

– Environment –

(1873)

I think that all jurors the whole world over, and our jurors in particular, must share a feeling of power (they have other feelings as well, of course); more precisely, they have a feeling of autocratic power. This can be an ugly feeling, at least when it dominates their other feelings. Even though it may not be obvious, even though it may be suppressed by a mass of other, nobler emotions, this sense of autocratic power must be a strong presence in the heart of every juror, even when he is most acutely aware of his civic duty. I suppose that this is somehow a product of the laws of nature themselves. And so, I recall how terribly curious I was, in one respect at least, when our new (just) courts were instituted. In my flights of fancy I saw trials where almost all the jurors might be peasants who only yesterday were serfs. The prosecutor and the defence lawyers would address them, trying to curry favour and divine their mood, while our good peasants would sit and keep their mouths shut: ‘So that’s how things are these days. If I feel like lettin’ the fella off, I’ll do it; and if not, it’s Siberia for him.’

And yet the surprising thing now is that they do not convict the accused but acquit them consistently.

Of course, this is also an exercise, almost even an abuse of power, but in one direction, toward an extreme, a sentimental one, perhaps – one can't tell. But it is a general, almost preconceived tendency, just as if everyone had conspired. There can be no doubt how widespread this 'tendency' is. And the problem is that the mania for acquittal regardless of the circumstances has developed not only among peasants, yesterday's insulted and humiliated, but has seized all Russian jurors, even those from the uppermost classes such as noblemen and university professors. The universality of this tendency in itself presents a most curious topic for reflection and leads one to diverse and sometimes even strange surmises.

Not long ago one of our most influential newspapers briefly set forth, in a very modest and well-intentioned little article, the following hypothesis: perhaps our jurors, as people who suddenly, without rhyme or reason, sense the magnitude of the power that has been conferred upon them (simply out of the blue, as it were), and who for centuries have been oppressed and downtrodden – perhaps they are inclined to take any opportunity to spite authorities such as the prosecutor, just for the fun of it or, so to say, for the sake of contrast with the past. Not a bad hypothesis and also not without a certain playful spirit of its own; but, of course, it can't explain everything.

'We just feel sorry to wreck the life of another person; after all, he's a human being too. Russians are

compassionate people’ – such is the conclusion reached by others, as I’ve sometimes heard it expressed.

However, I have always thought that in England, for instance, the people are also compassionate; and even if they do not have the same softheartedness as we Russians, then at least they have a sense of humanity; they have an awareness and a keen sense of Christian duty to their neighbour, a sense which, perhaps, taken to a high degree, to a firm and independent conviction, may be even stronger than ours, when you take into account the level of education over there and their long tradition of independent thought. Over there, such power didn’t just tumble down on them out of the blue, after all. Indeed, they themselves invented the very system of trial by jury; they borrowed it from no one, but affirmed it through centuries; they took it from life and didn’t merely receive it as a gift.

Yet over there the juror understands from the very moment he takes his place in the courtroom that he is not only a sensitive individual with a tender heart but is first of all a citizen. He even thinks (correctly or not) that fulfilling his civic duty stands even higher than any private victory of the heart. Not very long ago there was a clamour throughout the kingdom when a jury acquitted one notorious thief. The hubbub all over the country proved that if sentences just like ours are possible over there, then all the same they happen rarely, as exceptions, and they quickly rouse public indignation. An English juror understands above all

that in his hands rests the banner of all England; that he has already ceased to be a private individual and is obliged to represent the opinion of his country. The capacity to be a citizen is just that capacity to elevate oneself to the level of the opinion of the entire country. Oh, yes, there are ‘compassionate’ verdicts there, and the influence of the ‘corrupting environment’ (our favourite doctrine now, it seems) is taken into consideration. But this is done only up to a certain limit, as far as is tolerated by the common sense of the country and the level of its informed and Christian morality (and that level, it seems, is quite high). Nonetheless, very often the English juror grudgingly pronounces the guilty verdict, understanding first of all that his duty consists primarily in using that verdict to bear witness to all his fellow citizens that in old England (for which any one of them is prepared to shed his blood) vice is still called vice and villainy is still called villainy, and that the moral foundations of the country endure – firm, unchanged, standing as they stood before.

‘Suppose we do assume,’ I hear a voice saying, ‘that your firm foundations (Christian ones, that is) endure and that in truth one must be a citizen above all, must hold up the banner, etc., etc., as you said. I won’t challenge that for the time being. But where do you think we’ll find such a citizen in Russia? Just consider our situation only a few years ago! Civic rights (and what rights!) have tumbled down on our citizen as if from a

mountain. They've crushed him, and they're still only a burden to him, a real burden!

'Of course, there's truth in what you say,' I answer the voice, a bit despondent, 'but still, the Russian People . . .'

'The Russian People? Please!' says another voice. 'We've just heard that the boon of citizenship has tumbled down from the mountain and crushed the People. Perhaps they not only feel that they've received so much power as a gift, but even sense that it was wasted on them because they got it for nothing and aren't yet worthy of it. Please note that this certainly doesn't mean that they really aren't worthy of the gift, and that it was unnecessary or premature to give it; quite the contrary: the People themselves, in their humble conscience, acknowledge that they are unworthy, and the People's humble, yet lofty, awareness of their own unworthiness is precisely the guarantee that they are worthy. And meanwhile the People, in their humility, are troubled. Who has peered into the innermost secret places of their hearts? Is there anyone among us who can claim truly to know the Russian People? No, it's not simply a matter here of compassion and soft-heartedness, as you, sir, said so scoffingly. It's that this power itself is frightful! We have been frightened by this dreadful power over human fate, over the fate of our brethren, and until we mature into our citizenship, we will show mercy. We show mercy out of fear. We sit as jurors and think, perhaps: 'Are we any better than

the accused? We have money and are free from want, but were we to be in his position we might do even worse than he did – so we show mercy.’ So maybe it’s a good thing, this heartfelt mercy. Maybe it’s a pledge of some sublime form of Christianity of the future which the world has not yet known!’

‘That’s a partly Slavophile voice,’ I think to myself. It’s truly a comforting thought, but the conjecture about the People’s humility before the power they have received gratis and that has been bestowed upon them, still ‘unworthy’ of it, is, of course, somewhat neater than the suggestion that they want to ‘tease the prosecutor a bit,’ although even the latter still appeals to me because of its realism (accepting it, of course, more as an individual case, which indeed is what its author intended). But still . . . this is what troubles me most of all: how is it that our People suddenly began to be so afraid of a little suffering? ‘It’s a painful thing,’ they say, ‘to convict a man.’ And what of it? So take your pain away with you. The truth stands higher than your pain.

In fact, if we consider that we ourselves are sometimes even worse than the criminal, we thereby also acknowledge that we are half to blame for his crime. If he has transgressed the law which the nation prescribed for him, then we ourselves are to blame that he now stands before us. If we were better, then he, too, would be better and would not now be standing here before us . . .