including death sentences, were

³⁰ А. Шевчук. Повітові та головні суди Правобережної України (1797–1831 рр.): улаштування, кадровий склад, діяльність. [A. Shevchuk. District and Main Courts of the Right-Bank Ukraine (1797-1831): Organization, Staffing, Activities]. *Український історичний журнал*. No. 4 (2021): 53. DOI: <https://doi.org/10.15407/uhj2021.04.050>

³¹ Статути Великого князівства Литовського. Том III: Кн. 2. *Статут Великого князівства Литовського 1588 р.* Одеса, 2004: 144.

³² А. Шевчук. Судове врегулювання поземельних відносин у Правобережній Україні (1797–1840 рр.). [A. Shevchuk. Judicial Settlement of Land Relations in Right-Bank Ukraine (1797-1840)]. *Український історичний журнал*. No. 4 (2020): 31-32. DOI: <https://doi.org/10.15407/uhj2020.04.029>

³³ А. Шевчук. Судова влада в житті суспільства Правобережної України (кінець XVIII – перша третина XIX ст.). [A. Shevchuk. Judicial Power in the Life of the Society of Right-Bank Ukraine (late XVIII - first third of the XIX century)]. Житомир: Видавець Євенок О. О., 2022, 67.

³⁴ In Volyn, magistrates operated in Zhytomyr, Ovruch, Kremenets, Lutsk, Volodymyr-Volynskyi, and Kovel. О. Карліна. Склад і повноваження магістратів повітових міст Волинської губернії в першій половині XIX ст. [O. Karlina. The composition and powers of the magistrates of the county towns of Volyn province in the first half of the XIX century]. *Вісник Чернігівського національного педагогічного університету*. No 87 (2011): 50.

within the competence of the Wójtowski court, which acted autonomously from other judicial instances. Legal differentiation provided for a special procedure for the Jewish community: criminal and important cases were considered by *grodzki* and *zemstvo* courts, and minor cases by *kahal* (Jewish communal court) or domain courts of city owners.³⁵ During the final period of the Polish-Lithuanian Commonwealth in Vinnytsia in Podillia, the magistrate consisted of three elected authorities that dealt with civil, criminal, and administrative cases. At the same time, the Jewish community functioned autonomously, not participating in the work of the municipal judicial structure.³⁶ The judicial system of the Polish-Lithuanian Commonwealth cities demonstrated a complex multi-level structure with a clear estate and confessional distinction, where each community (Christians and Jews) had specific judicial mechanisms, reflecting the social stratification of the society of the time and the principles of legal pluralism. The dominant role of the Catholic Church in the state determined the priority position of Christian judicial institutions, which not only administered justice but also served as an instrument of religious hegemony and social control.

In the legal system of the Polish-Lithuanian Commonwealth, serfs were in the most vulnerable position, deprived of an objective judicial process. The III Lithuanian Statute regulated a differentiated approach to the trial of criminal cases involving serfs: directly on the estate, they were subject to the dominion³⁷ court of the owner; outside the estate, they could be returned to the owner or transferred to the *grodzki* court. In the absence of justice from the landowner within two weeks, the case was heard by the *grodzki* court, which had jurisdiction over criminals apprehended at the scene of the crime, regardless of their social status.³⁸ The judicial system of the Polish-Lithuanian Commonwealth demonstrated a distinct social inequality, where serfs were deprived of the full right to a fair trial, being under the almost absolute control of landlords. The religious factor exacerbated this inequality, as the Catholic Church legitimized the class hierarchy, sanctifying social inequality and maintaining the privileged position of the gentry, which directly influenced judicial practice and law enforcement.

³⁵ Укази за 1797 год. [Decrees for the year 1797]. Державний архів Хмельницької області (далі – Держархів Хмельницької області) Ф. 722. Оп. 1. Спр. 5. Арк. 163–163 зв.

³⁶ К. Завальнюк, І. Журавлівський. З історії вінницького міського самоуправління. [К. Zavalnyuk, Y. Zhuravlovsky. From the history of Vinnytsia city government]. *Міста і містечка Поділля від доби Середньовіччя до початку XX ст.: матеріали наукової конференції 24–25 верес. 2015 р.* Вінниця: Нілан-ЛТД, 2016, 192–195.

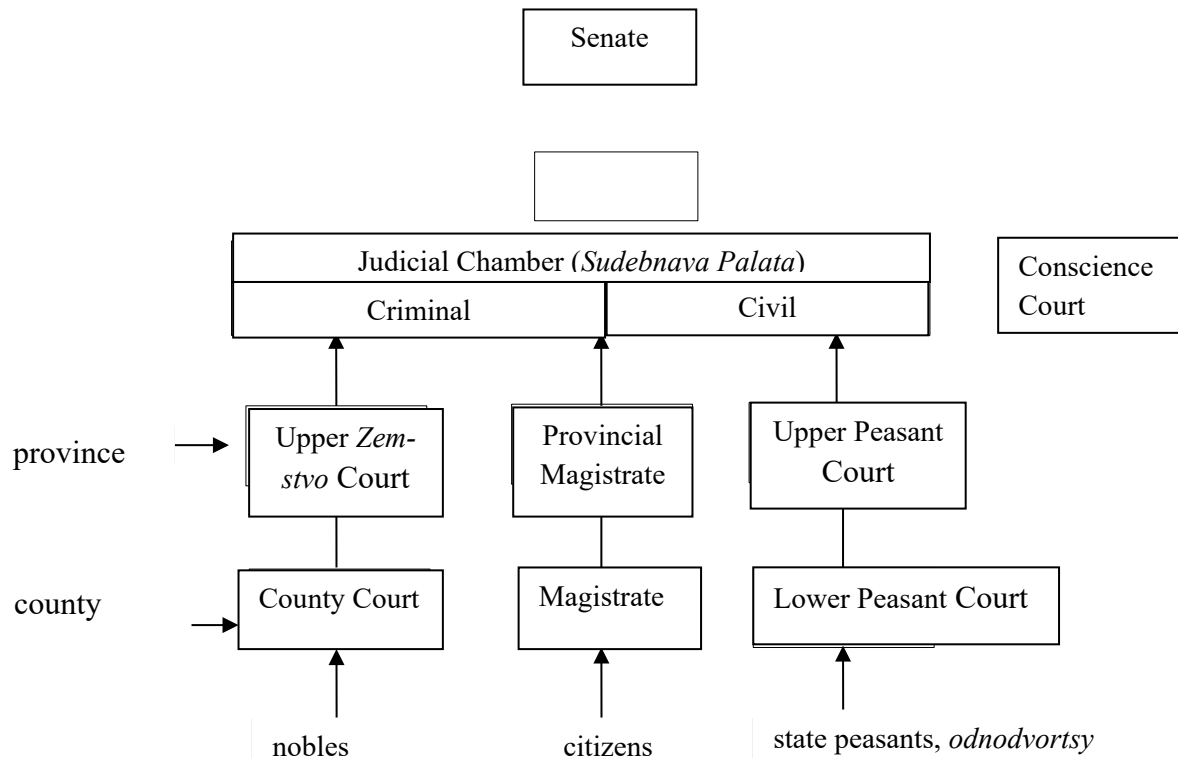
³⁷ A dominion court (from the Latin dominium - possession, ownership) was a court conducted by the owner of an estate (dominium) over peasants dependent on him.

³⁸ Статути Великого князівства Литовського, *op. cit.*, 329–330; С.Ковальова, М. Крумаленко, П. Музиченко, *op. cit.*, 512–513.

After the second (1793) and third (1795) partitions of the Polish-Lithuanian Commonwealth, the right-bank territories became part of the Russian Empire. The autocracy demanded obedience, military service, and payment of taxes from its subjects. In 1775, Catherine II, seeking to Europeanize the monarchy, introduced “The Institutions for the Administration of the Provinces of the All-Russian Empire.” In the judicial sphere, an estate-based judicial system was built, where the nobles, citizens, state peasants, and *odnodvortsy* received their own judicial structures.³⁹

Appendix 1

The Judicial System of the Russian Empire according to the “Establishment for the Administration of the Provinces of the All-Russian Empire” of 1775⁴⁰



³⁹ Учреждения для управления губерний Всероссийской империи, часть первая. 1775. Ноября 7. [Establishments for the administration of the provinces of the All-Russian Empire, part one. 1775. November 7]. Полное собрание законов Российской империи. Изд. 1-е. Т. 20 (1775–1780), Санкт-Петербург, 1830, № 14392, 229–304.

⁴⁰ Senate was the highest appellate judicial institution of the Russian Empire in the early 19th century. *The Judicial Chamber* was the highest appellate institution at the province level in the Russian Empire at the end of the 18th century. The *odnodvortsy* were a category of free rural inhabitants in the Russian Empire, originally formed from petty servicemen and settled military personnel. *The Upper Zemstvo Court* was an appellate institution for the nobility in the Russian Empire at the end of the 18th century. *The Conscience Court* (*Sovestnyi sud*) was a special judicial institution established by Catherine II in 1775. It handled cases involving minors, mentally ill persons, witchcraft accusations, and certain civil disputes.

In fact, the supreme power, having opened administrative and judicial institutions in the right-bank provinces (in Bratslav province on February 20, 1796, Podillia province on May 1, 1796, and Volyn province on August 6, 1796⁴¹), it rejected the experience of the more developed judicial system of the Polish-Lithuanian Commonwealth with the specialization of courts, professionalism, and immutability of judges who independently formed the staff of the institution, prestige of judicial officials in society, and the desire to resolve cases on the spot. In contrast, the imperial state courts lacked specialization of the courts of first and second instance, which reduced the quality of judicial proceedings, judges, and other officials were persons without the necessary knowledge, elected for three years and approved by administrative authorities, the legal profession was not prestigious, and there were a large number of appellate instances, which required a lot of time to finally complete the case. The main disadvantage was the absence of the advocacy institution and the shift from the European adversarial process in an open session, when the accused and his advocate defended themselves in court, to formal proceedings where the court reviewed the investigation materials and passed a verdict in a closed session. After that, criminal cases had to go through all the appellate institutions, which delayed the trial. It is worth noting that the citizens received a unified judicial structure of magistrates regardless of religion (Christians or Jews).⁴² The state peasants and *odnodvortsy* (free people who paid taxes) received their own judicial structure, the lower peasant court, which consisted of eight judges elected for three years from among the peasants, provided they had no “obvious defects.” However, nobles and officials approved by the governor were also allowed to run for election. The court was headed by a judge (class IX according to the “Table of Ranks”) appointed by the governor. This state of affairs did not suit the Polish *szlachta*, which was losing influence in the judiciary, but the imperial troops forced them to accept it.⁴³

⁴¹ В. Григорьев. Реформа местного управления при Екатерине II. [V. Grigoriev. Reform of local governance under Catherine II]. Санкт-Петербург: Рус. скоропеч., 1910, 311–312.

⁴² The process of forming the Radomyshl city magistrate, which took place on August 22, 1796, demonstrates important changes in the system of city government in the newly annexed territories. The staff of the institution reflects a significant transformation of the principles of formation of municipal authorities: the positions of mayors were taken by T. Kryzhanovskyi and Y. Dyktorski, who represented the Christian population, while representatives of the Jewish community - Leiba Itskowicz, Berko Shmuliewicz, Moszko Leibowicz, and Jos Davidowicz - were appointed as councilors. This fact shows a fundamental change in the legal status of the Jewish population compared to the previous period of the Polish-Lithuanian Commonwealth, when there was a regulated ban on Jewish participation in elected city institutions. Thus, we can state a significant liberalization of the policy of Jewish participation in municipal governments in the territories that became part of the Russian Empire. Журнали засідань за 1796 р. [Meeting journals for 1796]. Держархів Житомирської обл. Ф.715. Оп.1. Спр.2. Арк.3, 72.

⁴³ Учреждения для управления губерний Всероссийской империи, оп. cit., 229–304; Шевчук А. Судова влада в житті суспільства Правобережної України (кінець XVIII – перша третина XIX ст.), оп. cit., 73–92.

The introduction of the Russian judicial system in the right-bank provinces meant a significant degradation of the judiciary compared to the previous Polish model, which was characterized by professionalism and specialization. The religious factor manifested itself in the unification of judicial mechanisms, where the judicial tradition of the Polish-Lithuanian Commonwealth gave way to the bureaucratic system of the Russian Empire, which leveled confessional differences and estate privileges, creating a unified judicial space that destroyed the previous religious and legal hierarchy. This process was accompanied by the gradual marginalization of the previous judicial elites, primarily the Polish Catholic *szlachta*, and the establishment of a new administrative and legal order that subordinated the judicial system to imperial interests.

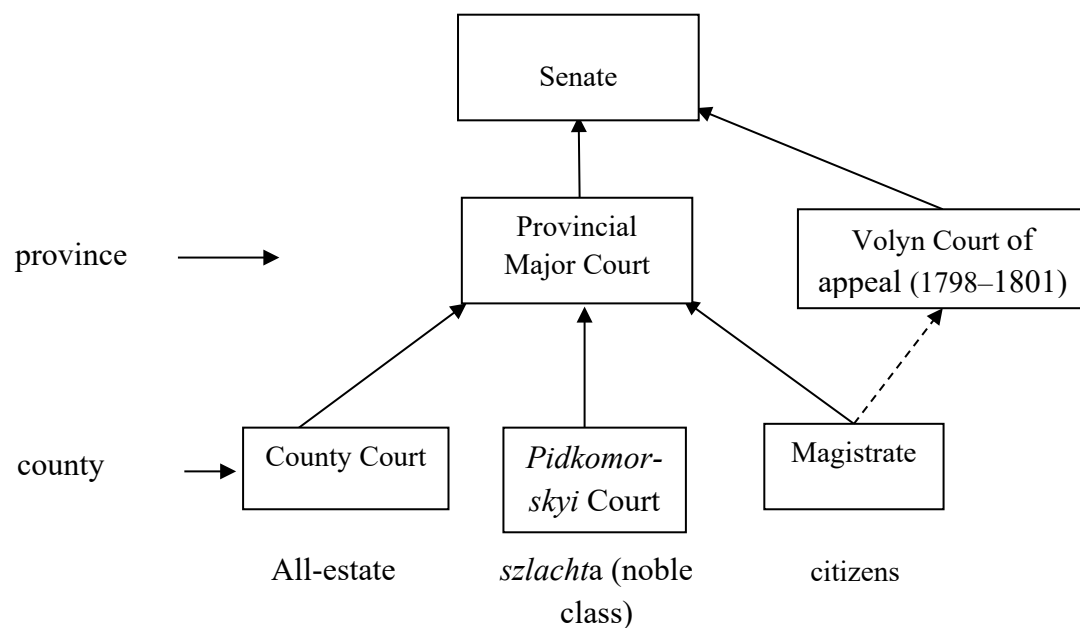
On November 6 (17), 1796, Catherine II died and Paul I (1796-1801) became the new emperor. He sought to “restore order” in the country and bureaucratize administrative structures. Counting on the support of regional elites in the Western provinces, he made concessions in the judicial and administrative spheres, which allowed part of the establishment to integrate into the imperial authorities.⁴⁴ The judicial structure was changed, advocates were allowed to practice law, the III Lithuanian Statute and the Sejm constitutions were returned to the judiciary (clarification and resolution of gaps by Sejm resolutions), and the dominance of the Polish Catholic *szlachta* was restored.

Appendix 2

Transformation of the Judicial System of the Right-Bank Ukraine under the Rule of Paul I (1796-1801)⁴⁵

⁴⁴ А. Шевчук, О. Маркевич. Справник у системі управління Волинською губернією (кінець XVIII — 1860-ті рр.). [A. Shevchuk, O. Markevych. Spravnyk in Volyn Province Administrative System (end of the 18th century – 1860s)]. *Емінак: Науковий щоквартальник*. No. 3 (2022): 11. DOI: 10.33782/eminak2022.3(39).588

⁴⁵ *Pidkomorskyi Court* was a specialized court that dealt with land boundary disputes between nobles and handled cases concerning the demarcation of noble estates. This court institution originated in the Polish-Lithuanian Commonwealth and continued to function in Ukrainian territories under Russian rule in the late 18th - early 19th centuries. *County Court* was an all-estate judicial institution, meaning it had jurisdiction over cases involving people from all social estates (*szlachta*, citizens, state peasants, etc.). *Volyn Court of appeal* (1798–1801), according to Paul I's plan, was to establish control over the entire judicial system of the Minsk, Volyn, Podillya and Kyiv provinces. It was formed of officials appointed from St. Petersburg, which contradicted the previous Polish judicial tradition of elected judges. *The Provincial Major Court* (1797–1831) supervised and controlled the judicial structures of the region, consisting of elected (chairman and three judges) and clerical (counselor and secretary) staff loyal to the imperial authorities.



The *szlachta* gained an absolute advantage in the judicial sphere, expanding its control over the social life of the region. The jurisdiction of the county court (first instance) included criminal and civil cases not only of the *szlachta*, but also of state peasants and even serfs. For minor crimes, the latter remained under the authority of their lord or his officials (an employee of a private estate). However, for crimes of moderate gravity and serious crimes (murder, theft, forgery of money or documents, escape from serfdom), they were subject to the county court according to the imperial judicial tradition. If the crimes involved representatives of other estates (citizens, soldiers, and clergy), the case was resolved either at a joint session with the magistrate or with the participation of representatives from the military or clergy. It is important to note that the staff of the county court consisted exclusively of Catholics. This applies to both elected officials and appointed officials and clerks (the latter did not have a class rank but copied documents). Only landowners who had the appropriate number of serfs could apply for elected positions, while the positions of officials and clerks had to be held by representatives of the educated landless *szlachta*. The state wanted the petty *szlachta* to serve not magnates but state institutions, offering ranks, positions, money, and, most importantly, the opportunity to legalize their status in the new state. However, in this case, loyalty, noble origin, and education were more important to the state than the religion of officials. This flexibility of the supreme power and local administrators resulted in the influx of a sufficient number of educated *szlachta* deprived of their previous livelihoods.⁴⁶ The judicial system demonstrated a clear religious

⁴⁶ Шевчук А. Судова влада в житті суспільства Правобережної України (кінець XVIII – перша третина XIX ст.), *op. cit.*, 280-292.

stratification, where the Catholic faith served not only as a confessional but also as a social and administrative feature. The staff of the county court, which was composed exclusively of Catholics, turned religious affiliation into a key criterion of professional legitimacy, which emphasized the dominance of the Catholic Church in the social and legal space of the region and served as an instrument of state integration policy.

To resolve the complex issues of establishing the boundaries of estates, the activity of the *pidkomorskyi* courts in the counties was restored, whose staff consisted exclusively of local *szlachta*. The imperial authorities did not interfere with the demarcation of private estates, but tried to prevent abuses by the local elite in establishing the boundaries of state and granted estates. Even the imperial commander M. Kutuzov, who in 1795 was granted state estates in the Kyiv and Volyn provinces with 2,777 serfs, was caught in the vortex of the local judicial system. The only document he received for the right of possession was a decree “with inventory.” However, immediately, neighboring landowners and life tenants of state estates began filing lawsuits against him to establish the boundaries of land ownership. In response, M. Kutuzov appealed to the emperor, stating that as of 1801 there were 14 trials in the presences. When considering this appeal, the Senate ordered the termination of all proceedings. All those dissatisfied were offered to start the procedure as in claims to state property.⁴⁷ However, as of 1805, despite his military service and proximity to the government, M. Kutuzov had to constantly litigate.⁴⁸ And this is despite the fact that the state authorities adhered to a consistent policy of supporting Orthodoxy,⁴⁹ but for the time being did not want to conflict with local landowners. This case demonstrates the religious and social conflict on the Right Bank in the late 18th and early 19th centuries: an Orthodox general who received estates from the Russian authorities faced opposition from the local Catholic nobility, who perceived him as a stranger and a representative of another denomination. This confrontation was not so much a legal matter as it reflected a deeper conflict between the Orthodox new landowner and the local Catholic elite, who tried to maintain their influence and property through the judicial mechanisms available to them.

⁴⁷ Укази Київського губерньського правління за 1801 р. [Decrees of the Kyiv Provincial Government for 1801]. Центральний державний історичний архів України м. Київ (далі – ЦДІАК України). Ф.715. Оп.1. Спр.15., Арк.100–100 зв.

⁴⁸ Укази Київського губерньського правління за 1805 р. [Decrees of the Kyiv Provincial Government for 1805]. ЦДІАК України, Ф.793, Оп.1, Спр.3, Арк.207–207 зв.

⁴⁹ A. Shevchuk and O. Markevych. The Religious Policy of the Russian Empire in the Captured Territories of the Polish-Lithuanian Commonwealth (On the Example of the Volyn Province at the End of the 18th-The First Half of the 19th Century). *Occasional Papers on Religion in Eastern Europe*. Vol. 45 (2025): Iss. 1, 24-38. DOI: <https://doi.org/10.55221/2693-2229.2596>

On the territory of Right-Bank Ukraine in the late 18th century, the religious composition of the urban population, represented mainly by Christians and Jews, directly influenced the formation of city governments. The analysis of archival materials reveals a differentiated approach to the establishment of magistrates in the cities of Volyn Province as of 1798. The Zhytomyr magistrate introduced the position of president, which had to be held by a Christian responsible for municipal economy and justice, and established a quota system for the election of councilors: seven representatives from the Christian community and four from the Jewish community. The Ovruch magistrate was characterized by the following structure: the position of mayor was assigned to a Christian, while the councilors consisted of five Christians and three Jews. Additionally, nine *gmina* councilors were elected. A unified system was implemented in the magistracies of Kremenets, Lutsk, Volodymyr-Volynskiy, and Kovel: a Christian president, seven Christian councilors, and four Jewish councilors.⁵⁰

The situation was unique in the small town of Olyka, where, according to a Senate decree of 1798, a town hall was established with a minimal composition: one mayor and three councilors. It is noteworthy that in subsequent years, this structure was modified to include two councilors from the Jewish community.⁵¹ The analysis of the structure of municipal governing bodies demonstrates the imperial authorities' desire to maintain a balance between the Christian and Jewish communities while ensuring the dominant position of Christians in leadership roles.

Paul I made significant changes to the judicial system. For the right-bank provinces, the judicial system was simplified by eliminating the upper *zemstvo* court, the provincial magistrate, as well as the lower and upper estate courts, and the all-institutional conscience courts. Even the highest provincial judicial institutions, the chambers of the criminal and civil courts, were abolished. Instead, according to a decree of December 31, 1796, major courts were established in Kyiv, Volyn, and Podillia. Each major court consisted of two departments: criminal and civil.⁵² The structure of the major courts combined elected and appointed positions. Each department was headed by a chairman (of the fifth class) and three judges elected by the provincial *szlachta*. The Senate had to approve the candidacy of the chairman, while the governor had to approve the judges. To ensure state control and protect imperial

⁵⁰ Укази і розпорядження Новоград-Волинському магістрату. 1804 р. [Decrees and orders of the Novohrad-Volyn magistrate. 1804 p.]. Держархів Житомирської обл. Ф.9. Оп.1д. Спр.13. Арк.97–100 зв.

⁵¹ О. Карліна Соціокультурний портрет волинського містечка першої половини XIX ст. (за матеріалами Олицької ратуші). [O. Karlina Socio-cultural portrait of the Volyn town of the first half of the nineteenth century (based on the materials of the Olytsia town hall)]. *Наукові записки. Збірник праць молодих вчених та аспірантів*. Т. 19 (1), (2009): 498–499.

⁵² Штаты по духовной и по гражданской части: Штаты по гражданской части (1715–1800). [States on spiritual and on civil part: States on civil part (1715–1800)]. *Полное собрание законов Российской империи*. Изд. 1-е. Т. 44: Ч. 2, Санкт-Петербург, 1830, 397–398.

interests, the supreme power additionally appointed advisors (of the sixth class) and secretaries.⁵³ As of 1816, the staff of the Podil Major Court consisted of two presidents (fifth class), two counselors (sixth class), and six judges from the local elite.⁵⁴ This combination of loyal elected officials and appointed officials allowed the imperial authorities to control the judicial structures. At the same time, the elected *szlachta* and clerks were predominantly Roman Catholics. For example, A. Dombrowski, who was elected three times starting in 1809 as chairman of the department of the Volyn Major Court, was a Roman Catholic and a wealthy landowner (owning 778 serfs and real estate in Dubno, among other assets).⁵⁵ Similarly, J. Pininsky, chairman of the civil department of the Volyn Major Court from 1817, professed Roman Catholicism and owned 470 serfs in the Kovel county.⁵⁶ An analysis of the records of officials in the civil department of the Podil Major Court (41 individuals) as of 1830 shows that they were exclusively Roman Catholics, with only one official originating from the neighboring Volyn province.⁵⁷ At the same time, their affiliation with Roman Catholicism did not hinder their career advancement. The religious composition of the judiciary in Right-Bank Ukraine reflected the imperial authorities' desire to maintain the loyalty of the local Polish *szlachta* by allowing Roman Catholics to hold elected offices and work in court administrations.

Conclusions

Thus, the religious factor played a significant role in the transformation of the judicial system of Right-Bank Ukraine after its incorporation into the Russian Empire. At the same time, a complex dialectic can be traced between the previous Catholic dominance in the judiciary of the Polish-Lithuanian Commonwealth and the new imperial practices. The imperial authorities demonstrated a pragmatic approach by retaining key positions in the judicial system

⁵³ Протоколи суду за січень – грудень 1825 р. [Court records for January - December 1825]. ЦДІАК. Ф. 484. Оп. 2. Спр. 145. Арк. 1; Журнали засідань кримінального департаменту. 1800 р. [Journals of meetings of the criminal department. 1800.]. Держархів Житомирської обл. Ф. 16. Оп. 3. Спр. 6. Арк. 1.

⁵⁴ Справа про звільнення у відпустку голови цивільного департаменту Подільського головного суду Подоського та призначення засідателів до кримінального департаменту. 1816 р. [The case of dismissal on vacation of the head of the civil department of the Podilskyi Main Court and appointment of judges to the criminal department]. ЦДІАК України. Ф.1254. Оп.1. Спр.1610. 20 арк.

⁵⁵ Формулярний список про службу голови суду А. Домбровського. 1816 р. [Formal list of the service of the court president A. Dombrowski. 1816]. Держархів Житомирської обл. Ф.16. Оп.1. Спр.17. Арк.1 зв. – 2.

⁵⁶ Формулярний список про службу голови суду Й. Пінінського. 1818 р. [Formal list of the service of the court president J. Pininsky. 1818.]. Держархів Житомирської обл. Ф. 16. Оп. 1. Спр. 42. Арк. 1 зв.-2.

⁵⁷ Справа за зверненням М. Гречини про прийняття на службу до головного суду на посаду канцеляриста. 20 листопада 1827 р. – 21 грудня 1827 р. [Case on the application of M. Hrechyna for employment in the Supreme Court as a clerk. November 20, 1827 - December 21, 1827]. Держархів Хмельницької обл. Ф.120. Оп.1. Спр.3342. Арк.1488 зв.-1514.

for the Catholic *szlachta*. This was evident in the staffing of both district courts and provincial chief courts with representatives of the Catholic denomination. This approach was intended to ensure the loyalty of the local elite and maintain social stability in the region.

Simultaneously, there was a significant transformation in the role of the religious factor in municipal justice. While in the Polish-Lithuanian Commonwealth there was a clear division of judicial institutions on a confessional basis (with separate courts for Christians and Jews), the imperial authorities introduced unified magistrates with proportional representation of both communities, although Christians retained leadership positions. The judicial system was gradually secularized. Whereas in the Polish-Lithuanian Commonwealth religious affiliation was one of the determining criteria for access to judicial positions, in the imperial period the religious factor gradually gave way to class and property qualifications, although it retained its importance. In fact, the religious factor became one of the instruments of the empire's integration policy. While preserving Catholic dominance in the judiciary, the imperial authorities simultaneously established control through appointed officials and unified judicial proceedings in accordance with imperial norms.

Thus, the religious factor in the judicial policy of the Russian Empire in Right-Bank Ukraine was an important element in balancing the preservation of traditional social and legal practices with the gradual integration of the region into the general imperial legal framework. This demonstrates the complexity and multidimensionality of the processes of incorporating new territories into the empire, where religious policy served as one of the key instruments of state administration.

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