

Senatorial Inspections about Problem of Officials' Malfeasances in Provincial Governments of the Late Russian Empire: Comparative Analysis

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Abstract—In this paper is shown there was a system of “administrative guarantee” in the Russian Empire. It means that neither a committal for trial nor filing a suit against the officials who have committed crimes could take place without the permission of their line management. In the paper it is shown how this system worked in practice at the beginning of the XX century. Practice of administrative investigations of the officials' malfeasances is analyzed. Research is based on the comparative analysis of the result of three senatorial inspection – of Baku province, Turkestan province, Russian Poland. Also in the paper there is the result of comparative analysis between assessments made by senatorial inspections and researcher assessment of the situation in Ural regional system of administrative system. The research is based on unique documents from the Russian State Historical Archive (St.-Petersburg).

Keywords—Administrative guarantee, officials malfeasances, Russian Empire, senatorial inspection

I. INTRODUCTION

THE public administration system has always been and continues to be an important factor in social development. The efficiency of power structures is achieved by different means, including self-cleaning of the administration system from those members of staff who pull rank.

Neither a committal for trial nor filing a suit against the officials who have committed crimes could take place without the permission of their line management in the Russian Empire at the beginning of the XX century [1]. As the eminent Russian lawyer V. Maklakov noted, “even though there is a proceeding stipulated by the law and considered a crime, even though there is the investigatory authority and public prosecutor's supervision who are officially aware of the crime, they are powerless in case the crime is committed by an official”. The system of “administrative guarantee” made an official responsible insofar as “his bosses would like to make him

responsible” [2].

The research of the office-work materials on the Ural provincial boards (those boards that acted as administrative justices towards local police officials) has led to the conclusion that at the beginning of the XX century there was a steady informal association of the provincial officialdom in the region. The systematic rescuing of police officials from punishment for malfeasance office constituted its activity. It has been figured out that there was a constant interpretation of any official malfeasance in the accused favour; brining to the court the accused mainly of lower ranks; substitution of the punishment for “including them in the staff” of provincial boards; placing immediate superiors of the accused in charge of the investigation. All this contributed to the development of corruption and demoralization of the officialdom in the Ural region [3].

Following this line of research, the question arises of whether the existence of the state officials' informal association was a unique peculiarity of the region or whether it was also typical for other territories of the Russian Empire at the beginning of the XX century.

II. SENATORIAL INSPECTIONS IN THE RUSSIAN EMPIRE

It is obvious that the answer to that question could be found in and based on the materials of senatorial inspections. The purpose of the present report is to analyze the way in which last century's senatorial inspections evaluated administrative investigation practice on the official malfeasance carried out by the provincial authorities.

The Senatorial inspections were a form of extraordinary supervision in controlling the local authorities. Being brought into force by the decree issued in 1722, they managed to fit in with the practice of public administration throughout the XVIII century. By the decree of 28 November 1799 (that remained in force until the abolition of the Senate in 1917) the local officials were imposed the duty of executing all the inspecting senators' orders.

According to our estimations there were 129 senatorial inspections in Russia (from 1800 to 1917) [4]. At the beginning of the XX century the Senate focused on the

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inspections of the provincial administrations situated in the national outlying areas of the Russian Empire. Three inspections of this kind were carried out. They were the inspections of the Baku province (1905, by senator A.M. Kuzminsky) [5], the Turkestan Krai (the Syr-Darya region, the Fergana region, the Samarkand region, the Semirechensk region and the Trans-Caspian region; 1908 – 1910, by senator K.K. Palen) [6], the Privislinsky Krai (the Warsaw province, the Plotsky province, the Lublin province; 1909 – 1910, by senator B.D. Nejdgard) [7]. The latter was initiated because there was some information regarding corruption amongst the local officialdom [8]. The other two inspections aimed to find out the reasons for the Armenian-Azerbaijan slaughter of February 6 – 10, 1905 [9] and for the transfer of the Turkestan Governorate General from the War Ministry's competence to the Ministry of Internal Affairs [10].

The organization of the governmental authority on these territories was specific. In one region it was the city council who was influential, in the other – the Governor-General's office, in the third - the auls' foremen. However the central element of the system of governmental authority was identical in all the areas inspected. It was the chain represented by the following elements: "a governor - a provincial board - a city and a district (uyezd) police". It is significant that the same system was functioning in the European provinces of Russia governed by "General Provincial Establishment" and that this system formed the basis for the governor's power. All these facts facilitated the development of unique research into the conditions, which help to provide the comparative analysis of materials without any strained interpretation or wrong assumptions, and to compare the findings with the results of the study of the Ural provincial administrations' activity.

What conclusions were made in senatorial reports?

III. BAKU PROVINCE'S SENATORIAL INSPECTION (1905)

Inspecting the Baku province senator A.M. Kuzminsky found it necessary to pay special attention to the quality of investigation of malfeasances in office. He ascertained that the local governor had ignored his duties regarding the selection of cadres in spite of the fact they were entirely concentrated in his hands. The inspection revealed such egregious cases as filling these administrative vacancies by "knowingly vicious men, knowingly because it was enough to inquire about their service record not to hire them" [11]. "The absolute indifference to the staff's quality" was typical for the governor's activity.

According to the senator, the provincial board took the police officials being accused of malfeasance under their protection. In his report the inspector wrote that the board "doesn't show any interest in and any desire to disclose and eradicate the abuses committed by their subordinate officials" [12]. As noted further, in this institution "there is an obvious tendency to terminate the charges against the police officials and not to bring the charges against them even if the provincial board is aware of the facts, which prove that an official has

committed a crime and is guilty of it" [13]. For example, the board dismissed the case of bribe extortion by the police officer because the plaintiff could not specify the exact place of residence of the witnesses [14]. If it was impossible to "hush the case up", the board delayed the investigation in every way possible. "There are a lot of examples when the provincial board decides to institute criminal proceedings against the police officials 3-5 years after receiving a complaint itself", - wrote the senator. Besides, the board used to "dismiss charges against different officials" under the pretence of amnesty. So the provisions of the Manifesto of August 11, 1904 that could "have application only in the sense of the commutation of sentence" served as the pretext for those institutions to dismiss a number of such cases [15]. The board placed police officials' immediate superiors and colleagues in charge of administrative investigations of complaints against those officials. The investigators had "a community of interests" with the accused and therefore tried "not to ascertain the truth but to conceal and distort the actual circumstances" [16]. It was this attitude that led to the actual "police officials' impunity for criminal acts and mainly for bribery committed by them and its widespread occurrence in the Baku province is largely due to this attitude" [17].

As to the practice of administrative investigation of malfeasances in the local police structures themselves, the provincial police did its best to hamper the proceedings on "appeals against improper or criminal actions" of its officials. "Even if this correspondence is based on the instruction given by the Governor and the Provincial Board, it is not executed ad locum and is swept under the carpet for a long time, sometimes for a few months, a year or even longer," - noted A.M. Kuzminsky [18]

IV. TURKESTAN PROVINCE'S SENATORIAL INSPECTION (1908-1910)

The inspection of the Turkestan province by K.K. Palen brought the senator to the conclusion that "the weakest side of the governors' activity was an absolute lack of control over the subordinate officials" [19]. It was primarily expressed in "the condescending, sometimes to the excess, attitude of the regional authorities to malfeasances and their employees' shortcomings". Circumstances made this possible. For example, in the Samarkand region to appoint to the post of the local police officer such the man who had been arraigned on a criminal charge for malfeasances three times by that moment and had been publicly disciplined". Another typical example was the case of legal prosecution of a local police officer in connection with assault and battery of the volost estate manager. It "has been left without any action for a year and a half" and then it was dismissed by the Syr-Darya governor [20].

Assessing the activity of the local regional boards functioning as the administrative justice, the senator noted that they had a "rather tolerant" attitude to malfeasances. Despite statutory requirements the majority of such cases were not

brought to trial but were investigated in administrative proceedings due to that fact that the boards could take an active part in their consideration. Some of the cases were "so dragged out that they have to be dismissed due to the death of the accused" [21]. It is also known that even high ranks of the boards were involved in such investigations. If the accused in malfeasance was sentenced then he/she was assigned an unreasonably lighter punishment than it should have been [22]. Most often it was "warnings" or "strict warnings" and their pronouncement didn't involve financial liability or demotion. Furthermore, one police officer who had been brought before the court for "a number of offenses and malfeasance" eight times was promoted by the Samarkand provincial board in eleven days after his last committal for trial [23].

The local police also did not take "timely measures in investigations" of malfeasances committed by its employees, which resulted in the fact that it was, as the senator said diplomatically, "difficult" to find out the truth [24].

V. RUSSIAN POLAND'S SENATORIAL INSPECTION (1909-1910)

B.D. Neydgart who inspected the Privislinsky Krai mentioned the following characteristic features of the administrative investigation of their employees' malfeasances carried out by the provincial government [25]. The governors, according to the senator, had "amazingly indulgent attitude ...to the violators of official duties". For example, the governor of Lublino officially reprimanded local gendarme ranks because they tried to "make an investigation on the activities of the administration". In the Plotsk province the district chief, known to the entire population as "a desperate bribetaker", was not brought to court by the governor, and even was not fired. Those and other facts the inspections had revealed made B.D. Neydgart inform the Emperor that "with the very rare exceptions official crimes go unpunished" [26].

Analyzing the activities of the local provincial boards, the inspector did not consider it possible to provide a generalized assessment of the situation (perhaps the only case of such a kind in the materials under the study). He followed the path of accusing particular representatives of the governing boards (the advisor, the medical inspector, the vice governor) in the exaction from the population, the embezzlement of state property and funds, bribery, etc. [27] However, the senator noted that there was one general tendency: "many cases of malfunctions... committed by officials had not been investigated for a year or more than that, and those who committed improper and even criminal activities continued to perform their duties". In some cases, a clearly deliberate delay in the investigation by means of useless correspondence resulted in it being impossible to bring the guilty persons to the prosecution due to the expiration of the statute of limitations" [28].

The peculiarity of the Privislinsky Krai's inspection was that it originally was under the instructions regarding the police, formulated by B.D. Neydgart as: "The obvious shortage of salary they (the police officers. – S.L.) have does not give

them the possibility to exist, this fact has encouraged the Senatorial Inspection not to focus attention on insignificant, with mercenary motives, violations of their duties, and the Inspecting Senator initially assumed not to take into consideration these activities of the officials while carrying out the inspection itself" [29]. However, having started the work on the spot, the inspectors had to reconsider their positions. In particular, B.D. Neydgart directly pointed to the fact that it was typical for the local police to "conceal" their employees' malfeasances. Malfeasance was followed by proceedings and punishment only "by way of exception" [30]. The inspection connected the possibility of existence of such a vicious system with the imperfection of current legislation, according to which institution of criminal proceedings entirely depended on the superiors of the accused [31].

VI. CONCLUSION

Thus, the study of the materials of senatorial inspections on the activities of provincial governments carried out at the beginning of the XX century shows that the practice of administrative investigations of the officials' malfeasances was paid attention to. All three inspections estimated the practice negatively. The fact that the issue was regularly raised at the highest level (the report of the senator to the emperor) indicates its importance on a national scale. A.M. Kuzminsky summarized one of the sections of his report as follows: "Even if we assume that the examples given above are only particular cases and do not characterize the system as a whole ..., the system admitting the possibility of such a deviation from the norm has to be considered absolutely vicious and be completely condemned" [32]. And his viewpoint should be fully accepted.

Indeed, the existence of the steady informal association of the officialdom, the members of which tried hard to prevent punishment of its members for malfeasances, devalued the principle of officials' responsibility for their illegal actions. It was replaced by the principle of devotion to the superiors and, on a larger scale, to the corporation. That could not but lead to the loss of population feedback. According to the data of inspections, the same problem was characteristic for the highest ranks of the inspected provincial administrations. And the situation in the regions was so typical that the senators even described it in similar words and word combinations. For example, "amazingly indulgent attitude ...to the violators of official duties" (from the report made by B.D. Heygart), "the condescending, sometimes to the excess, attitude... to malfeasances" (from the report made by K.K. Palen).

It is important to lay emphasis on the fact that the territories inspected by the Senate in the early XX century were quite different in terms of their socio-economic, political and cultural development. On the one hand, there were the industrially developed, Catholic in spirit, Polish lands, which also formed one of the largest university centers in the Russian Empire and Eastern Europe. On the other hand, there were the agrarian, predominantly Muslim lands of Azerbaijan and

Central Asia in which feudalism and patriarchal peculiarities of the social organization survived. These areas were rather far from each other geographically, they did not have a common border. And there were absolutely different members constituting the commissions who carried out the inspections. Nevertheless, the negative aspects of the activity of regional administrative justice were (in general) of the same type. These facts make the assumption that the situation was not better in other regions reasonable.

As stated previously, at the beginning of the XX century the senatorial inspections of the provincial administrations of indigenous Russia were not carried out. But we have managed to trace the characteristic features of their functioning in the Ural region basing our conclusions on the primary documents. At the beginning of the XX century there were four provinces in this region: the Vyatka province, the Orenburg province, the Perm province and the Ufa province. As regards the management structure the territories corresponded to the norms of "General Provincial Establishment", and thus were identical to the majority of the European provinces of the Empire. The results of our analysis are completely consistent with the findings made by A.M. Kuzminski, K.K. Palen and B.D. Neydgart who carried out the inspections of the Baku province, the Turkestan Governorate General and the Privislinsky Krai in 1905-1910.

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