

## THE INSTITUTIONS OF SERFDOM

Already in 1921, Marc Bloch warned against the use of the word *serf* and the expression “serf of the glebe.” He showed in particular that the notion was absent in the Middle Ages and, on the contrary, became widely used after *l’Esprit des lois* by Montesquieu, in 1748. From this point of view, the expression “serf of the glebe” was used to identify a largely stylized feudal system and place it in opposition to an equally stylized liberal economic system.<sup>1</sup> Ever since, medieval studies has adopted this conclusion widely for France and Britain,<sup>2</sup> and more recently, a similar reassessment has been made for the German second serfdom (notably in criticizing Brenner’s argument).<sup>3</sup>

Discussions of Russian serfdom have adopted a much more cautious attitude; they have mostly focused on serfdom’s origin (the state<sup>4</sup> and/or the landowners<sup>5</sup>) and its profitability,<sup>6</sup> rather than on the interplay between its legal rules and economic activity. The most remarkable contributions to this study are those of Confino, Hoch, Wirtschafter, Melton, and Moon, who have effectively revisited the simplistic definition and functioning of Russian serfdom, questioning the dynamics of serfdom and its rules.<sup>7</sup> It has been suggested that serfdom was never officially introduced<sup>8</sup> in Russia and that it was more of a set of practices than a formal system.<sup>9</sup> Starting from this point, some have argued that serfdom could have been profitable, if not throughout Russia, at least in many areas of the country.<sup>10</sup> Historians are eager to extend research in the same direction by analyzing the rules that define the legal status of actors and assess their implementation.

This chapter is based upon numerous archival and published sources. I have made use of Russian archives, mostly archives of ancient Russia (RGADA) and local archives in Moscow (with local law courts’ decisions). I further consulted the impressive collection of Russian laws, decrees,

and jurisprudence,<sup>11</sup> which provided me the opportunity to absorb the incredible number of rules adopted on our topic and their connection with rules concerning the nobility and the family, but also the main jurisprudential decisions adopted by high courts and the Russian senate.

## Property Rules and the Legal Status of Russian Peasantry

Russian rules never spoke of “serfs” but rather aimed to identify people entitled to transmit “immovable” property. In fact, Russian and Western historiography considers *krepostnoe pravo* to be the Russian-language equivalent of the word serfdom, just as *krepostnye liudy* has been translated as serfs. These translations may be correct, however the expression *krepostnoe pravo* did not appear in Russian texts until the late 1830s.<sup>12</sup> If we consider official Russian texts from the sixteenth to the middle of the nineteenth centuries,<sup>13</sup> we find no use of the words *krepostnoe pravo* but only *krepostnye liudy* (people subject to a *krepost'*, a deed), *kret'iane* (a word usually translated as peasant).<sup>14</sup>

The limitation of peasant mobility was not a goal in itself, such limitation did affect relationships between different groups of landowners and the state.<sup>15</sup> Since the fifteenth century, a so-called obedience charter (*poslushnaia gramota*) was granted to peasants living on state lands, which had been awarded as service landholding (*pomest'e*) to members of the provincial cavalry to support them in service. Peasants were an appendage of the state, but they had to pay rent to servicemen, even though many peasants believed these lands belonged to them.

The *Sudebnik* (law reports) incorporated and widely applied the provisions that had originally been intended (in 1455–62) for monastery peasants only, which called for limiting their mobility.<sup>16</sup> After 1565, Ivan IV changed the “obedience charter” and added a clause stipulating that peasants were obligated to obey the landholder. Cavalrymen took this as license to increase rent. But why were these rules adopted?

An old historiographical view linked the enserfment of the peasantry to the evolution of economic conditions. The economic crisis, famines, and population decline were said to have led landowners to demand the state make rules tying peasants to the nobles' estates.<sup>17</sup> In this view, the rise in farm prices beginning in the sixteenth century and the subsequent increases in the early seventeenth century that occurred because of poor harvests and famines were supposed to encourage noble landowners to bind the peasantry in order to benefit from price rises.<sup>18</sup>

This argument is encountering increasing criticism. The relative decline in population during the middle of the seventeenth century has been overestimated, and, furthermore, it came after nearly a century of

demographic growth.<sup>19</sup> In general, there is no empirical confirmation of the argument that the indebtedness of the peasantry and low population led to serfdom.<sup>20</sup>

Some other scholars have linked these limitations to territorial expansion, the lack of manpower, as well as to tax and military burden.<sup>21</sup> But in fact, most of the nobility was hostile to territorial expansion, which was viewed as a source of instability and blamed for reducing the available manpower.<sup>22</sup> Indeed, measures for delimiting property were not only dictated by taxes and military requirements of the state, but they also reflected a redefinition of the relationships between social groups and the state, namely, the role of land property as a social and political marker.<sup>23</sup> The rules were thus appropriated by the state and broadened to include the entire peasantry in relation to the Muscovite leaders' attempt to establish a land register. Throughout the sixteenth and seventeenth centuries, several rules were adopted that had the effect of limiting peasant mobility; however, these rules were actually designed to establish a cadastre to improve tax income and military conscription, while also aiming to settle disputes over estates to which there were various claimants, including the crown, the church, monasteries, and various categories of nobles. In other words, the Muscovite elites' claims to and conflicts over land were at the root of rules concerning the cadastre; peasant mobility was only a secondary cause.<sup>24</sup>

These rules meant that peasants could move from central Black Earth lands to state or court lands if they felt so inclined, and there is no doubt that many peasants moved freely about Russia and that the government took measures to ensure they had the right to do so. Until the first half of the seventeenth century, the restriction was assumed to be temporary; by the 1630s, landlords even came to enjoy the right to allow their peasants to move, as can be seen expressed in many documents (the *otpusknaia gramota*).<sup>25</sup> Such documents were signed by landowners, for example, to let their peasants marry on another estate, move to towns, etc. In exchange for mobility, peasants had to pay a fee. Upon closer examination, serfdom resembled a form of racket much more than it resembled slavery.

The process was by no means simple, as is evidenced by the numerous legal disputes and petitions drawn up by noble families against other claimants to their properties, whether nobles, merchants, *boyari*, or others.<sup>26</sup> The alliance between the state and the provincial and lesser nobility was supposed to offer a solution, with new rules on runaways being adopted in exchange for landowners' acceptance of a cadastre. However, this alliance proved to be ineffective, because different state administrations were unable to cooperate in achieving a cadastre, returning

runaways, or punishing owners whose claims were illegitimate. To that must be added the lack of cooperation among landowners, who continued to retain peasants on the move—so-called runaways. Petitions multiplied between the 1620s and the 1640s, and the central state responded by lengthening the time to recover fugitives from five to nine to fifteen years (decrees of 1637, 1641, 1645, 1648).

This is where the famous *Ulozhenie* intervention of 1649 comes in; according to many interpretations—Russian, Soviet, and Western alike—it marked the final adoption of the servile regime in Russia and thereby the central role of the state in the process.<sup>27</sup> Yet if we read that document carefully, we find that it contains nothing concerning the organization of work on the estates.<sup>28</sup> The document mentions peasants and the rural population, but not serfs. The thirty-four articles that make up its eleventh chapter define the rules governing runaways, which is to say peasants, not serfs.

The term *peasants* referred to individuals, with or without land, who were members of any rural community. The “runaways” described in the eleventh chapter of the *Ulozhenie* intervention of 1649 were said to have moved outside their own rural districts without the permission of the landowner or the local public authority, in order to settle in another rural district or to place themselves under the authority of cities, monasteries, and so on. The term referred to members of rural communities with obligations toward either private landowners or the state, or toward their rural community.<sup>29</sup> The text did not refer in any way to a title of ownership of peasants but rather to attestations of land registration of noble estates. That explains why this text included no sanction against peasants who fled but strongly sanctioned lords who received the runaways.<sup>30</sup> Exactly as they did before the *Ulozhenie*, peasants continued to sign “settlement contracts”<sup>31</sup> with landlords in which they defined the conditions and terms of their obligations.

To what extent did these rules contribute to solving the long-term questions of land ownership and social status in Russia and, in particular, to the unfair competition between hereditary nobles, with their practice of keeping runaways; the sharp conflicts between nobles in government service and hereditary nobles; as well as the conflict between nobles and merchants?

The available sources reveal clear attempts by the state to enforce rules,<sup>32</sup> but as the records of litigation among landowners and between urban merchants and landowners plainly show,<sup>33</sup> the legal definition of those who had the right to own and transfer populated estates was not clear. The great landlords became notorious for luring peasants away from smaller estates.<sup>34</sup> This game became even more complicated when

urban elites (with fiscal motives) and peripheral authorities (interested in increasing the local population) pushed to keep the runaways in place. Negotiations concerning this occurred on the legal, administrative, and political level.<sup>35</sup>

Annexation of new territories and the colonization of the steppe further weakened these already barely enforced rules. In 1635 a decree authorized commandants of local garrisons and southern governors to guarantee residence to fugitive peasants and not to return them to their legitimate owners. The following year, a new ordinance freed all those whose mobility had been restricted after 1613. Petitions by estate owners increased so much that in 1636, the central authorities decreed the obligation to return fugitive peasants to their legitimate owners. The *Ulozhenie* of 1649 sought to reinforce these rules. However, in the southern areas even more than in the heartland, the rules were barely enforced.<sup>36</sup> In the eyes of some tsarist elites, geopolitical considerations overwhelmed the political and social defense of estate owners in the central areas of Russia. As a consequence, between 1678 and 1897, peasants' settlements in the central forest heartland fell from 69.9 to 41.22 percent of the total cultivated land, while those in the steppe areas increased from 28.78 to 41.22 percent. During this same period, settlement in Siberia rose from 1.32 to 7.54 percent. In the southern and eastern settlement areas, one-third of the population increase was due to natural growth and two-thirds to immigration. By the 1680s the peasant population in the Ukrainian territories was about half a million people; it doubled by 1720.<sup>37</sup> By 1678, 3.7 million peasants had emigrated and settled in Siberia, the northwestern areas, the Urals, the southeastern steppe, and the Volga.<sup>38</sup> As a whole, the population of Russia increased from 7 million in 1600 to about 9 million in 1678, 14 million in 1719, 17 million in 1762, and 21 million in 1782.<sup>39</sup>

In summary, in seventeenth- and early eighteenth-century Russia, colonization relaxed legal constraints on peasants and contributed to the evolution of the institutional and economic relationships in farming regions. Indeed, compensation to the estate owners of Central Russia came from increasingly restrictive access to inhabited estates in these areas. Most of the historiography (Wirtschaftser's work being the most important exception) has interpreted these rules as synonymous for increasing power of the nobility over the enserfed peasantry. However, as in the previous centuries, these rules made clearly defined the category of hereditary nobles. From the mid-1730s until the early 1760s, a number of decrees limited the number of people entitled to own and transmit inhabited estates. Servants, servants in monasteries,<sup>40</sup> soldiers and the lower administrative levels, the clergy, merchants, urban guilds, Cossacks, and *raznochintsy*

(people of various ranks) were all prohibited from acquiring or transferring inhabited estates and from establishing *krepost'* relationships.<sup>41</sup> Finally, in 1762, factory owners were prohibited from buying and transferring estates with either urban or rural workers.<sup>42</sup> This did not prevent several merchants and manufacturers from acquiring populated estates and firms,<sup>43</sup> so that in 1812, the Senate was forced to confirm the decree of 1758.<sup>44</sup>

Last but not least, the evolution of the legal status of the peasantry was strongly affected by the secularization of ecclesiastic lands in 1763, which placed 20 to 25 percent of the peasants under state authority. At the same time, Catherine sought to extend the serf rules of the heartland to the new settlement colonies and offered her close collaborators and top-ranking officials full ownership of lands. Historiography usually cites Catherine making gifts of a million peasants and Paul presenting 800,000. Actually these figures refer mostly to territories annexed in the Polish partition and in the Caucasus.<sup>45</sup>

In short, from the mid-sixteenth century until the last quarter of the eighteenth century, Muscovite, Russian, and Imperial Russian rules of land ownership did not refer to serfs but mostly aimed to define who was entitled to own and then dispose of populated estates and, as a consequence of that entitlement, who could retain runaways. This solution had far-reaching consequences: it showed that the main goal of the state was not to bind the peasantry but to link the very possibility some estate owners had to possess and transmit them to these owners' acceptance of the state rules regarding the cadastre and thus property. In turn, this put the entitled nobility under the legal control of the state. Third, defining the estate owner rather than the serf meant that the estate owner was informally allowed to exert his or her authority over the serf—and that he or she had permission to exert seigniorial justice and possibly require forms of coerced labor. The state simply delegated the local demesne legal authority to the estate owner. But ultimately, earlier sets of rules meant that while the peasant could not refuse *corvées*, he could contest the estate owner's ownership. Attempts by nobles to refuse access to their land and deny status to other groups, such as service elites and the bourgeoisie, were constantly mitigated by the ambivalent approach of the state elite, who wished to allow—yet at the same time restrict—the nobility's access, in order to win support for reform and ensure social stability.<sup>46</sup>

The records of numerous court proceedings testify to conflicts between landowners and the administration or among different landowners about the validity of titles of nobility.<sup>47</sup> Disputes also arose when estates were transferred, dowries were constituted, or inheritances were bequeathed.<sup>48</sup> Of course, other nobles and the tsarist elites were opposed to such

practices for both sociopolitical and economic reasons.<sup>49</sup> Nonetheless, in 1836, nonhereditary nobles were granted the right to own inhabited estates, though not to transfer them.<sup>50</sup> The solution then consisted in presenting the sale of noble estates (or a part of them) to non-nobles as loan contracts; this was not necessarily false, insofar as “merchants” often financed indebted nobles, who sometimes were unable to repay their debts. To prevent this from happening, an 1816 law (supported by both part of the nobility and Russian officialdom) prohibited the recording of letters of credit in the name of persons who were not entitled to own and transfer peasants.<sup>51</sup>

Despite these provisions, transactions between nobles and non-nobles continued. To escape the law of 1816, non-nobles used verbal agreements to secure peasants’ work or to grant loans to nobles, etc.<sup>52</sup> These offences multiplied in the ensuing years, and numerous decrees tried to limit the practice of verbal agreements between nobles and non-nobles on the subject of peasants.<sup>53</sup>

Nonetheless, in 1836, the “personal” (nonhereditary) nobles were confirmed in their right to own inhabited estates but not to transfer them.<sup>54</sup> Those provisions were followed by an increasing number of disputes among nobles, between service nobles and hereditary nobles, or between nobles and the administration. According to the statistics of the Ministry of Justice, in 1845 alone, 6,400 requests for confirmation of the title of noble were submitted, only half of which were validated.<sup>55</sup> From this perspective, the rules paved the way to a closer focus on a legal definition of illegal bondage. All transactions made between nobles and those who were not entitled to possess populated estates were illicit and therefore gave rise to illegal possession and illegal bondage. A law in 1833 prohibited any new bondage, even if the parties agreed to it.<sup>56</sup> Limitation on the mobility of peasants residing on an estate that owed a debt to a non-noble was also forbidden.<sup>57</sup> Several other rules followed during the first half of the nineteenth century, which in fact precipitated a broader process in which administrative and legal condemnation of bondage opened the way to large-scale administrative and judicial emancipation.

### **Changing Legal Status: Administrative Procedure or Court Proceedings**

The ways in which economic and social actors appropriate legal rules have been the subject of a huge number of studies in sociology, economics, history, and anthropology, and, of course, among legal scholars. In social and economic history, the same approach has been developed for different countries and different periods, and Russian studies, too, have

recently developed similar methods of analysis.<sup>58</sup> However, it is widely accepted that peasants had few legal rights in eighteenth-century Russia; indeed, some scholars consider this to have been the case right up to the legal reforms of 1864.

Such arguments require a serious assessment. In fact, the ability to take legal recourse to capture social and economic assets depends on the distribution of legal rights, as well as on legal procedures and the precise wording of laws. A clear distinction has to be made between administrative law, on the one hand, and civil and penal law, on the other. In tsarist Russia, administrative law largely dominated the legal landscape and often overlapped with civil and penal law. We thus need to clarify which kind of rules regulated the institutional and social life of peasants; how they were implemented; and with which issues they dealt. We may start with administrative rules in the strict sense. In fact, many laws were passed during the first half of the nineteenth century to facilitate administrative changes to the legal status of peasants. They were reforms that responded simultaneously to particular claims, to momentary worries, and to a more general attitude on the part of Russian elites. Political stability, economic efficiency, paternalistic criticism of serfdom, and the particular economic interests of the state or some of the nobility all played a part, to different degrees, in reform.<sup>59</sup>

In general, the matter concerning the rules and their implementation was the transfer of peasants belonging to private estates to the legal category of state peasants. Peasants on noble and private estates were first distinguished from state peasants after the seventeenth century.<sup>60</sup> State peasants had certain obligations only to the state, for example to pay an annuity, usually in money, sometimes in kind. They were also obliged to perform work of public interest, which is usually mentioned to justify the existence of forced labor and serfdom in this category. At the same time, state peasants could work in cities in trade and industry, provided they had the required documents.<sup>61</sup> Catherine II even included representatives of state peasants in her legislative commission who were assigned to define the rights and obligations of the main social groups.<sup>62</sup> In 1842, state peasants were freed from any obligation toward the state, apart from taxes.

Starting from this premise, we can study the rules allowing a peasant from a private estate to be reclassified as a state peasant. The first such reform was adopted by Alexander I, who ascended the throne in 1801 and gave the impression of being willing to introduce far-reaching reforms. In 1801 he allowed merchants, townspeople, and state peasants to own unpopulated estates, by which he intended to partially challenge the nobles' monopoly on land ownership. In 1803, a decree created a

classification of *svobodnye khlebovlashtsy*, which included free farmers whom, at his own discretion, the landowner could exempt from any obligation, apart from those obligations made by peasants concerning plots of land given to them by the overall owner of the land. Those agreements were legally binding on both peasants and landowners.<sup>63</sup>

The influence of German and Russian intellectuals, as well as pressure from some of the noble elites, encouraged the reforming attitudes of the tsars, in particular Alexander, whom Count Rumyantsev pressed to adopt this provision. Rumyantsev had sought permission to free some of his serfs and sell land to them, and the positive response to his request became the basis for broader reform.

This provision by Alexander was supposed to lead to an improvement in agriculture while also being advantageous to estate owners; and according to the estimates of Hoch and Augustine, between 1833 and 1855 alone, 58,225 people were emancipated on its basis,<sup>64</sup> a figure that rose to 114,000 male peasants, between 1803 and 1855. However, despite several attempts to go further, Alexander did not adopt other reforms of the same kind. The Napoleonic Wars and opposition by some groups of nobles and high-ranking officials seem to have played a role in his change of heart.<sup>65</sup>

The next tsar, Nicholas I, also spent some time projecting reforms before adopting concrete rules. They occurred in the broader realm of Pavel Kiselev's reforms between 1838 and 1842, which radically modified the status of state peasants. Peasants' general and professional education was taken into account, while their financial burdens and their obligations toward the state were no longer assessed per head, but in conformity with the value of each individual peasant's land or income from nonagricultural activities.<sup>66</sup>

Kiselev ordered a general inquiry into agriculture and the peasantry. His final report concluded that the labor of peasants with no statutory obligations to landowners was more productive than coerced labor; however, on the basis of that report, Kiselev and Nicholas I maintained that the present difficult situation of agriculture and the extent of coerced labor was the result of the fact that some landowners had abused their power and had extended the power of their patronage over the peasantry. Limitation of those abuses thus became a precondition for deeper reforms. At the same time, it was argued that peasants should not be freed from their illegal bondage without being given the opportunity to acquire their own land. In fact, as the reforms experienced in the Western borderland had proved, freedom without land would lead to a clear worsening of the peasants' circumstances and hence to social and political instability.

Accordingly, in 1842, a new decree was adopted. It was conceived as the direct successor to the 1803 decree, but with the major difference that the contractual agreement between an estate owner and peasants would not be left to the free will of the estate owner but would be regulated by law. If the peasants involved did not redeem the value of the land, estate owners would retain the right of full patrimonial ownership of it and the peasants would receive plots for their use. A particular category of peasant was created—the peasant who had an obligation (*obiazannye krest'ianie*) toward noble landowners and who fitted neither the category of private estate peasants in the strict sense (*pomeshchichie krest'iane*) nor that of servants (*dvornye liudi*).

As with previous rules, this new decree referred specifically to peasants, private peasants, and rural inhabitants, but not to serfs, who were subject to other legal rules (*uslovnoe pravo*); peasants no longer had any general obligations toward landowners, except those concerning the plot received when the contract with the property owner was signed.<sup>67</sup> Peasants concluded contracts with landowners stipulating the size of their allotment and the level of their obligations. From the adoption of the new law until 1858, a total of 27,173 male peasants and their families were affected by the decree.<sup>68</sup>

In 1841, peasants whom private nobles had allotted freely to monasteries or charitable institutions were also reclassified due to the prohibition on the ownership and transfer of serfs by these institutions.<sup>69</sup> About 8,900 people were thus transferred to the category of state peasants, and the institutions to which they belonged were compensated by the state.<sup>70</sup>

Tsar Nicholas did not stop with these reforms. In 1844, two new laws facilitated the reclassification of *dvornye liudi* (servants); the first one freed the servants' masters from any responsibility for the payment of taxes, while the freed servants were exempt from military service and taxation until the next revision. The second law facilitated a change of legal status for cases in which a landowner mortgaged his estate to certain credit institutions. According to a study at the time, in 1851 alone, 11,000 *meshchane* (merchants) from eleven provinces were said to have benefited from those rules, having been previously the peasants of private owners.<sup>71</sup>

About 19,000 working peasants connected to private factories were freed between 1840 and 1851, and during the same period, many mines had recourse to “temporary workers” (*nepremennye* or *urochnye rabotniki*) who were registered as private peasants at the time of the eighth revision. These facts were denounced years later, and a court decision was made for the ninth revision only in 1851. At that time, 53,900 men working in the mines were transferred to state estates as peasants.<sup>72</sup> All of

these rules reclassified private peasants into other categories and thereby erased their obligations toward their landlords.

Administrative emancipation sometimes occurred for other reasons. As we have seen, under tsarist law, mortgaged estates put up for auction were especially targeted. State and noble elites agreed that indebted landowners must be helped, in order to prevent their lands from falling into the hands of “speculators” and bourgeoisie. To that end, along with the state itself, local peasants were granted priority in acquiring such lands. In 1847 the peasants from auctioned estates could buy land and purchase their own freedom to move.<sup>73</sup> That same year, however, the Ministry of Estates, set up in 1838, was obligated to buy private estates put up for auction. As a result, 178 estates were taken over between 1838 and 1855, with a population of about 58,275 serfs consequently transferred to the state. Beginning in 1842, the same ministry also began taking over estates belonging to “isolated peasants” (*odnodvorcheskie krest'iane*). By 1858, about 8,000 peasants had been taken over by the state in this way. In 1845, the administration in charge of feeding horses in the province of Voronezh bought the estate of Count Orlov, with its 6,562 inhabitants, who became state peasants. The public treasury (*udel*) took over estates as well: between 1831 and 1860 it bought fifty-two estates in the provinces of Simbirsk and Orel, with about 25,000 inhabitants. In all, between 1833 and 1858 alone, the legal status of 343,575 male peasants changed due to mass emancipations by the state: they ceased to be private-estate peasants and became state peasants and sometimes *meshchane*.

General and administrative law regarding emancipation had a cumulative effect not only on mortgaged estates, but also on the terms of succession. Thus two new laws adopted in 1836 and 1839 stipulated that if a landowner left no heirs, or no heirs who could legitimately own serfs, the peasants would become state peasants, whereas the servants could register in cities as *meshchane*.<sup>74</sup>

In 1841, a new law prohibited the succession of landless nobles or landless owners of peasants. Consequently, between 1841 and 1858, the number of landless nobles dropped from 17,700 to 3,633, and their serfs from 62,000 to 12,045—a dramatic fall, even taking into account the possibility that some of the serfs had been sold to other nobles.<sup>75</sup>

The voluntary redemption of peasants' obligations and thus a change in legal status at the discretion of the master was already provided for in the seventeenth and eighteenth centuries. But it is difficult to estimate the number of such redemptions, as no systematic, province-by-province studies are available, although notarial archives (*krepostnye knigi*) and estate archives provide useful information. The impression given by the mass of archives is that voluntary acts of redemption increased during the

nineteenth century in response to both tax support and legal simplification, as provided by the tsarist rules.<sup>76</sup> According to estimates at the time, the ninth revision of 1851, held in twelve provinces (*guberniia*), resulted in a change in legal status for 11,000 *meshchane*.<sup>77</sup> The tsarist authorities collected relatively detailed, though not cumulative, data on such individual acts, between 1860 and 1868; the records take up twenty-five volumes and give a wealth of information on the state of the population in Russia's provinces and empire.<sup>78</sup>

These acts were part of the paternalistic relationships that defined the system; they set an example for the mass of peasants to engage in cordial relations with their landowners, with a view to their possible emancipation. The pace of these acts accelerated during the nineteenth century in response to incentives from the authorities and the compensation guaranteed to noble landowners.<sup>79</sup>

Yet the changing of legal status also resulted from the increasing number of legal proceedings brought by peasants themselves against their masters. Until the 1770s, there were no special courts in Russia for peasants, who, until then, were forced to apply to nobles and their courts to request emancipation—a system that considerably reduced attempts to initiate proceedings. The situation changed in 1775 with the introduction of peasant courts, accompanied by a clear-cut legal differentiation between ownership of things and rights over human beings. Throughout the nineteenth century, these issues were frequently the subjects of court rulings. Peasants themselves were sometimes able to demonstrate in court that the landowner or master concerned was not entitled to own the estate.<sup>80</sup> Proceedings brought by peasants became so numerous that between 1837 and 1840 the Senate actually decided to put a stop to cases involving serfs still living with their masters.<sup>81</sup> Overall, between 1833 and 1858, the Senate recorded 15,153 cases of illegal bondage, while the provincial courts dealt with 22,000 cases of this type.<sup>82</sup>

Naturally, these positive outcomes should not obscure the difficulties confronting peasants who tried to bring proceedings against a noble or someone claiming to be noble. The rulings of local courts often differed considerably, and several judges considered peasant petitions inadmissible and even refused to grant them the right to appeal.<sup>83</sup> A number of cases of corrupt judges being influenced by noble landowners were also recorded. Finally, the investigations of proceedings went slowly, and it often took ten years to reach a conclusion.<sup>84</sup>

Measures aimed at changing this state of affairs were not adopted until the end of the 1840s, when a new law facilitated the legal proceedings of all those who considered their obligations toward estate owners to be illegal.<sup>85</sup> The importance of these proceedings is confirmed by the increasing

number of peasants establishing themselves in town and formally and informally changing their legal status.

### Peasants in Town

Conventional historiography—both in Russia and in the Western countries—complained about the lack of cities in tsarist Russia and, in particular, of “free” towns headed by “bourgeois” groups. In this perspective, Russian towns, unlike their Western counterparts “did not make free” and were not centers of industrial activity, but rather were administrative-military locations.<sup>86</sup> The underlying model, common to Marxist and liberal views, is that politically, the town in the West “made free” and that from an economic standpoint it encouraged the division of labor and the emergence of the modern world, i.e., trade and industry. As Pirenne, Braudel, Tawney, the German historical school, and many others have put it, the town has been the engine for the emerging of the modern capitalistic and “bourgeois” world.

More recent historiography has partially revisited this approach; for example, Mironov has clearly demonstrated that if at the end of the eighteenth century, two-thirds of towns of European Russia were still agrarian (with agrarian activities strongly dominant) and almost all (94 percent) had significant agrarian activities; during the first half of the nineteenth century, agrarian activity within the towns greatly declined, as did purely military and bureaucratic activity. Farming as an independent functional kind of activity ceased to exist in 19 percent of the towns in European Russia. It played a secondary role in 44 percent of the towns, an important role in 15 percent, and the leading role in only 22 percent of towns. At the opposite end of the spectrum, trade and manufactures developed strongly in most Russian towns.<sup>87</sup>

This book develops this view further, addressing the following questions: Was the legal separation between the town and the countryside really important and effective? And is the persistent peasant-worker a feature of “backward” countries?

Indeed, the *Ulozhenie* of 1649 did not prevent peasants from establishing themselves in town. On the contrary, this opportunity was openly extended to servants and hired laborers. However, as people began to take advantage of these opportunities, a decree of 24 November 1699 declared that only peasants who had already lived in towns and possessed stores or craft workshops there—or those who were engaged in itinerant trade—were eligible for inclusion in the urban taxpayers’ list. Those who did not wish to be a part of this list were again barred from engaging in these enterprises and were ordered to “live under their lords.” Peasants

who sold goods hauled in from the countryside for wholesale prices, as authorized by the *Ulozhenie*, were not subject to these provisions. Furthermore, in 1709, peasants who did not wish to register in the *posad* (urban tax rolls) were authorized to participate in urban trade only if they paid a 10 percent tax on the value of their enterprises.<sup>88</sup> The peasants' commercial activity was in the municipal interest, because peasants paid local taxes, whereas the majority of urban guilds were strictly opposed to allowing them to penetrate their territory. The *cahiers des doléances* sent by the legislative commission, which were set up by Catherine, testified to these multiple and divergent interests.<sup>89</sup> Registered shopkeepers protested against stallholders who did not pay taxes and also against the fact that they were competitors, that they employed stallholders in place of local apprentices, that they granted loans outside the urban network, etc. This framework was later complicated by the fact that the residual category of *raznochintsy* (people of different rank),<sup>90</sup> who were theoretically entitled to register on the list of urban inhabitants, encompassed individually emancipated serfs, certain urban categories (*meshchane*), children of merchants, priests who did not represent the profession of their fathers, isolated households (*odnodvortsy*), service personnel of lower rank (*starukh sluzheb sluzhilye liudi*), and the *kabal'nye liudy*—peasants who had worked for a landowner while still likely to be included in urban groups. Thus several decrees in 1732, 1737, 1743, and 1744 required city authorities to register on their lists all *raznochintsy* who were not yet included among taxpayers.<sup>91</sup> However, the measure was difficult to implement because the category evolved over time and differed according to the various legal sources (tax, administrative, and criminal). Catherine's Charter of Rights and Privileges (1785) remained in effect until 1870. It defined the town population as the community of all male inhabitants over twenty-five years of age possessing real estate or exercising a trade yielding fifty rubles per year. It is nevertheless significant that, of the six urban groups, only three (merchants, artisans, and *meshchane*) actually appeared in the form of an estate corporation and led municipal affairs. This means that unlike some official tsarist declarations and historians' *lieux communs*, merchants and "Third Estate" groups actually controlled the Russian towns. Occasional conflicts displayed the political and economic tensions between these groups—not at all the "visible hand" of the Russian state.

Illegal shopkeepers were constantly hunted down during the seventeenth, eighteenth, and nineteenth centuries.<sup>92</sup> Regulations in the 1720s and during the time of Catherine, as well as the list of segments and industrial firms drawn up by the governors between 1817 and 1820, testify to the efforts<sup>93</sup> undertaken by the municipalities and by the state and

trade officials. In theory, merchant stallholders, hawkers, and occasional merchants made up the largest pool of those merchants described as illegal. However, applying the legal rules was no easy task—not only because of arbitrary enforcement and bribery,<sup>94</sup> but also because the interests of municipalities and certain traders and trading peasants converged. Let us take the case of nonresidents who rented stores and shops. Naturally it was difficult to rent a shop in the city without being registered on the list of taxpayers and residents. Thus the stallholders most often rented premises in the city outskirts and inner suburbs. For example, around the mid-eighteenth century, in the suburb of Blagovescenskaja, near Nizhnyi-Novgorod, 265 peasants and *raznochintsy* had shops, but only 112 were registered on the city lists. They were, however, registered on the lists of Blagovescenskaja. This led to protests by merchants and the city of Nizhnyi-Novgorod, especially as its inhabitants bought their supplies in the inner suburbs.<sup>95</sup> In other words, shopkeepers of nonurban origin or who came from other cities would take advantage of the tax competition between cities and towns to engage in trade while paying as little as possible. Several municipalities decided to exercise a less repressive and more attractive policy. For example, more and more municipalities rented their own market stalls and shops, thereby receiving leases and demanding payment of *obrochnye den'gi* (local tax); but they did not require registration or payment of ensuing expenses, which, of course, caused protests from local shopkeepers.<sup>96</sup>

Similar situations occurred with artisans who were not registered but owned a workshop in the city. When a state inspector visited the town of Tula in 1844, he found certain variations in the number of guild masters and workers listed in the municipal records of previous years; in 1842 the town had recorded only 55 masters, while there had been 400 in 1840 and 560 in 1843.<sup>97</sup>

Some municipalities readily rented such premises even without official registration on the list of residents and urban taxpayers, but in exchange for payment of a tax. In the eighteenth and nineteenth centuries, this solution gave rise to protests from the guild or the community concerned.<sup>98</sup> Yet these same institutions were ready to avert their gaze when time came to employ the same unregistered “immigrants” as apprentices or workers.<sup>99</sup> In this case, too, peasants and stallholders took advantage of these complex attitudes to slip through the net of urban regulations. On the whole, a listing of industrial enterprises, compiled from data reported by provincial governors in 1817–20, identified factory owners who were third-guild (the lowest one) merchants, lesser townspeople, peasants, and members of other nonurban categories. In Voronezh, a simple comparison of police documents with municipal records revealed that almost all

the town's tailors (50 masters and 440 workers, according to police files) had not registered with their guilds.<sup>100</sup>

According to official sources from 1845, only 42 percent of Moscow townspeople possessed a demonstrable trade.<sup>101</sup> In 1859, Moscow's passport office registered 142,000 arrivals (a rise of 16,000 over the 1847 figures), this at a time when the city numbered 370,000 permanent residents. Most of these migrants stayed for a few months, some for years. How many others arrived without any legal travel documents is impossible to estimate. Not only peasants, but also city dwellers, engaged in petty trade between the town and the countryside. They bought up farm goods and rural handicraft products and sold them at a small profit to the local inhabitants. Among these petty traders, some enrolled as merchants solely to obtain exemption from conscription for their sons. A nineteenth-century Russian scholar estimated that many of the 200,000 merchants of the third guild had entered the lists solely to avoid conscription—for when the privilege disappeared in 1870, their numbers dropped sharply.

This commercial activity was largely responsible for the fact that the decline of merchants into the petty-bourgeois estate (*meshchane*) could be somewhat counterbalanced by the rise of new merchants. For example, in Moscow, official records for the years 1830–45 indicate the entry of 4,200 *meshchane* into the city's merchant estate.<sup>102</sup>

The attitude of noble landowners toward the illegal presence of peasants and peasant-merchants or artisans in the city depended not only on the landowner, but also on the current economic situation. Most landowners were favorable to them, above all during the first half of the eighteenth century and again in the nineteenth century, that is, at times when they found it advantageous to allow their peasants to engage in various activities and benefited considerably from the nonagricultural revenues of this population. The archives of estates and towns provide the nominal list of peasants entering guilds as merchants or artisans.<sup>103</sup>

However, other landowners were opposed and preferred to keep peasants on the estate. In these instances, the noble landowners and their representatives at the court were quick to blame the municipalities, accusing them of hiding fugitives for tax reasons or in the interests of their merchants and master artisans.<sup>104</sup> Such conflicts spurred state regulation of these problems. In 1824, a law was passed admitting the distinction between urban residents (*posadkie*) and tradesmen exempt from residence and certain tax obligations but still required to pay an additional tax to gain certain privileges (official access to shop rental, market stalls, etc.).<sup>105</sup> Nobles, peasants, and other nonresidents could buy certificates (*svidetel'stva*), allowing them to engage in trade within certain limits. The municipalities then put the various types of certificates up for sale at

different prices; a peasant, for example, could choose among six different certificates.

The attempt to legalize practices that were already widely adopted took hold in 1832, when the *Svod zakonov* (Anthology of Laws), referring, as at the time of Catherine, to *srednii rod liudei* (people of intermediate origin), divided the urban population into three main groups: merchants belonging to guilds and honorary citizens; *meshchane* and *posadkie* (enrolled urban population); and artisans. Yet these measures did not succeed in preventing conflicts.

Between 1847 and 1861, several urban communities (including Smolensk, Nizhnyi-Novgorod, and Kazan') refused to register on their lists anyone among the *raznochintsy* who could not pay their taxes.<sup>106</sup> Sometimes the conflicts were settled by the Senate<sup>107</sup> and sometimes by the municipalities themselves. For example, in Samara, in 1842, the municipality placed the nobility and civil employees with rank in the same category; however, most of the other urban regulations during this time made a sharp distinction between these two categories.<sup>108</sup>

An important consequence of this scattered evidence is that the urban population and urban activity in pre-reform Russia has been largely underestimated—illegal and undeclared residents should be added to the numbers, as should the massive temporary migration to towns of those people usually recorded as peasants in both private and state estates records. In proto-industrial areas, this proportion could be as much as a quarter of the rural population, and it tended to rise during the first half of the nineteenth century. The reverse was also true—townspeople migrated to villages in search of work, while many registered urban citizens received plots of communally owned city land, which could be bought, sold, rented, and exchanged. In the cities of the central agricultural regions, numerous townspeople and merchants earned their living primarily from farming.

These fluid boundaries between the cities and the countryside testify to two main issues in Russian history: First, legal concerns were much less constraining than is usually acknowledged, and this was so not only because people circumvented the law but because the law itself pushed in this direction. Tsarist restrictions on mobility should not be taken as being synonymous with opposition to urbanization. Barriers among groups were not impermeable; the basic principle of the system was to promote stability and growth. Second, interpenetration between the city and countryside was neither necessarily a symptom nor a cause of backwardness. Russian actors did not behave as some European models would predict—they were neither “pure merchants” nor “pure proletarians”; the countryside and its development were no less important to them than

was their interaction with the town; there were no classes in the Marxist sense nor individual actors (liberal approach) nor a rigid estate system, but rather a coexistence of all these ways of social and juridical stratification. Was this necessarily a symptom of backwardness?

### **Conclusion: Legal Status and Economic Dynamism in Imperial Russia**

Two main elements are usually called upon to explain serfdom: the state and noble landowners. Historians talk about the status in two different, thoroughly incompatible ways. For some, serfdom is a result of the strength of the autocracy, whereas others emphasize the opposite, that serfdom was a result of the weakness of the tsarist state, which is said to have left the nobles free to enserf the peasants.

These two interpretations are partial, if not erroneous, in that they do not take into account the close interaction between the state (or rather, certain administrations and certain leaders) and Russian society. The state was more than an administration, and, above all, administration was not limited solely to taxation and the police; the state was also the law, and from that standpoint, the dominant interpretations miss the essential point when they assert that the autocracy imposed a law that was not really law or, on the contrary, that it was incapable of controlling relationships in the countryside. In reality, tsarist law recognized and relied on other legal sources, including seigniorial law and its courts, and these rules mutually legitimated each other. The disputes between nobles and merchants and the considerable emancipations of peasants through legal and/or administrative channels testify to the importance of this element. However, the law was hierarchical; the various social groups had varying access to the courts and to jurisdictions. In other words, while it is not true that Russian society had no law, it would be a mistake to equate it with the rule of law as defined, for example, in France or in the United States at the end of the twentieth century. The way law was conceived and implemented shaped social and economic hierarchies. The mobility of peasants on private estates was considerably restricted; however, these restrictions were never definitive and changed according to the estate and the economic situation. As a whole, these provisions corresponded to a reorganization of the administration and the introduction of a land registry established to settle conflicts between nobles and merchants, or even within noble families, over the transfer of estates and the attribution of noble status.

Here we find interesting differences from Western colonial slavery, beyond what we have already mentioned: the lack of race concerns, the

importance of the peasant commune, and the contract signed between peasants and landlords. In particular, emancipation did not occur as a single act, as in Western colonies and the United States (even if, as we will see, in the British Empire this took the form of a transitional apprenticeship period for slaves). Almost half the Russian peasants had been emancipated from their obligations toward private owners in the decades before the official abolition of serfdom. Compared with the administrative procedures of manumissions, the emancipations resulting from judicial litigations were a tiny minority—about 12,000 people against a million—yet this amount corresponds to our extremely partial investigations into some local courts and Senate decisions. And, even so, this is already close to the number freed slaves resident in Britain in the early 1770s (estimated between 10,000 and 15,000) and more than twice the number of those with that status residing in France.<sup>109</sup> In short, , unlike British and American slavery, Russian emancipation was already in progress before the official abolition of serfdom, resulting from administrative and political acts, even if one cannot neglect judicial issues. These dynamics can be interpreted as a limitation of Russian civil society, and certainly it was. At the same time, if in Britain the abolitionist movement involved many social groups, in France public opinion was much more passive and silent and therefore abolition of slavery was essentially a top-down act.<sup>110</sup> Among the specific forms of administrative manumission, military service played a major role in Russia; this too distinguished Russian emancipation from that in contemporaneous Britain and the United States. Indeed, in the American colonies, during the War of Independence, some leading actors sought to play this card: slaves who would volunteer to serve would be promised freedom at the end of the war. Unfortunately, this measure was quite rarely carried out, because of the opposition of slave owners.<sup>111</sup>

Other forms of Russian administrative emancipation before 1861 were related to the tsarist elites' desire to exert economic, social, and political control over the nobility; reforms seemed to promise the preservation of autocracy and its social order. This strategy preserved shielded Russia from a dramatic abolition process such as the one that took place during the U.S. Civil War and its aftermath. Protests against the definitive emancipation of serfs came from parts of the provincial nobility, but this was far from the dimensions of a civil war as experienced in the United States.

Of course, one may argue on the one hand that Russia avoided strong conflicts at the moment of the emancipation precisely because of the smooth process of reforms, but that on the other hand, the country lacked a deep transformation process after the reforms. According to this view, the limitations of reforms would exacerbate tensions during the

second half of the nineteenth century and lead to the revolution. We will have occasion to test this view in the last chapter; before that, we first need to examine whether, despite the institutional long-term evolution of serfdom and the lack of official rules binding the peasantry, bondage was not informally practiced on the estates. Was not serfdom practiced beyond the complexity of legal texts and the eventual changing legal status of social actors?

Starting from this point, we may question to what extent market development was compatible with labor service in the countryside and with the persistent peasant worker in proto-industry and manufacture. Answering this question, in turn, will help us understand the economic and social evolution of Russia after 1861.

## Notes

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35. Arcadius Kahan, *The Plow, the Hammer, and the Knout: An Economic History of Eighteenth-century Russia* (Chicago: University of Chicago Press, 1985), 76–77.

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48. Several cases in TsGIAM, fond 54, and in RGADA, fond 1209 (arkhiv preznykh votchnykh del), in particular opis' 84. See also Michelle Lamarche Marrese, "The Enigma of Married Women's Control of Property in Eighteenth-century Russia," *Russian Review* 58, 3 (1999): 380–95.
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50. PSZ (II), vol. 11, n. 9203.
51. PSZ (I), vol. 33, n. 26469.
52. RGIA, Fond 1149, opis' 2, several dela.
53. Decrees of 1825, 1828, 1840, 1847. PSZ (I) vol. 40, n. 30407, psz II, vol. 3, n. 1696, vol. 15, n. 13051.
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  96. RGADA, fond 291, opis’ 2, several dela. On peasants of private estates involved in trade and their inscription on urban payrolls, see the documents in RGADA, fond 1287, opis’ 3.
  97. RGIA, fond 1287, opis’ 39, delo 72 “Po revizii”, ll. 39–40.
  98. TsGIAM, fond 32, opis’ 1 (1842–1866, glavnyi magistrat, with litigations between masters and workers); and opis’ 2, 1823–1842.
  99. Kahan, *The Plow, the Hammer, and the Knout*, 343–45.
  100. RGIA, fond 1287, opis’ 39, delo 65.
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  102. Brower, “Urbanization and Autocracy,” 393.
  103. For Sheremetevs’ the list is per names and years, with detailed activities of each peasant-trader or peasant-artisans entering a local guild, RGADA, fond 1287, opis’ 3, chast 2, delo 1283 for the year 1835–36, delo 1298, for the year 1836–37 and delo 1391 for 1838.
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  105. PSZ (I), vol. 39, n. 30115.
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