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**HISTORICAL AND LEGAL FUNDAMENTALS OF THE CUSTOMARY LAW  
OF THE MORDVINS IN THE TRADITIONAL JURISPRUDENCE OF RUSSIA**

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**Abstract**

The relevance of the study is determined by the role of traditional jurisprudence as an ancient system of ethnic normative regulation. This regulation is existing in part even today in the modern world-view, the legal consciousness of the peoples of Russia. The historico-legal heritage of the peoples of the Russian Federation is a unique source of traditional jurisprudence. It accumulates various norms of their traditional legal culture, legal world-view. In this regard, the study of traditional legal culture is aimed at understanding the ancient legal traditions of specific ethnoses, their legal consciousness, possibilities of using the accumulated experience in law-creative process and resolving disputable situations. This article discloses the historico-legal foundations of the customary law of the Mordovian people. The leading method for studying the problem is the methods of field ethnography, case studies, which enable scholars to consider comprehensively the customary legal norms in various ways of their application. The sources of the study were the data from interviews of old residents of Mordovian villages, as well as documentary publications of the researchers. The article analyzes the features of the communal organization, the formation and development of customary law in the spheres of marriage-family and civil law relations. The materials of the article are of practical value for the improvement of legislation in the conditions of a multinational state, which is the Russian Federation. The knowledge on customary law helps to increase ethnic tolerance and to form good-neighborly relations between people.

**Keywords**

Customary law – Mordvins – Commune – Ethnic jurisprudence

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DR. IULIA N. SUSHKOVA



## Introduction

An essential aspect of legal anthropological research is the study of the customary law of various peoples of the world, including the Finno-Ugric peoples, which is the Mordvins. Current ethnic processes of the Finno-Ugric peoples (of Ural peoples in general) are associated with decline in their numbers, departure from traditional way of life, etc. These processes indicate the need for the development of legislation to protect the rights of indigenous peoples. A comprehensive study of the legal traditions of the peoples of the Russian Federation contributes to deeper consideration of national and regional specifics in lawmaking and law enforcement. The historico-legal heritage of the peoples of the Russian Federation is a unique source of traditional jurisprudence; it accumulates various norms of traditional legal culture and legal world-view of these peoples.

A reliable knowledge of the historical past is important not only for enriching the scientific heritage, but also for the correct solution of the practical tasks facing the state now. The study of traditional legal culture is aimed at understanding the ancient legal traditions of specific ethnoses, their legal consciousness, the possibilities of using the accumulated experience in the law-making process and resolving disputable situations. The knowledge on customary law helps to increase ethnic tolerance and to form good-neighborly relations between people. The lack of such information is often the cause of negative attitude, which could lead to inter-ethnic and inter-state conflicts. For the Russian multinational federative state, which has a variety of spiritual, cultural, religious, and legal traditions, the study of customary law is especially important.

## Materials and methods

In legal anthropology (ethno-jurisprudence), the object of study is the traditional legal culture of the ethnos, its customary law; people are the main source of information about it. Customary law is based primarily on the verbal-mental institutionalization of ethno-social prescriptions, on interpretation and transmission of normative information from generation to generation, and on its preservation by the people in oral form; it is not recorded in writing. To recreate the norms of customary law, its legal reconstruction is used. Within the framework of such reconstruction, legal norms are formulated with the use of principles of legal procedure, according to historical and ethnographic sources.

The basis of ethno-legal studies is application of normative and procedural analysis. To obtain specific data, scholars apply such examination methods as survey and questionnaire on special thematic program. The questionnaire on the problems of legal anthropology includes questions about the attitude of the people to judicial system and commission of certain acts, their attitude to types of punishment, evidence, and traditions of fisticuffs, as well as the questions about rural methods of proceedings, peculiarities of holding village gatherings and meetings of elders, and about the place of religion in human life. One of the first developers of special programs for data collection in the field of customary law was E.I. Yakushkin, who put together numerous aspects of studying the traditional jurisprudence of Russia in the system of questions<sup>1</sup>. In some situations, respondents could choose from the given answers; in other situations, they provided data on specific life cases, indicating the use of a particular custom (the case study method).

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<sup>1</sup> E.I. Yakushin, Customary law. Issue 1. Materials for the bibliography of customary law (Yaroslavl: Typography of provincial government, 1875).

The main and most important source of studying the peoples is direct studies (the so-called field studies) of their life in its various forms. The methods of field legal anthropology (including direct observation, interviews, polls, and audiovisual recording of the material) are used primarily to collect empirical material on legal traditions. Using the ethno-legal interview, one can get maximum information on the most different aspects of the legal life of the studied people.

B. Malinowski (1926) was the first scholar who conducted systematic field study on tribal law, debunking the myth that tribal law consists of strict prohibitions and harsh punishments. Instead, he observed an elaborate system of compensation in Polynesia for harm done to others, resembling the modern law of property and torts, but without anything similar to formal courts. He commented on the usefulness of such a system and tried to explain how it worked<sup>2</sup>. Llewellyn and Hoebel (1941) interviewed Cheyenne Indians in the 1920s and reconstructed their legal order, as it existed in the 1860s before conquest and subjugation. This study applied the “case method” of the common law to tribal law, thus minimizing the distinctiveness of techniques required in legal anthropology. The “cases” were based on the folklore sources and memories about the functioning of the customary law<sup>3</sup>.

## Results

Commune and traditional jurisprudence of the Mordvins. Village commune was a keeper and guarantor of the implementation of customary norms. Being “a mini-state”, a “peasant world” with broad powers in the politics and practice of peasant management, the commune developed standards of moral and legal norms, ensured their implementation, and formed the legal consciousness of the peasants. Village commune often played a decisive role in resolving many local matters of peasant life, especially the ones related to the system of husbandry and land use of the Mordvins. As a power structure of local self-government, the commune regulated the use of lands owned by the state and ensured fulfillment of all duties and timely payment of all established payments by the peasants.

One of the functions of the commune was administration of traditional, ethnic justice. Intra-commune as well as inter-commune legal conflicts were resolved by village communes themselves in accordance with customary law. One of the forms of communal justice was the commune gathering (“*puromks*” in Moksha-Mordovian language, “*promks*” in Erzya-Mordovian language). Mitropolsky noted that the Mordvins gathered annually in the autumn on the shore of a large lake to judge ones, who were suspected in any kind of crimes committed during the year. “In order to learn the truth, the judges administered the “judgment of God”. They ordered to tie the neck of the accused with a middle part of the rope and to drag him quickly across the lake from end to end three times; the survivor was recognized to be innocent”<sup>4</sup>.

The commune gathering considered the most important cases related to the exercise of right or fulfillment of duties by subjects of customary legal relations, as well as the usual legal conflicts between members of the commune, the commune and its members, and the commune and the state. In the legal relations between the commune and the state, the

<sup>2</sup> Bonislaw Malinowski, *Crime and Custom in Savage Society* (New York, 1926).

<sup>3</sup> Karl N. Llewellyn & Adamson E. Hoebel, *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence* (University of Oklahoma Press, 1941).

<sup>4</sup> K. Mitropolskiy, “Mordva: their world-views, manners, and customs”, *Mirskoe slovo*, num 13 (1877).

ethno-jurisdiction of the gathering included questions that arose in connection with the fulfillment of duties imposed by the state on the commune, for example, recruitment or compulsory payments. With the help of these gatherings, villagers considered the usual legal violations committed in the commune, including criminal acts (murder, theft, robbery, beating, hooliganism, slander, etc.) and violation of obligations (in terms of agreements or transactions). The commune gathering could divide property, if the head of the family did not divide it for one reason or another.

All the old people of the village attended the gathering; they played there the most important role. After they hold a discussion, the decisions were made by vote (which was called “*vaigel’sse*”). If they believed that the accused was guilty, they pronounced a word “*chumo*” (which means “guilty”). If they concluded that the accused was innocence, they pronounced “*avol’ chumo*” (which means “not guilty”). In order to disagree with the decision, those present at the gathering raised their hands. According to the customary law, the old men were supposed to wear linen gloves; “to wave with bare hands” was indecent. Usually, the oldest villager became the chairman of the gathering. His duties included informing all those gathered about the nature of the case, inviting eyewitnesses, examining evidence, organizing voting, announcing the decision, keeping order in general, etc.<sup>5</sup>

The process of decision-making at the gathering involved examination of evidence, such as testimony of eyewitness, demonstration of material items confirming the statements of the participants of the proceedings, and uttering of the oaths. The oaths (“*val maksoma*” in Moksha-Mordovian language, “*val maksomo*” in Erzya-Mordovian language) served as a reliable guarantee of veracity of the stated or fulfillment of the assumed responsibilities. Moreover, the oral agreements were considered “as strong as written.”<sup>6</sup> Most of the oaths practiced by the Mordvins had ancient pagan roots. According to the historical and legal acts of Russian proceedings of the 16-17th centuries, the Russian population in disputes with the Mordvins gave judges an oath of “kissing the cross” as a pledge of “Truth of God”, the Mordvins made oaths “by their Mordovian faith”, “by their faith as in vassal oath”<sup>7</sup>. In some Mordovian villages at the end of the 19th century, people swore over small linden trunk, which was cleared from the bark. One must step over the trunk and say the following words, “Let me wither like this linden, if I lie.”<sup>8</sup> Like many other peoples, the Mordvins used to swear by the sun god, “Let Chipaz strike me, if I lie!”<sup>9</sup> The given oath formulas were widely used both in state institutions and in everyday life by family and commune members. When resolving family conflicts, special vows based on divine authority were used as well. Thus, there was special rite, which was made as a pledge not to start family quarrels. Two axes were placed on a table. Near the axes, a candle was placed. All participating family members had to say three times, “I will not do it again.” Then the fire was extinguished. From that moment, all of them tried to live in peace and harmony. Otherwise, God could punish<sup>10</sup>. With the adoption of Orthodoxy, the Mordvins also began to swear on the cross and the icon, “I will kiss the icon or the cross – I will not break my promise.”<sup>11</sup>

<sup>5</sup> Told by A.A. Malyikina (born in 1917), Ardatovo village, Dubensky District, the Republic of Mordovia. Recorded by the author.

<sup>6</sup> V. N. Mainov, Essay on law practice of the Mordvins (Saint Petersburg, 1885).

<sup>7</sup> Documents and materials on the history of the Mordovian ASSR (Saransk, 1940).

<sup>8</sup> N.M. Maliev, General information about the Mordva of the Samara province (Kazan, 1878).

<sup>9</sup> U. Harva, Die Religiösen Vorstellungen der Mordwinen (Helsinki, 1952).

<sup>10</sup> Told by M.P. Uchvatova (born in 1927), Shoksha village, Tengushevsky District, the Republic of Mordovia. Recorded by the author. Author’s archive.

<sup>11</sup> Told by I.I. Gornostaev (born in 1932), Shoksha village, Tengushevsky District, the Republic of Mordovia. Recorded by the author. Author’s archive.

The oaths were widely practiced in contract customary law. In this case, Divine authority serve as a guarantee. The Erzya subethnic group of the Mordvins called the supreme god, the chief divine judge Nishke. They also used the theonyms Nishke-paz (“paz” means “god”), Vere-paz (“vere” means “top”, “upper” in Erzya-Mordovian language), The Moksha-Mordvins called him Shkai, Vyarde Shkai (“vyarde” means “top”, “upper” in Moksha-Mordovian language), Shkabavas, Otsyu shkaibas<sup>12</sup>.

In the customary law of the Mordvins, the original ways of “judgment of God” evolved as evidence in establishing the truth. For example, if someone suspected someone of theft, the Mordovian judges gave the alleged perpetrator to drink a mixture of water and soil taken from the graveyard. In the case, the suspicion was true, the perpetrator, as a rule, did not dare to lie out of fear that his ancestors would punish him by death. The Moksha-Mordvins, who wanted to affirm the truth of their words, called the anger of the ancestors, “Let the dead punish me, if I lied,”<sup>13</sup>

The customs of resolving family disputes. As I.G. Orshansky an outstanding researcher of customary law noted, in Russian family law of the late 19th century, there was a conflict of two opposing principles. On the one hand, there was old patriarchal Domostroy view that the sphere of family life should be free from interference of law and court to such an extent that public authority should not control even minor misconduct and family violence. On the other hand, the instinct of natural justice prompted the Russian society that such level of non-interference is impossible and that practical need suggested departing from the Domostroy principle very often<sup>14</sup>.

Let us see how the Mordvins settled their family disputes. The Mordovian family had its own powers based on customary law. According to V.N. Mainov, the families never addressed “with the request to divide property even to the volost or commune gathering, which were highly respected. In opinion of the villagers, it was a disgrace to be unable to deal with it by themselves or with the help of intermediaries. In general, neither the court nor the gathering could exert any influence on internal family affairs, for example, on division of property. No one even thought to ask their permission, since their business was to manage things outside the houses and not dictate people how to live in their homes, in their families.”<sup>15</sup>

The family ethno-justice was essentially a mechanism of social control of the commune for keeping commune and state legal order and preventing possible violations of the traditional foundations of society. By giving the family authorities certain competence in resolving the quarrels, the society made it possible to impart the required views to each commune member on the basis of veneration of their ancestors and senior members of the family. The core principle of family justice is the general legal prohibition of home conflicts. If the disputes occurred, family members should keep them inside the family. The reconciliation of the parties was usually carried out without the interference of outsiders, including the commune gathering. Only in exceptional circumstances, when the committed crimes became known, the commune gathering took measures in order to protect the interests of the villagers.

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<sup>12</sup> N. F. Mokshin, Religious beliefs of the Mordva. 2nd edition, revised and extended (Saransk, 1998).

<sup>13</sup> I. N. Smirnov, Mordva (Saransk, 2002).

<sup>14</sup> I. G. Orshansky, Studies on Russian customary and marriage law (Saint Petersburg, 1879).

<sup>15</sup> V. N. Mainov, Essay on law practice of the Mordvins (Saint Petersburg, 1885).

The main role in resolving family disputes belonged to the head of the family (“*kudazor*” in Moksha-Mordovian and Erzya-Mordovian languages). As a rule, his wife (“*kudazorava*” in Moksha-Mordovian and Erzya-Mordovian languages) resolved the disputes between the women of the family. The Mordvins had a custom of calling family gatherings. Sometimes these gatherings included not only family members, but other relatives too. In the disputes between children, as well as between children and parents, the decisive word belonged to the parents. In the disputes between husband and wife, it belonged to husband; in these cases, his decisions were mandatory. However, according to the general norms of ethno-justice, an offended or insulted wife could complain to the head of the family, who was supposed to judge the young according to justice.

In the sphere of marriage and family relations, customary law regulated the conditions and forms of marriage, the divorce methods, and the principles that regulated the relations between individual family members according to their social status and age. In traditional world-view of the Mordvins, each person had to marry; they regarded the cases of celibacy as antisocial and even illegal acts, which were profoundly condemned in the commune. The unmarried men and women were considered as “dishonored”, and the legal custom provided sanctions for violation of the established requirement. When choosing a potential marriage partner, special attention was given to physical and mental adequacy; such personal traits as diligence, intelligence, and integrity were of high value. Wealth and social status of the family and relatives of possible spouse were also taken into account. Young people before marriage had to live a chaste way of life. There was obligatory rule that both groom and bride had to reach the required age. In the period of the late 19th to the early 20th century, Mordovian girl could marry when she reached the age of 16. Boy could marry when he reached 18. The main marital taboo in Mordovian customary law was a ban on marriage of close relatives (as close relatives, they viewed people who had common ancestor within seven generations). In some cases, in-law relations could be considered as a reason to forbid marriage too. An essential condition for joining a marriage was ethnic endogamy; traditionally, groom and bride belonged to the same religion as well.

The main way to create a family for the Mordvins was matchmaking (“*ladyaftoma*” in Moksha-Mordovian language, “*ladyamo*” in Erzya-Mordovian language). Marriage with matchmaking included three main stages: pre-wedding (from matchmaking to the day of the wedding); wedding (from the morning of the wedding day until the end of the wedding night); after-wedding (the year after the wedding). In the customary marriage and family law of the Mordvins, marriage in its legal and economic sense was a transaction with the payment of “bride price” (“*pitne*” in Moksha-Mordovian and Erzya-Mordovian languages) by a groom and bringing dowry by a bride. A legally significant result of the matchmaking was decision of the parties to hold a wedding and their agreement that specified obligations of the parties on organizing the wedding and paying the “bride price”. Wedding was the act of legitimizing the marriage relationships. Other forms of marriage were marriages by abduction and marriages that did not involve other members of families. New economic and social conditions contributed to emergence of the so-called alternative variants of marriage, which included marriages by abduction (real or faked). This form of marriage was practiced, as a rule, because of the financial difficulties of a young man who could not pay all the wedding expenses. By the beginning of the 20th century, due to the expansion of the rights of independent choice among young adults and the diminishing influence of parents on children, there was practically no marriages by abduction among the Mordvins. Dissolution of marriage (“*yavftoma*” in Moksha-Mordovian language, “*yavoma*” in Erzya-Mordovian language) was a very rare phenomenon, since the Mordvins considered family bonds as unbreakable.



Usually, the type of family largely determined the customary-legal content of intra-family relations. In the late 19th and the early 20th century, two types of families were typical among the Mordvins. First is a small family consisting of husband, wife, and children; often it also included grandfather and grandmother. The second was a large family, represented by two variants. It could be a large family with a patriarch-father and his subordinates (married and unmarried children with their offspring). Another variant was a large family of “artel” type, consisting of several brothers (with their wives and offspring), who decided to keep family together after father’s death. In this case, the eldest brother or the elected person became the head of the family. Often, families included not only parents and children, but also other relatives, servants, foster-children, etc.

Relations between family members were determined by patriarchal traditions, which conditioned the legal status of everyone in the house. The main criteria regulating family legal relations were sex and age. Older family members ruled the younger ones. The head of the family was usually the oldest man, who by virtue of his age had the necessary experience and wisdom to manage the family. The customs of giving the head status to a family member varied a little. In some families, their leader was by far the oldest and most authoritative man, his appointment did not require visible confirmation from other members, for power was already in his hands. In other families, the head was elected by all-family gathering. Usually the head of the family kept his status for the rest of his life. Only in exceptional cases, feeling old and feeble, the family head could voluntarily delegate authority to another member of the family at his own discretion.

The family head represented the family in the commune, he was responsible for the payment of taxes and fulfillment of all works and obligations according to contracts concluded by the family, he planned and distributed the incomes and expenses of the family budget. After the death of both father and mother, the authority passed to the elder son and his wife. If the father died, then sometimes the mother, the eldest woman took the role of the leader. Wife of the family head had her own authority. She managed the female half of the family and distributed all the household work among her daughters and daughters-in-law; the work was usually distributed by weeks and often by lot. Women had to prove themselves hard working, as it was one of their main virtues.

According to principles of customary law, in the personal relationships of husband and wife, the prevailing role was played by the husband (“*mirde*” in Moksha-Mordovian and Erzya-Mordovian languages), who was solving the most significant family problems. The wife (“*r’vya*” in Moksha-Mordovian language, “*ni*” or “*ur’va*” in Erzya-Mordovian language) had to obey the order established by her husband. Personal freedom of men was great; the idea of the individual husband’s right to rule his wife was deeply rooted in the views of the Mordovian people. At the same time, the power of men over women cannot be considered unlimited. Even if women formally were not allowed making significant decisions legally, they usually had great influence on decisions of their husbands. Families preserved some relics of the former maternity-clan filiation, including “maternity rights”, for example, the custom of a matrilocal settlement of a young family, which continued to exist in specific form. According to this custom, son-in-law (“*sodamoks sovamo*” in Erzya-Mordovian language) moved to the house of his wife’s parents. Husband and wife usually developed good relationship in Mordovian family. The materials of Mordovian folklore and ethnographic observations reflected the family principle of love and mutual respect. Both spouses tried to maintain partnership. The authority of a woman in the family was largely determined by her role in the household life. Her competence in the field of housekeeping provided her with a certain self-sufficiency and even equality.

The ideal of Mordovian family was a family with many children (boys and girls). The birth of children was considered the most important function of creating a full-fledged family. The high importance of children for Mordovian married people determined the practice of adoption in the absence of their own children. The Mordvins considered childlessness of a woman as a great misfortune, often as a punishment for her sins. The main principle, which determined the relations of the members in Mordovian family, was the principle of strict subordination of children to their parents. This obedience was so deeply rooted in the consciousness of youth that it did not actually require to be supported by legal means. The parental authority of mother and father was almost equal in relation to their children. The Mordvins were taught to be honest since childhood. There is Mordovian song containing the following words, “My little son, you should be honest and always fight for truth. Truth cannot die; it will not drown in the seawater; it will not burn in a strong fire. Truth always stood against injustice.”<sup>16</sup>

At the same time, comprehensive care for children was not only moral, but also a legal duty of the parents. Parents had to feed, provide their children with clothes and shoes, as well as educate them, teach general norms of morality and customary law. In the system of personal and property relations in the patriarchal family, the father played the most important role. There is a Mordovian proverb: “The tsar wanted it too, but the father said: “No.”

In Mordovian families, the will of parents was actually observed until their death. Posthumously it contributed to ancestor cult of clan-family. I.N. Syrnev wrote that in all important moments of life, the Mordvins addressed to these ancestors, as to higher beings, asking for their approval and help (for example, to give a long life, to increase well-being, to bring good harvests and livestock offspring, etc.); there were special prayers to honor the ancestors. Misfortunes (disease, murrain, etc.) the Mordvins considered as “anger of the ancestors”<sup>17</sup>.

Two forms of property were the basis of property relations in the Mordovian family in the late 19th – the early 20th century. These forms were family and individual property (the latter related to women mostly). All members of the family constituted single economic organism united on the basis of common property (“*parshi*” in Moksha-Mordovian language, “*parochi*” in Erzya-Mordovian language). Thus, dwelling house, outbuildings, equipment, and cattle belonged to the whole family. As for the land plot, it was considered as belonging to the village commune and was divided among its members according to the number of men. The commune periodically reshaped the plots; practically, they were in temporary use. Funds received from the sale of agricultural and craft products, as well as money earned by members of the family at seasonal works as farm laborers were considered as whole-family funds. These funds were spend to pay taxes, rent land, buy food, tools, utensils, clothes and shoes, and also to pay for family and commune rites. The head of the family managed the family property, using it according to family needs. If the large family divided, he determined the size of the share of the dividing members.

<sup>16</sup> Oral poetry of the Mordovian people. Vol: 8 (Saransk, 1978).

<sup>17</sup> I.N. Syrnev, Distribution of the population on the territory of the Middle and Lower Volga region, their ethnographic composition, way of life, and culture. Russia. Complete geographical description of our Motherland. Middle, Lower, and Trans-Volga regions. Saint Peterburg. 1901; Reprint edition (Ulyanovsk: “Dom pechati”, 1998).

Personal property was the property of a married Mordovian woman. The main property of a woman was her dowry, which she could use at her own discretion. The composition of the dowry was established by customary legal norms, there was a ceremony of laying it in a chest (“*par*” in Moksha-Mordovian and Erzya-Mordovian languages). The dowry included clothing, bedding, and a set of jewelry; sometimes it also included livestock. The personal property of a woman in the Mordovian family increased her legal guarantees; it strengthened her status within the family and provided some independence that served as protection from possible arbitrariness of her husband and other family members.

Peculiarities of customary civil law. A separate branch of customary law is civil customary law. One of the key civil-law institutions is a contract (“*kortafks*” in Moksha-Mordovian language, “*kortavks*” in Erzya-Mordovian language). Any economic activity of people is connected with conclusion of various agreements, including contracts, as a legal form of incurring obligations. Therefore, the contract had special significance for the Mordvins. They used several types of contracts, among which the contracts of sale, exchange, loan, hiring, surety, and work contract.

Different ethnic groups of the Mordvins had different views on the age of civil legal capacity. According to V.N. Mainov, at the end of the 19th century, the Erzya Mordvins allowed their minors to enter contracts. Minors of the Moksha Mordvins, on the contrary, had no such right. In the case of deliberate involvement of a minor in a contractual process that entailed violation of his interests, the old people terminated the contract. When the contract was in favor of a minor, it had to be executed. Under customary law, parents or other adult family members represented and protected the interests of a minor.

Most of the contracts were oral. However, in spite of this, the contractors considered in detail the terms and content of the contract, the procedure for fulfilling the obligations, and the consequences of their non-fulfillment. When the parties reached an agreement on the rights and obligations, they were to do certain symbolic actions. Thus, the contract of sale was considered as concluded when the buyer laid his hand on the acquired property. At the conclusion of the contract of hiring worker, the employer laid his hand on the employee<sup>18</sup>.

The legal marker of property rights were property signs (“*tyashkst*” in Moksha-Mordovian language, “*teshkst*” in Erzya-Mordovian language), which were usually placed on objects of movable property. They were widely used as evidence in disputes over the ownership<sup>19</sup>. Possibly, the signs of property initially served to mark patrimonial property, and then they became to be used for family and private needs<sup>20</sup>. Here are some examples of the signs of Mordovian patrimonies, which were noted in materials of Russian proceedings of the first quarter of the 17th century. “The sign of Buzai Piryayev is a butterfly; there are four eyes near it.” “The sign of Chekai Moresev is a butterfly; within it, there are three eyes in a row.” “The sign of the Bonsar Kechasev is butterfly; there are three eyes placed near it at a slant”<sup>21</sup>.

<sup>18</sup> V. N. Mainov, *Essay on law practice of the Mordvins* (Saint Petersburg, 1885).

<sup>19</sup> N. N. Kharuzin, *The “signs” of Mordva in 16-17th centuries*. News of Imperial Society of Devotees of Natural Science, Anthropology, and Ethnography, the part of Moscow University. Vol. 47. Proceedings of the Ethnographic Department. Vol. 14. Anniversary collection in honor of V.F. Miller (Moscow, 1900).

<sup>20</sup> N.F. Mokshin, *Mordovian ethnos* (Saransk, 1989).

<sup>21</sup> Manuscript fund of Research Institute of Humanitarian Sciences. Archive unit No. 137/178, 130. L.270.

According to observations of I. Selivanov, the Mordvins, when lent money in currency transactions, used small wooden sticks as a vouchers. They bit these sticks by teeth; each bite denoted one hundred of coins. If there was a dispute about the payment, the Mordvins brought these sticks to the court to prove the terms of the loan agreement, as “we would bring a voucher; they had no doubt that this piece of wood has the power to enforce payment”<sup>22</sup>. The person who borrowed the money also considered these wooden sticks as an evidence of the conclusion of the contract. No one even thought of the possibility of refuting such a document<sup>23</sup>. In the Mordovian villages before the beginning of the 20th century, there were counting tags, shepherd’s sticks, and sticks of tax collectors, on which amounts of debts and arrears were noted in the form of appropriate cuts. Since the ancient times, The Mordvins had original tag system (“*mirdyashte*” in Moksha-Mordovian language), which was used to store digital signs. When it was impossible to transfer the property immediately, a part of the property was transferred (a handful of earth, a bundle of hair). Only part of the object and not something related (for example, bridle-reign when selling a horse) could serve as a symbol of this object in terms of property rights<sup>24</sup>.

Termination of contract was possible only by mutual agreement. The people did not recognize judicial decisions on the termination of contracts, except for cases when the parties had no objective opportunities to come to an agreement. V.N. Mainov wrote, “The court can do everything, of course, and no one will object. However, a person who went to court and refused to fulfill the contract must lose his shadow like everyone else who did not fulfill the terms of the contract by his own free will.” The contract was terminated unilaterally only in exceptional cases. For example, if one of the parties suffered a misfortune that made it impossible to fulfill the obligations (for example, crop failure, hailstorm, murrain, death, etc.) The contract was also terminated, if one of the contracting parties took all the measures for conscientious implementation of the agreement, but failed to fulfill its terms<sup>25</sup>. The Mordovian proverb says, “Do not promise what you cannot do”. Failure to fulfill the terms of the agreement lead not only to public censure, but also to legal consequences<sup>26</sup>.

## Discussion

In the regulation of ethno-social relations, customary law (“*kol*” in Moksha-Mordovian and Erzya-Mordovian languages) occupies a special place. Customary law is the universally recognized legal views of the ethnos, its legal ideals and values. Thus, customary law can be rightfully considered as an ideal of traditional legal culture. Customary law is one of the oldest forms of ethno-normative regulation of livelihood of the peoples. It still exists in part. Numerous works of Mordovian folklore testify to the importance of custom in the legal consciousness of the peoples. It is told in one Mordovian song, “...The Earth has appeared – the custom has appeared. You cannot live without customs; you should not live without customs. People are making all life; people established all customs. You cannot live without customs; you should not live without customs...”<sup>27</sup>

The scope of customary law is multifaceted. Legal customs are an integral system of legal unwritten norms that regulate the whole spectrum of social relations, mainly of the

<sup>22</sup> I. Selivanov, Mordva. Documents and materials on the history of the Mordovian ASSR. Volume: 3. Part 1 (1939).

<sup>23</sup> I. Selivanov, Mordva. Documents and materials on the history...

<sup>24</sup> V. N. Mainov, Essay on law practice of the Mordvins (Saint Petersburg, 1885).

<sup>25</sup> V. N. Mainov, Essay on law practice of the Mordvins...

<sup>26</sup> K. T. Samorodov, Mordovian proverbs, adages, and sayings (Saransk, 1986).

<sup>27</sup> Oral poetry of the Mordovian people. Vol. 9 (Saransk, 1982).

Mordovian peasantry. Thus, customary law regulated marital-family, hereditary, contractual, property, labor, land, criminal, and other social relations. Specificity of customary law, as the traditional type system of social norms, is its function of regulating personal relationships both between members of a particular family and a whole commune.

## Conclusion

For millennia, customary-legal or ethnic norms regulated ethnosocial relations of the Mordvins. The customs, which were formed for centuries and passed from generation to generation, accumulated the most expedient legal principles and served the people not only in public and family life, but also in economic activities. The content of customary legal norms was determined by a complex of socioeconomic, ethical, and ethnic factors. Despite certain transformation processes associated with the development of market relations, the natural-consumer orientation of the Mordovian economy conditioned the relative isolation of peasant life and preserved some of its archaic characteristics in the form of “living antiquity”. At the same time, customary law is also a constantly updated “living right” of the people. In the modern realities of the 21st century, it still aimed to remain an effective ethno-normative cue for the Mordovian ethnos.

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