

# **PROPERTY RIGHTS AND THE ECONOMIC DEVELOPMENT OF EARLY MODERN RUSSIA**

J. T. Kotilaine  
Harvard University



The National Council for Eurasian and East European Research  
910 17<sup>th</sup> Street, N.W.  
Suite 300  
Washington, D.C. 20006

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<b>Principal Investigator:</b>	<b>Jarmo Kotilaine</b>
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## Executive Summary

The alleged lack of formally codified property rights has established itself as a standard explanation for Russia's economic and political "backwardness" in the early modern period and even thereafter. Under the most pessimistic interpretation Russia is said to have had "no guarantees of civil rights and *no* economic security (emphasis mine)." It is suggested that the absence of such rights resulted in a lack of incentives to invest and produce beyond the necessary minimum. Moreover, no economically independent "bourgeoisie" was able to emerge to serve as an effective counterpoise to the all-powerful tsar, so as to modify the autocratic character of the Russian government.

The main problem with this "standard story," as well as with most of its critics, is that it views property relations almost entirely through a judicial, political, or sociological prism. Russia was clearly evolving towards an absolutism of sorts and its law codes did not appear to provide for anything comparable to, say, Anglo-Saxon notions of property. This choice of sources has led many scholars to effectively ignore many of the crucial economic aspects of ownership.

The chief tenet of the approach adopted in this paper is that economic efficiency was a more important consideration for the long-term development of Russia than *de iure* property rights. It will be argued that Anglo-Saxon notions of property are an inappropriate reference point in trying to understand the evolution of property relations in Muscovy. Instead of merely assessing how far Russian law codes diverged from their Western counterparts, we should try to analyze the administration of property relations which was often done outside of the realm of formal law.

The Russian approach to property saw countless significant instances where *de facto* claims, rather than any judicial or political decisions, created the relevant set of incentives driving productive behavior. The importance of such claims was further enhanced by the enormous size and low population density of Russia, which imposed considerable transaction costs on any attempts to enforce juridical rights. Ultimately, it will be argued, Muscovite Russia gradually moved towards more economically efficient institutions and found increasingly effective ways of administering its available resources.

## Introduction

The alleged lack of formally codified property rights has established itself as a standard explanation for Russia's economic and political "backwardness" in the early modern period and even thereafter. Under the most pessimistic interpretation Russia is said to have had "no guarantees of civil rights and no economic security (emphasis mine)."<sup>1</sup> It is suggested that the absence of such rights resulted in a lack of incentives to invest and produce beyond the necessary minimum. Moreover, no economically independent "bourgeoisie" was able to emerge to serve as an effective counterpoise to the all-powerful tsar, so as to modify the autocratic character of the Russian government: "Ownership of property creates a commitment to the political and legal order, and since the latter guarantees property rights it makes the citizen into a co-sovereign, as it were."<sup>2</sup> The literature on the subject typically refers to the divergence of Russian law codes from Western<sup>3</sup> notions of property and to the Muscovite political culture which appeared to make all ownership conditional. To make matters worse, arbitrariness on the part of Russia's rulers made even conditional claims potentially uncertain – property, it is maintained, could be seized at the sovereign's whim with no prior warning.<sup>4</sup>

The main problem with this "standard story," as well as with most of its critics, is that it views property relations almost entirely through a judicial, political, or sociological prism. Russia was clearly evolving towards an absolutism of sorts and its law codes did not appear to provide for anything comparable to, say, Anglo-Saxon notions of property. This choice of sources has led many scholars to effectively ignore many of the crucial economic aspects of ownership. Ultimately, however, property is above all an economic category,<sup>5</sup>

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<sup>1</sup> Richard Pipes, *Property and Freedom* (New York: Alfred A. Knopf, 1999), p. 184.

<sup>2</sup> Richard Pipes, *Russia under the Old Regime* (Harmondsworth: Penguin Books, 1990), pp. xx-xxi.

<sup>3</sup> The word "Western" is used here as shorthand for the types of institutions that existed in the economically most advanced areas of early modern Western Europe. This is not an attempt to deny the extreme diversity of legal traditions and laws in Europe, but rather to focus on the fact that there were certain elements of property law which gained broader acceptance over time in much of Western Europe.

<sup>4</sup> For a recent exposition of the "standard story," see: Pipes, *Property and Freedom*, pp. 172-86.

The concept of property is the concept of a system of rules governing *access to and control of material resources*. Something is to be regarded as a material resource if it is a material object capable of satisfying some human need or want. In all times and places with which we are familiar, material resources are scarce relative to the human demands that are made on them (emphasis mine).<sup>6</sup>

Given the conditions of scarcity, the key problem of any community – or society – becomes one of allocation: “the problem of determining peacefully and reasonably predictably who is to have access to which resources for what purposes and when.”<sup>7</sup> Solving this problem is necessary not only in order to avoid distributional conflicts but also so as to create incentives for efficient economic behavior.

The chief tenet of the approach adopted in this paper is that economic efficiency was a more important consideration for the long-term development of Russia than *de iure* property rights. It will be argued that Anglo-Saxon notions of property are an inappropriate reference point in trying to understand the evolution of property relations in Muscovy. Instead of merely assessing how far Russian law codes diverged from their Western counterparts, we should try to analyze the administration of property relations which was often done outside of the realm of formal law.

The Russian approach to property saw countless significant instances where *de facto* claims, rather than any judicial or political decisions, created the relevant set of incentives driving productive behavior. The importance of such claims was further enhanced by the enormous size and low population density of Russia, which imposed considerable transaction costs on any attempts to enforce juridical rights. Ultimately, it will be argued, Muscovite Russia gradually moved towards more economically efficient institutions and found increasingly effective ways of administering its available resources.

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<sup>5</sup> For an alternative interpretation, see: Alan Ryan, *Property* (Milton Keynes: Open University Press, 1987), p. 103 ff.

<sup>6</sup> Jeremy Waldron, *The Right to Private Property* (Oxford: Oxford University Press, 1988), p. 31.

<sup>7</sup> Waldron, *The Right to Private Property*, pp. 32, 43.

## On the Meaning of Property

In order to address the question of property relations in Muscovy, some working definition of property *per se* has to be formulated. Perhaps the greatest limiting factor of most of the previous writing on the subject has been a tendency to more or less uncritically apply the Anglo-Saxon concept of the fee simple to the Russian case. Yet property is a complex, multifaceted notion which, in fact, entails a bundle of separate, albeit interrelated rights. For example, Roman law understood absolute property as comprised of three aspects: (i) the right to make physical use of physical objects (*ius utendi*), (ii) the right to the income from them (*ius fruendi*), and (iii) the power of management, including that of alienation (*ius abutendi*).<sup>8</sup> Even this trichotomy can be broken down further. My “owning” something can entail one or more of the following, and perhaps other, things:

- (i) I am a “steward” of my property. I can look after it, take care of it.
- (ii) I can make active use of my property and occupy it.
- (iii) I can transfer the *ius utendi*, temporarily or permanently, in exchange for a payment, whether monetary or in kind.
- (iv) I can appropriate the revenues generated by my property.
- (v) I can sell my property, in the extreme case to absolutely anyone of my choosing.
- (vi) I can leave my property to an heir, again ideally one of my free choosing.<sup>9</sup>

The classic Anglo-Saxon conceptions of property typically incorporate all of these different aspects. In simplest terms, the notion of my owning something is viewed as entailing my absolute and exclusive control of my property subject only to claims (taxation, etc.) made by the state. In broader terms, however, this notion is highly culturally specific. Property vs. the lack of it should not be thought of in purely binary terms. Rather, there are *degrees of control* and *ipso facto* degrees of property.

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<sup>8</sup> Eirik G. Furubotn and Rudolf Richter, *Institutions and Economic Theory: The Contribution of the New Institutional Economics* (Ann Arbor: The University of Michigan Press, 2000), p. 77.

<sup>9</sup> For a slightly different classification, see: Antony Maurice Honoré, “Ownership,” in Anthony Gordon Guest, ed., *Oxford Essays in Jurisprudence* (Oxford: Oxford University Press, 1961), pp. 112-28.

From the complexity of property it follows that ownership can be fragmented by transferring some rights in the above bundle to others: “Thus, for example, the right of use of a physical object can be leased to someone else (like leasing an apartment or a car) or the fruits of income can be transferred to another person for a period of time.”<sup>10</sup> A dynamic analysis of property rights has to be based on the recognition that the separable components of this bundle “may be taken apart and reconstituted in different combinations.”<sup>11</sup> This is what allows us to characterize people such as owner-occupiers, landlords, and mortgagors all as owners, in spite of the differences in the types of property rights they have.

So long as any one of the above aspects of property is present, a person can exercise some of the economic functions of a property owner. His claim creates incentives that make economic activity possible. While the fragmentation of property rights is liable to result in costs due to imperfect monitoring, limited control, etc., a departure from the fee simple is not *per se* inherently incompatible with a productive economy. And more to the point, it is a legal abstraction with no perfect economic counterpart, since “[p]erfectly specified and costlessly enforced property rights ... have never obtained.”<sup>12</sup>

Recognition of the multifaceted nature of property is crucial for understanding the different, culturally based conceptions of property that people in different countries and at different times subscribe to. The English fee simple does not confer exactly the same bundle as corresponding categories in France, Germany, Russia, etc.<sup>13</sup> Similarly, the English verb *to own* does not cover the same semantic field as its Russian counterparts *vladet'* or *imet'* and, more to the point, it should not be expected to, given the different historical traditions that have shaped people's understanding of such concepts. Another layer of complexity is added by different types of property, tangibles vs. intangibles, etc.<sup>14</sup>

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<sup>10</sup> Furubotn and Richter, *Institutions and Economic Theory*, p. 79.

<sup>11</sup> Waldron, *The Right to Private Property*, pp. 28, 55-7.

<sup>12</sup> Douglass C. North, *Structure and Change in Economic History* (New York: W.W. Norton & Company, 1981), pp. 5-6.

<sup>13</sup> Waldron, *The Right to Private Property*, pp. 29-30, 47-53.

While property rights are thus eminently flexible and capable of existing in different combinations, an important additional dimension of the problem is created by the difficulties of effective enforcement of explicitly defined rights, or even the total absence of such rights, especially in pre-modern societies. Yet even when property rights are not completely defined, individuals can establish significant *de facto* claims to property which, in turn, generate economic incentives and productive responses similar to those observed under *de iure* rights. As Barzel notes, “Legal rights, as a rule, enhance economic rights, but the former are neither necessary nor sufficient for the existence of the latter.”<sup>15</sup>

The analytical framework offered by *de iure* and *de facto* rights offers an alternative way of dealing with the apparent Muscovite paradox – a lack of Western-style property rights combined with economic production and growth. The distinction that Y. Barzel draws between economic and juridical property rights more or less corresponds to a distinction that I would prefer to draw between *de facto* and *de iure* control over property.<sup>16</sup> Economic rights can generally be viewed as active rights, something that we acquire and assert by our economic actions, *de facto*. Juridical rights are codified rights and something that we can choose to reassert by virtue of the legal basis for such actions, although this does not have to happen and often does not. For *de iure* and *de facto*, or juridical and economic rights to coincide, the holder of a *de iure* right must be able to fully control the process of production and to appropriate the revenue stream generated by his property to the extent defined by law. Any study of history will show how easily social and political processes can drive a wedge between the expected and real returns as a result of theft, mismanagement, inertia, unauthorized taxation and other forms of corruption, transaction costs, etc.

Hierarchies of overlapping rights are created when a person’s *de iure* property comes to be *de facto* controlled by someone else. Utility-maximizing behavior can then lead to both claims being

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<sup>14</sup> Waldron, *The Right to Private Property*, p. 29.

<sup>15</sup> Yoram Barzel, *Economic Analysis of Property Rights* (Cambridge: Cambridge University Press, 1989), p. 2.

<sup>16</sup> Terms also used by Schlager and Ostrom: Edella Schlager and Elinor Ostrom, “Property-Rights Regimes and Coastal Fisheries: An Empirical Analysis,” in: Terry L. Anderson and Randy T. Simmons, eds., *The Political Economy of Customs and Culture: Informal Solutions to the Commons Problem* (Lanham, Md.: Rowman & Littlefield Publishers, Inc., 1993).

honored under a type of collective property. The holder of the *de facto* claim becomes the Lockean steward of the property in virtue of his ability to use it to generate revenues, and indeed higher revenues than its *de iure* owner could. The *de iure* owner can increase her utility by becoming a type of residual claimant or merely by agreeing to some payment(s) under a more lease-type arrangement outside of the bound of a legally enforceable contract.<sup>17</sup> She can thus assert her claim on the property by demanding a share of the profits in return for not fully enforcing her ownership rights. So long as the profits reaped by the *de iure* owner are in excess of the net gains made from the property before the arrival of the new steward, a Pareto improvement is ensured. Of course, there are also less benign ways of redrawing rights. A *de facto* owner can make the cost of any intervention on the part of the *de iure* owner prohibitive, as is the case with organized crime, for instance. Once a reputation is established, minimal additional costs may be required.

For an informal arrangement to be economically efficient it does not have to be fixed for ever, since, given time discounting, the character of such rights 20 years from now has little bearing on today's decisions, especially the vast majority that are made with a relatively short-term future horizon in mind. Most investments are fully realized within that period. In establishing claims, there is a great deal of inertia, because it is costly to revise an existing arrangement. In situations where property rights are not prescribed in law, an economic agent has an incentive to increase his holdings so long as this will yield a positive return. Conflicts are settled informally and rent-seeking tolerated so long as this is more profitable than trying to combat it.

### **The Administration of Property in Russia**

One of the key features setting Muscovy apart from much or the rest of the Europe was its distinctive legal culture. Formal law codes were drafted much later than in countries to the West and it is

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<sup>17</sup> The point being, simply, that such arrangements can and do emerge even when the legally relevant category of a contract is not recognized or is, for whatever, reason deemed to expensive.

legitimate to argue that the 1649 *Ulozhenie* was the first reasonably comprehensive effort to do so.<sup>18</sup> Yet even it was still far from “complete,” falling as it did far behind many of its Western counterparts in its scope and complexity. The vast bulk of legal documents took the form of various decrees and government orders, and although their numbers increased over time, many of them were issued for very particular purposes and little general applicability.<sup>19</sup> Muscovite culture appear to have been much less legalistic than its Western counterparts and legal order generally a less pervasive part of society. The dissemination of new laws was done through a still underdeveloped administrative structure and it seems reasonable to assume that very few disputes, relatively speaking, were actually handled through courts of law.

Also the social structure of Russia tended to favor informal organization because of the close-knit nature of many social groups.<sup>20</sup> Transaction costs of rule-enforcement are low and inversely related to the close-knittedness of the group. Such a group would then tend to develop a functional set of relatively rigid rules. It appears that this type of habit-referencing would be particularly common in a socially stable society, which much of Russia was by the 17th century. It would have been further enhanced by the risk-aversion of a subsistence level society.<sup>21</sup> But Russia did have unstable fringes, where new norms and normlessness prevailed and led to deviations from “standard practices.” While it is sometimes the case that groups may develop their own norms at the expense of other groups,<sup>22</sup> in Russia this type of

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<sup>18</sup> For a survey of Russian legal history, see: Daniel H. Kaiser, *The Growth of the Law in Medieval Russia* (Princeton, NJ: Princeton University Press, 1980).

<sup>19</sup> Arkadii Georgievich Man'kov, *Zakonodatel'stvo I pravo Rossii vtoroi poloviny XVII v.* (St Petersburg, “Nauka,” 1998), pp. 12-31.

<sup>20</sup> “A close-knit group has been defined as a social network whose members have credible and reciprocal prospects for the application of power against one another and a good supply of information on past and present internal events.” Robert C. Ellickson, *Order without Law: How Neighbors Settle Disputes* (Cambridge, Mass.: Harvard University Press, 1991), p. 181.

<sup>21</sup> Edward L. Keenan, “Muscovite Political Folkways,” *The Russian Review*, XLV (1987) 2.

<sup>22</sup> Ellickson, *Order without Law*, p. 206.

behavior became less likely due to the strict social stratification and consequent functional differentiation of the population, although this type of suboptimal behavior undoubtedly took place in the course of sorting out the mechanics of this stratification.

One of the reasons we know as little as we do about the exact functioning of the early modern Russian society is because of the unfortunate lack of primary sources. Russia was a country where paper was a luxury good. Partly as a result, many of the interactions that are of interest here tend to be informal and had little chance of ever getting recorded. As Ellickson points out:

It is usually cheapest for two people to settle a dispute between themselves, because this approach eliminates the burden of educating an additional outside decision maker about the facts. Procedural norms therefore tend to require a grievant to complain first to the party whose actions gave rise to the grievance, and to give that party adequate opportunity to make amends.<sup>23</sup>

One possible approach to analyzing Muscovite conceptions of property is to accept, for the sake of argument, the claim that property rights were, indeed, unambiguously and fully defined: the tsar-autocrat owned everything; all of Russia was his patrimony ([v]otchina). As much as this interpretation may accurately reflect Muscovite cultural traditions and perhaps even the concrete aspirations of some rulers, its economic meaning is close to nil. It was clearly purely impossible for the tsar – even with the help of an increasingly elaborate state apparatus – to make active use of the whole country. Using others to do the work inevitably entailed some transfer of rights in the absence of an elaborate apparatus of compulsion which was clearly beyond the means of Russia's backward economy.

Moreover, transaction costs were typically extremely high. If the tsar was thus unable to fully activate his alleged ownership claim, it was impossible to effectively and consistently prevent others from doing so. One way of thinking about Russia's *de facto* property rights is to argue that they represented a system of collective rather than private property, a verdict Waldron has passed on the medieval English system of real property.

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<sup>23</sup> Ellickson, *Order without Law*, p. 231.

Under this arrangement, “rules [assigned] to several people rights in the same resource;” something that was very definitely the case in Russia.<sup>24</sup> A *pomeshchik* “owning” an estate under this interpretation did not have to in any way preclude the possibility of a peasant having unconditional access to the soil he tilled. The fact that the idea of a tsar’s *votchina* explains little is reflected also by Ivan IV’s decision to split the country into *oprichnina* and *zemshchina* and to explicitly assert his rights on the *oprichnina* without, nonetheless, thereby surrendering his *de iure* claim.<sup>25</sup>

The logistics of administering the *votchina* can be assumed to have been relatively limited as long as the density of population was low enough throughout the country so that there were relatively ample amounts of good land available for anyone interested. Throughout the Middle Ages and into the 16<sup>th</sup> century, any peasant could claim his share of the forest which would then be subjected to slash-and-burn agriculture and once again abandoned once the land was exhausted. Land was effectively viewed as something close *res nullius*, of no value in and of itself, since a potential producer could always expect to find as much of it as he needed.<sup>26</sup>

Nonetheless, the 1589 *Sudebnik*, much along the lines of Lockean notions of property, explicitly made a peasant who had cleared and was tilling a piece of land its legitimate owner – “wherever the *sokha*, scythe and axe have gone.” Before the *Ulozhenie*, land was thus typically at least *de facto* owned by peasants, some of whom were quite wealthy. While the relevant aspect of property was typically *ius utendi* and long-term investments in land presumably fairly exceptional, taxable “black” land was nonetheless also bought and sold and often rented by individuals or groups of peasants.<sup>27</sup>

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<sup>24</sup> Waldron, *The Right to Private Property*, pp. 35-6.

<sup>25</sup> Aleksandr Aleksandrovich Zimin, *Oprichnina Ivana Groznogo* (Moscow: Mysl’, 1964).

<sup>26</sup> Pipes, *Freedom and Property*, pp. 160-1.

<sup>27</sup> Robert E.F. Smith, *Peasant Farming in Muscovy* (Cambridge: Cambridge University Press, 1987), p. 135, 223; C. Ford Runge, “Common Property and Collective Action in Economic Development,” in Daniel W. Bromley, ed., *Making the Commons Work: Theory, Practice, and Policy* (San Francisco: Institute for Contemporary Studies, 1992), p. 17; Richard Hellie, *The Economy and Material Culture of Russia, 1600-1725* (Chicago: The University of Chicago Press, 1999).

The administration of land grew more challenging over time as the available reserves of best farmland in the core areas of the Volga-Oka mesopotamia and the northwest were exhausted, a point that was clearly reached by the 17<sup>th</sup> century. Muscovy was a poor subsistence-level economy where survival depended on organizing productive activity in a way that would meet certain basic needs.

At the lowest level, the serf had to be able to produce enough – and claim a large enough share of his production – to be able to survive and reproduce. On the intermediate level, the landlord had to be able to appropriate enough of the surplus to meet his own biological needs but also to fulfill his political function; he owed his land ownership to his ability to perform a service to the tsar. At the apex of the political pyramid, the government required a sufficient share of the surplus to ensure the independence of Russia during an era of intensifying international rivalry due to the advent of the “gunpowder revolution” to Eastern and Northern Europe. Under the circumstances, distributional conflicts over productive resources posed a serious threat to the security and (relative) prosperity of the state.

The tsars thus had to establish a set of institutions that would create appropriate incentives to bring about an adequate output level for all the above objectives to be met. Instead of legislating extensively and in a detailed way about property rights *per se*, the Russian government instead embarked on a course of general political and economic centralization in its efforts to effectively mobilize the meager resources available to it. The emphasis in the Russian process of state-building was on control rather than rights. However, as will be shown below, centralization was not incompatible with the establishment of property rights, but in fact impossible without them.

One way of analyzing the Russian government’s actions is to refer to the conceptual framework presented by D.C. North in his classic study of the history of economic institutions. It is possible to think of the late Muscovite state as “a discriminating monopolist, separating each group of constituents and devising property rights for each so as to maximize state revenue.”<sup>28</sup> As North points out, political factors may have an important impact on the allocation of property rights. For one thing, the ruler has an

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<sup>28</sup> North, *Structure and Change*, p. 23.

incentive to avoid offending powerful constituents: “If the wealth or income of groups with close access to alternative rulers is adversely affected by property rights, the ruler will be threatened. Accordingly, he will agree to a property rights structure favorable to those groups, regardless of its effects upon efficiency.”<sup>29</sup>

While Muscovy lacked serious challengers with substantial resources and power bases, it is no surprise that the government paid particular attention to the servitor-landlords – *pomeshchiki* – who held their estates conditionally in return for performing military service. R. Hellie has credibly argued that especially the so-called middle service class (*pomeshchiki* with up to half a dozen serfs) were instrumental in pushing for the establishment of serfdom in Russia, since their economic welfare – and ability to perform service – depended on eliminating labor mobility; the loss of one serf could seriously jeopardize the economic well-being of an estate.<sup>30</sup>

The heavy emphasis on the state’s revenue needs inevitably ran the risk of generating outcomes different from those produced by an overriding concern with efficiency: “Efficient property rights may lead to a higher income in the state but lower tax revenues for the ruler because of the transaction costs (monitoring metering, and collecting such taxes) as compared to those of a more inefficient set of property rights.”<sup>31</sup> The importance of political factors is crucial, given the inbuilt tension between distribution and efficiency, “between the ownership structure which maximized the rents to the ruler (and his group) and an efficient system that reduced transaction costs and encouraged economic growth.”<sup>32</sup> In the Russian case, the emergent “garrison state” left little alternative to prioritizing the fiscal needs of the state.

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<sup>29</sup> North, *Structure and Change*, p. 28.

<sup>30</sup> Richard Hellie, *Enserfment and Military Change* (Chicago: The University of Chicago Press, 1971), pp. 121, 135-8, 145.

<sup>31</sup> North, *Structure and Change*, p. 28.

<sup>32</sup> North, *Structure and Change*, p. 25.

In structuring property relations, the rulers of Russia ultimately – by the middle of the 17<sup>th</sup> century – formally codified a highly hierarchical and stratified social structure designed above all to meet the central objective of ensuring a growing stream of government revenue. Attaining this goal presupposed minimizing disruptions to production and devising a system of taxes that would be relatively easy to administer. The resultant “Muscovite economic model” was based on a strict geographic and functional division of labor between different social strata.<sup>33</sup> Labor mobility was nearly eliminated as people were *de iure* assigned to particular places and made collectively – with the rest of their community (village, settlement of townsmen, etc.) – responsible for tax payments to the government.

The elimination of mobility was designed to make for predictable production and, in turn, permitted the government to levy its taxes with minimal expense. People could evade taxes only with great difficulty, collectors knew where to go and how much revenue to expect, and the lack of mobility made even extraordinary taxes easier to impose.<sup>34</sup>

In a marked departure from contemporary trends in Western Europe, this institutional setup typically assigned property rights not to *individuals* as subjects (whether equal or not) but to people *qua* representatives of social strata. Under our working hypothesis, social strata were assigned particular tasks associated with managing the *votchina*. From these responsibilities emanated certain rights which typically enhanced economic agents’ claims on property. The rights granted seldom met the standards of the fee simple but, rather, can be viewed as cases of the tsar fragmenting his property rights as needed in order to meet his needs.

Perhaps the most far-reaching aspect of the institutional transformation concerned the overwhelming majority of the Russian population – the peasantry. Whether residing on state, ecclesiastical, or privately held lands, they were now juridically tied to a particular place of residence. On

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<sup>33</sup> For a more detailed discussion of this institutional transformation, see: J.T. Kotilaine, “A Muscovite Economic Model,” NCEEER working paper (forthcoming).

<sup>34</sup> Of course there was mobility with people fleeing to the fringes of the state, whether Siberia or the Southern Frontier. In many cases the state condoned it in the interests of populating strategically important areas. However, the command structure did significantly limit such movement.

one interpretation, this measure in effect created the legal basis for turning seignorial peasants into “tax-paying slaves.”<sup>35</sup> However, there is ample evidence to suggest that the peasant’s loss of freedom did not in fact have such momentous consequences, at least in the first instance.<sup>36</sup> The reasons for this had to do with the traditions of Muscovite agriculture, but also with the new *de facto* (or even *de iure*) rights bestowed upon primary producers and the incentives created by them.

Serfdom emerged in a situation where settlement patterns had become more stable because of population growth in the prime agricultural regions of the center and the west. The institution of serfdom thus came into being at a time of much-diminished geographic mobility (in ordinary years).<sup>37</sup> Under the circumstances, the Russian peasantry had – judging by relatively ample historical evidence – developed strong *de facto* notions of property. “Their” land was the soil they tilled for their own use and that they derived their livelihood from, even though it was almost invariably *de iure* on an estate belonging to someone else.

The established routine of Russian peasant life made such a response perfectly rational: “peasants lived in their own cottages and tilled their communal allotments, subject to the authority of the village assembly.”<sup>38</sup> Peasants met their obligations by performing *corvée* labor or by paying a money or in-kind quitrent in return for the right to perform various other types of activity. However, their daily lives centered around “their” homes and “their” allotments which typically remained unchanged and were fiercely protected.<sup>39</sup>

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<sup>35</sup> Hellie, *Enserfment and Military Change*, pp. 135-8, 145.

<sup>36</sup> Smith, *Peasant Farming in Muscovy*, p. 240.

<sup>37</sup> There was obviously remarkable mobility during the crisis years of the late 16<sup>th</sup>, and early 17<sup>th</sup> century, especially in the Novgorod lands. That, however, was entirely due to exogenous factors: warfare, political instability, etc. Carsten Goehrke, *Die Wüstungen in der Moskauer Rus’: Studien zue Siedlungs-, Bevölkerungs- und Sozialgeschichte (Quellen und Studien zur Geschichte des östlichen Europa, I)*, Wiesbaden: Franz Steiner Verlag GmbH, 1968, pp. 93-131, 163-72.

<sup>38</sup> Pipes, *Freedom and Property*, p. 185.

<sup>39</sup> For evidence on peasants protecting the integrity of their allotments by legal means, see forthcoming work by Valerie Kivelson.

The peasant village, in fact, provides the best example of the communal nature of Muscovite property relations. The collective structure of Muscovite villages was typical of a developing economy and the predominance of *de facto* arrangements and traditional problem solving thus characteristic of it. To quote C.F. Runge, “common property provides a complex system of norms and conventions for regulating individual rights to use a variety of natural resources, including forests, range, and water.”<sup>40</sup>

R. Crummey proposes that, largely as a result, the dislocations caused by the establishment of serfdom were probably quite limited, which in turn may have been quite rational:

The tenacity of traditional institutions cannot be explained simply as the manifestation of “backwardness” or “irrationality.” A more logical explanation is that rational individuals are not inclined to relinquish institutional arrangements that have promoted survival, even if survival has not been especially comfortable.<sup>41</sup>

Of course, the Russian equilibrium was tested by periodic crises, but these tended to be of limited duration and in most cases, one can surmise, the long-term perceived benefits of keeping the system outweighed any short-term costs.

While the rearrangement of property rights in Western Europe through enclosures destroyed many commons, enserfment probably enhanced the collective character of the Russian village by reducing mobility. Under the circumstances, the average peasant may have had his property rights strengthened by the fact that he now had essentially permanent control over land under a system which often involved little direct supervision. If the tsar fragmented his property rights to the landlords, the latter passed some of them on to the peasantry. Problems emerged if and when the altered power relations led to increased exploitation, for “enforcement of private property rights from outside the group

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<sup>40</sup> C. Ford Runge, “Common Property and Collective Action in Economic Development,” in: Daniel W. Bromley, ed., *Making the Commons Work: Theory, Practice, and Policy* (San Francisco: Institute for Contemporary Studies, 1992), p. 17.

<sup>41</sup> Runge, “Common Property,” pp. 34-5.

or village is not a sufficient condition for optimal resource utilization. Not only are the costs of such ‘top-down’ enforcement high; they also may lead to attempts to impose patterns of land use incompatible with local needs ....”<sup>42</sup>

However, there is little evidence in 17<sup>th</sup>-century Russian history of a systematic increase in exploitation. Moreover, since labor was such a crucial resource, it must have possessed some bargaining power and landlords – themselves products of the risk-averse Russian culture – must have been careful not to maximize the surplus value they extracted. Periodic peasant rebellions point to the limits of exploitation but their relatively limited number – and often non-economic nature – suggests that peasants did not experience significant changes in their lifestyles.

Developments among landlords complemented – although they to some degree also preceded – the reforms affecting peasants. The *pomest’e* system of conditional land tenure, created in the wake of the Muscovite conquest of Novgorod in 1488, in effect constituted a non-pecuniary response to the gunpowder revolution in the West. Well into the 17<sup>th</sup> century, Russia’s limited financial resources and incomplete degree of monetization ruled out the creation of a professional standing army.<sup>43</sup> Under the new system, the upkeep of the land — or the Tsar’s landed wealth — was effectively farmed out to servitors who no longer even had the right to free their serfs. Following the consolidation of the *pomest’e* system in the late 16<sup>th</sup> century, legal restrictions began to be placed on access to the middle service class. By 1616, the process passed another important milestone as the middle service class was formally closed to outsiders.<sup>44</sup>

Service now having become hereditary, so did land ownership. Whatever their *de iure* property rights, members of the middle service class could now expect to have adequate land holdings for as long as members of their family remained in service. The government’s calculation, evidently, was to ensure

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<sup>42</sup> Runge, “Common Property,” p. 32.

<sup>43</sup> Hellie, *Enserfment and Military Change*, pp. 26-8, 34.

<sup>44</sup> Hellie, *Enserfment and Military Change*, pp. 40, 49-50, 53.

the training of new officers at low cost.<sup>45</sup> In essence, Russia now had widespread hereditary land ownership, even if it differed from the notions of property in the West. There were countless instances of the land entitlement of particular servitors or families changing over time from one location to another by government *diktat*. However, the basic principle of giving the servitors the key role in tending Russia's land fund was clear. By 1678, servitors were allowed to alienate their land. The process culminated in 1714-31 when the legal distinction between *pomest'e* and the (*de iure* but not *de facto*) unconditionally held *votchina* lands was formally eliminated.<sup>46</sup>

Many of the developments reshaping the countryside were also observed in urban settlements: “[m]igration into and out of towns was made illegal and the urban taxpayers were granted a monopoly on ‘town’ occupations and ownership of urban property.”<sup>47</sup> Russian artisans were divided into four juridical categories: court and Treasury craftsmen who were charged with fulfilling government orders, *zapisnye* (construction workers), and *tiaglye* (taxed) artisans, who were the largest group.

A similar division was replicated in the commercial establishment where – above the ordinary townsmen (*posadskie liudi*) – there existed a three-layered government-appointed commercial elite, the *gosti*, the *Gostinaia sotnia*, and the *Sukonnaia sotnia*. Some activities of these potential entrepreneurs were carefully prescribed by the tsar in accordance with the principle of privilege requiring service in return. Elite merchants were responsible for official duties such as conducting the state's internal and foreign trade in monopoly goods, gathering farm incomes, collecting the *iasak* duty, carrying out state deliveries, etc., usually for every sixth year.<sup>48</sup>

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<sup>45</sup> Hellie, *Enserfment and Military Change*, p. 57.

<sup>46</sup> Hellie, *Enserfment and Military Change*, p. 58.

<sup>47</sup> Richard Hellie, “The Stratification of Muscovite Society: The Townsmen,” *Russian History*, V (1978) 2, p. 119.

<sup>48</sup> Petr I. Liashchenko, *Istoriia narodnogo khoziaistva SSSR*, I, 4th edn. (Moscow: Gosudarstvennoe Izdatel'stvo Politicheskoi Literatury, 1956), p. 267.

Townsmen, who constituted the vast majority of artisans and traders almost certainly had their property rights enhanced by the *Ulozhenie*. Placed in charge of urban production and made responsible for urban taxes, they had – in return, as it were – the right to acquire urban property and means of production. All the evidence suggests that these rights were relatively unrestricted: real estate was sold, bought, and inherited much as in the West. Moreover, the risk of challenges to such rights and claims diminished, since other, non-tax-paying entities (the Church, the nobility, etc.) no longer enjoyed the same privileges as before.

Even as the Muscovite institutional reforms clearly have some parallels with developments in the West, the differences, at least juridically speaking, were fundamental. From the economic perspective, however, the reforms were successful in terms of significantly improving economic efficiency. Even conditional property is still property. If the conditions are known and accepted, meeting them entails security of tenure. Indeed, there are conditions associated with ownership in modern societies: taxes have to be paid and laws respected. Not doing so may result in confiscation.<sup>49</sup> In the Russian case, the service requirement was, after all, merely an equivalent of taxation. Higher monetary taxes would in principle have allowed the government to buy the necessary services on the open market.

In addition to creating new economic incentives, the Muscovite economic system avoided many of the costs of alternative property rights regimes. For one thing, by adopting a national perspective, the Russian state was able to circumvent – or at least reduce – the costly pitfalls of decentralization and institutional heterogeneity which were common in the West, not least in neighboring Poland-Lithuania: “The jurisdictional fragmentation and legally sanctioned monopolies that most early modern states inherited from their medieval past increased negotiation, enforcement and extraction costs and were the main source of rent seeking and high transaction costs.”<sup>50</sup>

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<sup>49</sup> Another way of looking at this is to view such conditions merely as “general constraints on action.” Waldron, *The Right to Private Property*, pp. 27, 32.

<sup>50</sup> Stephen R. Epstein, *Freedom and Growth: The Rise of States and Markets in Europe, 1300-1750 (Routledge Explorations in Economic History, XVII)* (London: Routledge – LSE, 2001), p. 8. For Poland, see: Andrzej Wyczański, *Polska Rzecz Pospolita*

The avoidance of such costs was crucial in a country which devoted the lion's share of its resources to providing one public good, i.e. defense. We must ultimately recognize the success of the economic system that emerged, in spite of its idiosyncracies, for it did, after all, allow Russia to emerge as a great power from inauspicious beginnings against considerable odds.<sup>51</sup> In other words, the Muscovite response to the challenges of the era proved more effective than that of its neighbors.

What then were the sources of these efficiency gains? The process of stratification was a response to very particular historical circumstances. Prior to the promulgation of the *Ulozhenie*, a protracted political crisis – the Time of Troubles of the early 17<sup>th</sup> century – had led to taxpayers fleeing into the expanding peripheries of the Muscovite state. Even more generally, the large landlords, in particular, “made the recovery of fugitive peasants as difficult as possible – benefiting from the tillage by the fugitives in the meantime – and they did not suffer any penalties in the unlikely event that they eventually had to turn over the runaways.”<sup>52</sup>

Townsmen, similarly, could and did move to tax exempt church lands or, even in the case of some wealthy merchants, join the lower service class or become “dependents” (*zakladchiki*), in spite of an ineffective legal ban on such behavior since the late 16th century. When the rich evaded taxes, the increased average tax burden on the lower classes under the system of communal responsibility (*soshnoe pis'mo*) also propelled them to flee, especially when bribery had successfully prevented official disciplinary measures.<sup>53</sup> In short, the pre-*Ulozhenie* institutions did not ensure political or economic stability.

By tying peasants to the land, the institution of serfdom consolidated the peasant commune. Destined to remain in one place, peasants had an increased incentive to maintain the productivity of their land, especially in as much as rent and labor obligations could as a rule be expected to remain relatively

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*szlachecka, 1464-1764* (Warsaw: Państwowe Wydawnictwo Naukowe, 1965).

<sup>51</sup> Keenan, “Muscovite Political Folkways.”

<sup>52</sup> Hellie, *Enserfment and Military Change*, p. 106.

<sup>53</sup> Hellie, “The Stratification of Muscovite Society,” pp. 129, 140.

stable in the medium term. For peasants living on state lands this was even more likely. The dramatic increase in the volume of Russian exports, many of them agricultural, during the 17<sup>th</sup> century suggests that substantial productivity gains were indeed made. Agriculture was the lifeblood of Russia, and it was the source of the surplus that allowed Russia to experience a demographic revolution, while the institution of serfdom remained in existence. Even as late as 1861, serfs were a valuable asset.<sup>54</sup>

While the available economic data on early modern Russian villages is scarce, R.C. Allen's research on English enclosures has demonstrated that the crucial issue in promoting agricultural efficiency is not the arrangement of *de iure* property rights. Indeed, he finds that most of the productivity gains that traditional scholarship attributed to the enclosures were actually achieved by open-field farms, and the main consequences of the enclosure movement were distributional.<sup>55</sup>

The crucial determinant of this result were *de facto* property rights, the perceived probability a peasant could have of being able to control the fruits of his labor for a certain period in the future. Because of the existence of long copyholds and beneficial leases, sometimes for several lifetimes, "the yeomen of early modern England ... had a long-term interest in the soil and ... thereby benefited from the rise in land value caused by a rise in productivity," which led Parkinson in 1811 to recommend leases for 21 years "by thus giving the tenant a security for expending money, and a proper scope to exert his abilities."<sup>56</sup>

While the Russian climate and technical backwardness undoubtedly gave Russian peasants much higher discount rates than their English counterparts, there were other areas where the elimination of geographic mobility clearly improved efficiency, *viz.* the widespread use of quitrent (*obrok*), especially in Northern Russia where the growing season was short. Subject to making a quitrent payment to the

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<sup>54</sup> Evsey Domar and Mark J. Machina, "On the Profitability of Russian Serfdom," *Journal of Economic History*, XLIV (1984) 4; Kotilaine, "A Muscovite Economic Model."

<sup>55</sup> Robert C. Allen, *Enclosure and the Yeoman: The Agricultural Development of the South Midlands 1450-1850* (Oxford: Oxford University Press, 1992), pp. 135-6.

<sup>56</sup> Allen, *Enclosure and the Yeoman*, pp. 208-9.

landlord, peasants appear to have been more or less free to make their own decisions regarding production. Many of them, whether individually or in groups, became involved in ambitious proto-industrial ventures requiring non-trivial capital outlays.

In many cases, monasteries – dubbed by B. Gille “the greatest capitalists of the early 16th century”<sup>57</sup> – played a crucial role in promoting such activities. Along with some landowners and merchants, monasteries formed the core of Russia’s rudimentary capital market and often made substantial orders from peasant producers. They frequently provided the necessary raw materials and eventually sold at least some of the final product. For example, agents of the Solovki monastery integrated the activities of peasant salt *arteli* (cooperatives) indebted to it along the entire White Sea coast, transporting and selling their output to the south.<sup>58</sup>

This relationship was increasingly institutionalized in contracts (*podriady*) which typically involved a written agreement and were often used for complex and large-scale projects. L.L. Murav’eva lists examples of such contracts between monasteries and groups of up to 20 peasants and argues that over time the leading contractor (*podriadchik*), who signed the contract on behalf of the producers, evolved from a specialist artisan to an intermediary between the client and the *artel’* of producers. Available evidence points to operations with annual turnovers far in excess of those of most townsmen. A rural *podriadchik* Moisei Ivanov Dolgii organized brick production in the 1690s and Anton Terent’ev in 1694 earned R 450 by managing the construction of a chancery building and a bridge in Kostroma. A group of Danilovskoe peasants under the state peasant Andrei Perfil’ev Svechnikov apparently often undertook projects like a 1672 deal with a Dutch merchant for the provision of 100 *pud* of *iuft’* leather for R 370.”<sup>59</sup>

While the salt industry was traditionally in the hands of monasteries of the western *Pomor’e* (the White Sea coastal region), most production was done by “black” peasants, many refineries being

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<sup>57</sup> Bertrand Gille, *Histoire économique et sociale de la Russie du moyen-âge au vingtième siècle* (Paris: Payot, 1949), p. 77.

<sup>58</sup> Joseph T. Fuhrmann, *The Origins of Capitalism in Russia: Industry and Progress in the Sixteenth and Seventeenth Centuries* (Chicago: Quadrangle Books, 1972), p. 21.

<sup>59</sup> Liudmila Leonidovna Murav’eva, *Derevenskaia promyshlennost’ tsentral’noi Rossii vtoroi poloviny XVII v.* (Moscow: Izdatel’stvo “Nauka,” 1971), p. 175.

collective ventures with individual peasants' share of the output proportional to their initial investment.<sup>60</sup> The fixed costs appear to have been comparatively high due to the costly iron pans (*tsreny*), which cost R 20-60 and required expensive maintenance and the transportation of wood to the arctic production sites. Most buildings were also built of wood. Even more expensive was the drilling, which, depending on soil quality, could last several months. Even as this growing capital intensity increasingly discriminated against peasant producers, the industry produced numerous "new" magnates from among local peasants with the Stroganovs eventually becoming one of the wealthiest families in the country.<sup>61</sup>

Substantial productivity gains must have resulted from proto-industrial production on feudal estates, much as predicted by W. Kula's theory of feudalism: "If the large landholder is distant from the market, he wishes to husband his capital, and therefore, produce as many goods as possible on the estate for the consumption of the peasants and his own family. If the market is near, the desire is to promote manufacture of goods by the unpaid laborers in order to utilize income from such goods to satisfy his own demands of varying sorts."<sup>62</sup> By the 17th century Russia already had an established monetized sector of the economy, consisting of foreign trade and many industrial products, including luxuries produced for upper class consumption. Thus profitable manufacturing activities must often have appeared more attractive to landlords than investment in still often non-monetized agricultural production.<sup>63</sup>

One of the key arguments against the Muscovite system has been the occurrence of arbitrary confiscations. Yet, the available evidence significantly weakens this claim. Surviving data on land sales suggests that landowners in Russia greatly valued their estates. For instance R. Hellie found an average

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<sup>60</sup> Klaus Heller, *Russische Wirtschafts- und Sozialgeschichte, I: Die Kiever und die Moskauer Periode* (9.-17. Jahrhundert) (Darmstadt: Wissenschaftliche Buchgesellschaft, 1987), pp. 149-50; Elena Ivanovna Zaozerskaia, *U istokov krupnogo proizvodstva v russkoi promyshlennosti XVI-XVII vekov: k voprosu o genezise kapitalizma v Rossii* (Moscow: Izdatel'stvo "Nauka," 1970); Iosif Mikhailovich Kulisher, *Istoriia russkogo narodnogo khoziaistva* (Moscow: Mir, 1925), p. 226.

<sup>61</sup> Zaozerskaia, *U istokov krupnogo proizvodstva*, p. 446.

<sup>62</sup> Richard L. Rudolph, "Agricultural Structure and Proto-Industrialization in Russia: Economic Development with Unfree Labor," *Journal of Economic History*, XLV (1985) 1.

<sup>63</sup> Semen Grigor'evich Tomsinskii, "Nachal'naia stadiia krepostnoi manufaktury v Rossii," in: Mikhail Nikolaevich Pokrovskii, ed., *Krepostnaia manufaktura v Rossii, I: Tul'skie I kashirskie zheleznye zavody* (Leningrad: Izdatel'stvo Akademii Nauk, 1930), p. XXVII.

transaction price of R 700 for 60 purchases of hereditary estates.<sup>64</sup> This was more than the highest annual salary paid by the state in mid-17<sup>th</sup> century.

This price could usually be expected to have a strong correlation with an *ex ante* assessment of the discounted returns from an estate, which were in all probability based at least in part on observations of earlier similar sales. This also clearly indicates that there was considerable security of tenure among the landlord class.

We obviously cannot know what the discount parameter for the probability of confiscation, etc., is, but calculations made or cited by G. Weickhardt suggest that the incidence of compulsory confiscations was always less than 5 percent, which figure probably included many individuals who knowingly violated the relevant regulations. Thus the buyer of an estate could reasonably assume that the land he bought was his to keep and safe to invest in. Moreover, people well versed in the workings of the Muscovite state would certainly have had an idea of what it took to lose an estate to the state and avoided such behavior.

It appears that ultimately distributional considerations were the main similarity between enclosures and serfdom. In both cases, the upper classes who initiated the change stood to benefit from them. As Allen notes, “the major economic consequence of the enclosure of open field arable in the eighteenth century was to redistribute the existing agricultural income, not to create additional income by increasing efficiency.”<sup>65</sup> In Russia, enserfment improved the welfare of the upper classes and the state by ensuring that peasant mobility was minimized and the predictability of the revenue stream of the upper classes increased. Thus they were also in a better position to provide men for the army, for, as Hellie notes, “Without peasants supporting them, the members of the middle service class were unable to render military service.”<sup>66</sup>

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<sup>64</sup> Hellie, *The Economy and Material Culture of Russia*, p. 388.

<sup>65</sup> Robert C. Allen, “The Efficiency and Distributional Implications of 18th Century Enclosures,” *Economic Journal*, XCII (1982) 4, p. 950.

The different outcomes in England and Russia were in large measure due to the different characters of the two countries. In England, land was the crucial marginal variable – indeed, there was labor shedding after enclosures – and thus maximization and security of land ownership was likely to produce the greatest surplus value to the landlord. In Russia, labor was the crucial marginal variable, with land abundant and capital often unimportant, and by tying the peasant to the land, the lords could ensure steady and large surpluses from the land they controlled, yet by no means necessarily at the expense of the peasants.

Studies on the evolution of urban proto-industry in early modern Russia have pointed to the existence of arrangements that necessitated increasingly sophisticated *de facto*, if not necessarily always *de iure*, property rights. There existed a rudimentary labor market which allowed artisans and small manufacturing enterprises to hire assistants and workers, typically from among people outside of the social hierarchy. There is scattered evidence to suggest that artisan production was at least in some instances beginning to resemble putting-out industry. The division of labor acquired a new dimension with the emergence of professional merchant-dealers (*skupshchiki*) from among small producers who eventually formed a group of intermediaries between producers and the market. Many *skupshchiki* made cash advances to producers, from whom they would later, occasionally after a full year, collect the final products and some also provided input materials and even the production facilities. In return they were able to demand discounts of up to 25-30 per cent on the final products and enjoy profit margins of 100 percent.<sup>67</sup>

A number of proto-industrial activities were relatively open to producers with little capital. For example, Russia had long traditions in iron production from swamp and lake ore deposits in northern Russia. No capital was required for extracting the ore and wood for charcoal was amply available. Thus small-scale production was easy and continued to exist as a “competitive fringe” even after larger-scale

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<sup>66</sup> Hellie, *Enserfment and Military Change*, p. 93.

<sup>67</sup> Kseniia Nikolaevna Serbina, “Remeslo i manufaktura v Rossii v XVI-XVII vv.,” in A.S. Kan, Iu.Iu. Kakhk, N.E. Nosov, I.P. Shaskol’skii, eds., *Remeslo i manufaktura v Rossii, Finliandii, Pribaltike* (Leningrad: Izdatel’stvo “Nauka”), p. 25.

manufacturing was introduced. J.T. Fuhrmann mentions five iron manufactories built by “private entrepreneurs” in Romanov district in 1689.<sup>68</sup> Traditional methodology continued to be employed for even longer in metal processing, where the social origins of smiths covered virtually all ranks of society, each with a corresponding clientele. Peasant production in the Tula and Aleksinskii districts found a niche in nail production when it proved more cost-efficient than production in the larger foreign-run factories. The Cherkasskiis’ Pavlovo village developed into a particularly important and diversified producer of ironwork. B.I. Morozov’s Pavlovo mill had a blast furnace in operation by 1651.<sup>69</sup>

In Siberia the iron industry appears to have emerged endogenously. Initially artisan producers prospered and created capital for further industrial expansion. They were responsible for the first Siberian cannon cast in 1625 from iron ore discovered two years earlier by the smith Fëdor Eremeev. Another find was made in 1628 by Ivan Shul’gin in the Nitsa river area in the Urals and two years later the government authorized the building of an iron mill – a large artisan shop which produced wrought iron in four furnaces with hand-driven bellows and forges. The annual output of this workshop of 16 artisan families was 400 *pud* and it remained in operation for over 50 years. In 1633 an expedition involving *Gost’* Nadei Sveteshnikov found copper on the Iaiva, north-east of Kazan’. In 1635, he set up a factory near Solikamsk where his leaseholder Aleksandr Tumashev soon discovered iron and in 1668 obtained a charter for duty-free production, yet with the obligation to deliver 10 per cent of his output to the local authorities. Tumashev’s mill had a shop with a blast furnace and three hearths, as well as a large forge.<sup>70</sup>

After the forced departure in 1649 of the English founders of the industry, rope manufacturing also came to be carried on by Russians. However, there was some domestic production even earlier. Sorokin and Busin had a “rope machine” in Arkhangel’sk in 1618 and in Vologda some rope makers were

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<sup>68</sup> Fuhrmann, *The Origins of Capitalism in Russia*, p. 129.

<sup>69</sup> Fuhrmann, *The Origins of Capitalism in Russia*, p. 93; Zaozerskaia, *U istokov krupnogo proizvodstva*; Serbina, “Remeslo i manufaktura v Rossii;” Klaus Gestwa, *Proto-Industrialisierung in Rußland: Wirtschaft, Herrschaft und Kultur in Ivanovo und Pavlovo, 1741-1932* (Göttingen: Vandenhoeck & Ruprecht, 1999), ch. 1.

<sup>70</sup> Fuhrmann, *The Origins of Capitalism in Russia*, p. 136.

recorded in 1627. Rope factories normally employed at least 10, often more than 20 people.<sup>71</sup> Paper production was established by Vasiliï Burtsev with foreign help in the late 1630s. On a commission from Patriarch Nikon Burtsev built another mill in 1655 for the state printing press. *Gost'* Vasiliï Grudtsyn had a short-lived sawmill in the 1690s, but soon afterwards Osip and Fedor Bazhenin of a famous northern family of traders established a mill "organized on a 'foreign model' but 'without the foreign people themselves'."<sup>72</sup> In 1703 the Bazhenins, who also had a shipyard, were authorized to buy 4,000 trees p.a. of which up to three-quarters were used for export production. Similarly, the boats on which growing numbers of northwestern Russian merchants from Novgorod, Tikhvin, Olonets, etc. were frequently built by *arteli* of peasant carpenters in the vicinity of the city of Ladoga.<sup>73</sup>

Perhaps the most impressive example of entrepreneurship by Russian townsmen comes from the spectacular expansion of *iuft'* production. *Iufti* were highly prized cow hides which went through a labor-intensive three-month process of production and came to account for nearly one-half of the total value of Russian exports to the West towards the end of the 17<sup>th</sup> century.<sup>74</sup> Over time, a growing number of larger "factories" using hired labor emerged alongside the traditionally dominant artisan producers.<sup>75</sup>

As rigid as the system of social stratification was on paper, it contained important elements of flexibility. There were mechanisms and practices that made it possible to recoup some of the efficiency losses created by the rigidities of the *Ulozhenie* economy. The differentiation was functional, not absolute. In other words, it was in principle possible for people to move from one stratum to another even after the limitations imposed in mid-century. There was a great deal of social mobility in Russia and

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<sup>71</sup> Fuhrmann, *The Origins of Capitalism in Russia*, p. 150.

<sup>72</sup> Fuhrmann, *The Origins of Capitalism in Russia*, p. 174.

<sup>73</sup> Sergei Vladimirovich Bakrushin, "Torgi novgorodtsev Koshkinykh," *Uchenye zapiski MGU*, XLI: *Istoriia* (1940), pp. 182-3.

<sup>74</sup> Mikhail Iakovlevich Volkov, "Remeslennoe i melkotovarnoe proizvodstvo iufti v Rossii vo vtoroi polovine XVI - pervoi polovine XVII v.," *Istoricheskie zapiski*, XCII (1973), pp. 215-52; Elisabeth Harder-Gersdorff, "Lübeck und Hamburg im internationalen Handel mit russischem Juchtenleder der frühen Neuzeit (1650-1710)," *Zeitschrift des Vereins für Lübeckische Geschichte und Altertumskunde*, LXVII (1987); J.T. Kotilaine, "Quantifying Arkhangel'sk's Exports in the 17th Century," *The Journal of European Economic History*, XXVIII (1999) 2, pp. 249-300.

<sup>75</sup> J.T. Kotilaine, *Foreign Trade and Russia's 17<sup>th</sup>-Century Economic Expansion* (forthcoming), ch. 4.

families from humble origins could attain prosperity and fame which often led to their incorporation into the Russian commercial elite.

Prior to that, some remarkable stories were recorded. Thus, for instance, special charters were eventually issued to the Stroganov family in 1550 for a salt production monopoly in the Sol'vychevodsk area, in 1558 for the extraction and processing of iron, and in 1574 for iron, copper, zinc, lead, and sulphur mining in Siberia. The Stroganovs eventually came to employ up to 10,000 free workers and 5,000 serfs in productive and commercial activities.<sup>76</sup> Case studies such as K.N. Shchepetov's on commercial and industrial activities of peasants on the Cherkasskii's lands and Iu.A. Tikhonov's on hired labor in Ustiug Velikii, to name a few, also point to the emergence of a group of very successful small-scale producers and merchants who then hired peasant labor on very advantageous (for them) terms, while the plight of the growing bottom strata of income distribution in the Ustiug district drove them to emigration.<sup>77</sup>

A particularly well-known success story is that of the Kalmykov brothers, Klima Fëdorovich, Fëdor, and Nikita, who are first mentioned in the 1660s as peasants of the Blagoveshchenskii monastery in Nizhnii Novgorod. The city's advantageous location allowed them to become engaged in Volga trade, initially in grain, but by the late 1680s also in alcohol, fish, and salt, primarily with Astrakhan', but even with Persia. In 1696 Klima joined the *Gostinaia sotnia* and assumed control of a Moscow ropewalk. By 1701 he had production facilities in six cities, commercial enterprises in Moscow and Nizhnii Novgorod and he was a major creditor. The family even built its own fleet of river boats for the Volga trade, employing large numbers of local artisans in their trade activities.<sup>78</sup>

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<sup>76</sup> Andrei Aleksandrovich Vvedenskii, *Dom Stroganovykh v XVI-XVII vekakh* (Moscow: Izdatel'stvo sotsial'no-ekonomicheskoi literatury, 1962).

<sup>77</sup> K.N. Shchepetov, "Torgovo-promyshlennaia deiatel'nost' i rassloenie krest'ianstva v votchinnakh Cherkasskikh v XVII v." in: L.G., Beskrovnyi, E.I. Zaozerskaia, and A.A. Preobrazhenskii, eds., *K voprosu o pervonachal'nom nakoplenii v Rossii (XVII - XVIII vv.): Sbornik statei* (Moscow: Izdatel'stvo Akademii Nauk SSSR, 1958); Iu.A. Tikhonov, "Rabota po naimu i otkhod na zarabotki posadskikh liudei Ustiuga Velikogo i krest'ian Ustiuzhskogo uezda v 50-70-kh godakh XVII v.," *ibidem*.

<sup>78</sup> Natal'ia Apollinir'evna Baklanova, "Sudovnye rabotniki v torgovo-promyshlennom predpriatii Kalmykovykh," in: Beskrovnyi et al., *op.cit*; *idem*, *Torgovo-promyshlennaya deiatel'nost' Kalmykovykh vo vtoroi polovine XVII v.: k istorii*

Similarly, serfs could leave their estates and become *de facto* owners in the Russian borderlands.<sup>79</sup> Whether this had a legal basis or not, and often it clearly did not, the high transaction and other costs of challenging such behavior were such that a putative “owner” could reasonably have looked forward to years of steady profits. In many cases, security considerations, especially a desire to populate the Southern Frontier, led to the government tolerating such behavior. Indeed, “In 1635 and later the government categorically forbade various provincial frontier generals and governors to return fugitives without an order from Moscow... [Moreover, o]fficials on the frontier accepted bribes from fugitive peasants not to return them to their lords.”<sup>80</sup> Similar instances were common in Siberia. Initial protection of fugitives by corrupt officials ultimately again tended to give way to *de iure* recognition and the incorporation of the new residents in the social hierarchy.<sup>81</sup>

If we accept that the Muscovite system of property relations was in numerous cases capable of creating incentives and generating outcomes comparable to those seen in the West, how did Russia ultimately differ from countries to the west of the Dniepr? Clearly in Muscovy, having the opportunity, or even an explicit right, to undertake a particular kind of productive activity did not give a potential entrepreneur free hands, as numerous as the “success stories” are. The *Ulozhenie* order effectively eliminated normal input markets. Production was routinely limited by access to labor and capital. Activities requiring these inputs – that is to say virtually all of them – would typically soon reach a point where some government intervention was necessary. Either unfree peasants had to be assigned to a given project or some financial assistance (credit, tax exemptions, etc.) were needed to allow the scale of activity to expand. The key limiting factor in most cases was very clearly the lack of normal factor markets, rather than any absence of property rights.

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*formirovaniia russkoi burzhuazii* (Moscow: Izdatel'stvo Akademii Nauk SSSR, 1959), p. 120 ff.

<sup>79</sup> Hellie, *Enserfment and Military Change*, p. 97.

<sup>80</sup> Hellie, *Enserfment and Military Change*, p. 129.

<sup>81</sup> Hellie, “The Stratification of Muscovite Society,” p. 143.

High fixed costs and the need for hired labor frequently closed particular types of activity to new entrepreneurs. For instance potash production came to be dominated by rich noblemen, who were exempt from tax, and monasteries. Boris I. Morozov had acquired or set up by the mid-1660s 29 mills (*maidany*) with an annual production of 80-90,000 *pud*. Of the 213,000 *pud* of potash delivered to the Treasury under a temporary state monopoly in 1662/3 Morozov provided 51.4 percent worth R 359,000 worth.<sup>82</sup> The Morozovs, whose venture was also the leading exporter at the time, made an annual profit of at least R 24,000. Most workers were initially Morozov's serfs but later wage labor became dominant with people sometimes hired from distant places.<sup>83</sup>

In the case of capital, foreign traders frequently provided an alternative source of finance, even if such money invariably came with strings attached. In addition, there were various domestic sources of credit and even an ultimately abortive attempt to set the first Russian bank in 1665 designed to free Russian merchants from their dependency of foreign lenders.<sup>84</sup> However, institutional obstacles were created by anti-usury legislation, with a 1626 decree limiting the maximum period of interest payments to five years and the total sum paid in interest to at most the amount of the principal. The 1649 *Ulozhenie* essentially forbade interest-bearing loans, although it then became customary to demand profit shares equaling an annual interest rate of 20-25 per cent. Land, but not serfs, was a common loan security since 1649, prior to which only movable property had qualified. Since 1685 any property was accepted.<sup>85</sup> Ultimately, however, the market was and remained highly imperfect.

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<sup>82</sup> Liashchenko, *Istoriia narodnogo khoziaistva SSSR*, I, p. 308.

<sup>83</sup> Kulisher, *Istoriia russkogo narodnogo khoziaistva*, p. 241.

<sup>84</sup> Saul Iakovlevich Borovoi, "Rostovshchichestvo, kazennye ssudy i gosudarstvennyi dolg v protsesse pervonachal'nogo nakopleniia v Rossii," in: L.G., Beskrovnyi, E.I. Zaozerskaia, and A.A. Preobrazheskii, eds., *K voprosu o pervonachal'nom nakoplenii v Rossii (XVII - XVIII vv.): Sbornik statei* (Moscow: Izdatel'stvo Akademii Nauk SSSR, 1958); J.T. Kotilaine, "Mercantilism in Pre-Petrine Russia," in: J.T. Kotilaine and Marshall Poe, *Modernizing Muscovy: Social Change and Reform in Seventeenth-Century Russia* (London: Routledge, 2004); Kotilaine, *Foreign Trade*, ch. 2.

<sup>85</sup> Man'kov, *Zakonodatel'stvo i pravo Rossii*, pp. 79-92.

## On the Importance of Transaction Costs

A crucially important element of economic life in any pre-modern society – and naturally even thereafter – is the ubiquitous problem of transaction costs, aptly described by K. Arrow as the “costs of running the economic system.”<sup>86</sup> Unlike the usually quantifiable and measured costs of production, transaction costs deal with various costs incurred because of a lack of information, time spent on searching and negotiating, problems with enforcing agreements, etc.<sup>87</sup> They are pervasive in economies with incomplete and imperfect markets and should be understood in the broadest possible sense.

Various institutional devices can and have been adopted to reduce transaction costs. For example, courts of law, combined with written statutes, provide a mechanism for adjudicating disputes and enforcing rights.<sup>88</sup> However, there are situations where the costs associated with controlling economic activity, exacting taxes, etc., become high enough so that the producers in question are left with an unusually great degree of autonomy. Under such circumstances, *de facto* claims can become very strong and, from the viewpoint of Muscovites with high discount rates, virtually absolute.

In the Muscovite case, geography and demographics made transaction costs an unusually important consideration. While 17<sup>th</sup>-century Russia was definitely evolving into a “national” economy thanks to a growing volume of long-distance trade and the expanding influence of the state, the vast country remained in essence what one could call a “honeycomb” economy, consisting of often highly autonomous individual cells, many – but not all – of which were connected by these transnational veins of trade but seldom dependent on it.

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<sup>86</sup> Oliver E. Williamson, *The Economic Institutions of Capitalism: Firms, Markets, Relational Contracting* (New York: The Free Press, 1985), pp. 18-9. For a good introduction on the topic, see *ibidem*, pp. 15-42.

<sup>87</sup> Douglass C. North and Robert Paul Thomas, *The Rise of the Western World: A New Economic History* (Cambridge: Cambridge University Press, 1973), p. 93.

<sup>88</sup> North and Thomas, *The Rise of the Western World*, p. 94.

For example, members of the political elite often owned several estates all over the country while they themselves were based in Moscow. Poor communications often made many estates largely autonomous entities. In situations where the payoffs from enforcing property rights were low, as they would have been in much of the country, any decision to send out law-enforcement expeditions would have to be carefully considered.

It was invariably the case that when Moscow did not exert its authority, someone else stepped in to fill the vacuum. For example, even in an era of steady economic integration, the economy continued to be fractured by local taxes and tolls. Local authorities, lay and ecclesiastical landlords, imposed their payments directly or indirectly and these were often worth making if doing so bought a period of peace and quiet.

While it appears that the *de facto* or economic property rights approach can be fruitfully applied to most aspects of Russian economic life in the early modern period, it seems particularly well suited for evaluating the economic progress of sparsely populated areas, the best example of which is undoubtedly Russia's vast Siberian colony. It is relatively clear that the post-*Ulozhenie* regime imposed limitations on new fixed *de iure* peasant property in the country's extensive borderlands. However, new *de facto* claims were constantly made, whether by the indigenous local population or by vagabond peasants. A potential entrepreneur could often easily establish control over his share of Siberia and operate relatively undisturbed by others, at least unless his success was so spectacular as to call for a revision of his socio-legal standing. Given the circumstances, this may have been a very efficient way of administering the colony. As Runge points out, "The fair enforcement of formalized private rights and duties may be prohibitively costly compared with customary arrangements."<sup>89</sup> In practice, large tracts of Siberia were self-administered, given the virtual impossibility of effective communication with Moscow.

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<sup>89</sup> Runge, "Common Property," p. 20.

One instance where the colonial administration clearly did not recognize any property claims was in its treatment of the native population. While their *de facto* right to land went largely unchallenged, partly because of the inhospitable climate, at another level they were effectively enslaved by the extortionate taxes, often in the form of furs. Yet this can hardly be interpreted as unequivocal evidence of a complete transfer of ownership rights to the government but should rather be explained in terms of (often highly exploitative) rent-seeking. It seems that Moscow's real attitude to the native tribes was not to regard them as a major bureaucratic problem, unless armed resistance occurred, but rather, to let them carry on their lives, so long as they provided furs. The Siberians were subsistence level hunter-gatherers, whose level of social development did not allow them to pose a serious challenge to the Russians.

Evidence amassed by Fisher points to the importance of private initiative and entrepreneurship in exploiting the Siberian colony. In aggregate terms private trade outweighed government trade in importance. Indeed, "Handicapped though they were by the sale of furs by the state and by their exclusion from certain markets, still [private traders] managed to circumvent many of the state's restrictions on their trade and found themselves a large field in which to do a lucrative business."<sup>90</sup> According to Lincoln, "Some estimates have set the value of furs gathered annually by private traders during the seventeenth century at something over a third of a million rubles. At that time, a peasant family of four in Russia earned less than a ruble a year from forty acres of good farmland."<sup>91</sup> Moreover, "the trade remained open to anyone possessed of a modicum of capital and sufficient initiative; thus enterprises of little or moderate capital were as active in it as were those of large resources."<sup>92</sup> This included peasants and artisans.

Although most of the people involved operated on a small scale, some of the Russian immigrants, e.g. Iarofei Khabarov, became large-scale operators. While most fur traders had resources of less than R

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<sup>90</sup> Raymond Henry Fisher, *The Russian Fur Trade 1550-1700* (University of California Publications in History, XXXI) (Berkeley, Cal.: University of California Press, 1943), p. 146.

<sup>91</sup> W. Bruce Lincoln, *The Conquest of a Continent: Siberia and the Russians* (New York: Random House, 1994), p. 82.

<sup>92</sup> Fisher, *The Russian Fur Trade*, p. 146.

100, some were known to have R 500-1,500. Occasionally private entrepreneurs would form so called *vatagas* or *arteli*, i.e. hunting parties, in which they participated on the basis of shares (*uzhiny*), “determined according to the capital ... which each invested in the expedition, and in proportion to his share each man received a part of the catch.”<sup>93</sup> Trade by elite merchants accounted in 1647 for nearly half of the furs traded in Ustiug and usually involved shipments of 4-8,000 skins, compared to a few hundreds for smaller-scale merchants.<sup>94</sup> Permitting private entrepreneurship on this scale was clearly quite rational from the government’s perspective, since it would have increased its tax revenues, although (clearly in order to maximize the efficiency of tax collection) the state did attempt, unsuccessfully, to monopolize fur trade in the hands of recognized elite merchants.<sup>95</sup>

High transaction and policing costs on Russia’s periphery made not only the fur trade but most other economic activities something of a free-for-all and Siberians could with justification claim that “God is high above and the Tsar far away.” The consequent vagueness of even *de iure* property rights resulted in a great deal of rent-seeking behavior. Thus, corrupt regional military governors often made the most of the opportunities facing them. Among other aberrations caused by the long distances was trade in women, including Siberian natives.<sup>96</sup>

Similar problems developed in the labor market, where a constant shortage of manpower existed. A 1680 letter from Tsar Fëdor Alekseevich to Ivan Pogožhev, the *voevoda* of Turinsk, points to the extent to which inhabitants of Siberia were capable of ignoring the plans and laws of the government in Moscow. The late date of the letter emphasizes the persistent difficulty of asserting control on the Siberian colony.

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<sup>93</sup> Fisher, *The Russian Fur Trade*, p. 154-5.

<sup>94</sup> Fisher, *The Russian Fur Trade*, p. 149.

<sup>95</sup> Basil Dmytryshyn, E.A.P. Crownhart-Vaughan, and Thomas Vaughan, eds., *Russia’s Conquest of Siberia: to Siberia and Russian America 1558-1700: Three Centuries of Russian Eastward Expansion, I: A Documentary Record* (Portland, Ore.: Western Imprints, The Press of the Oregon Historical Society, 1985), p. 42.

<sup>96</sup> Lincoln, 1994, pp. 83-4; Dmytryshyn *et al*, *Russia’s Conquest of Siberia*, I, pp. 43, 429.

It has come to our Great Sovereign attention that in Turinsk ... the agricultural peasants plow the tithe lands which belong to us, ... but many of them do not plow in accordance with our ... ukaz. Others do not plow at all, but live like privileged Prikaz officials. Instead of performing their obligatory service, they send the newly arrived people out to do it. Furthermore, the deti boiarskie of the Metropolitan, prikashchiks, [local] authorities, the Arkhimandrit, abbots, deti boiarskie, Russian servitors of all ranks, dragoons, postal drivers and [some] natives have taken over many lands, built villages and settlements, and have settled newly arrived people on those lands as farmers. ... The deti boiarskie who were previously sent ... to survey these lands and to register peasant households and others, have ... concealed many lands and peasants and have personally profited from this, and they have treated other persons on the basis of their personal friendship with them.<sup>97</sup>

Dmytryshyn *et al.* note, however, that the worst excesses in Siberia were checked by a careful selection process of officials, detailed instructions, a system of reporting observations to Moscow, and periodic investigations. Sometimes, Siberian merchants asked Moscow to intervene in their support when the unauthorized fees imposed by local administrators seemed excessive.<sup>98</sup> Moreover, even the local natives sent petitions to Moscow when the effects of tax collections and bribery became unbearable. The state also made repeated attempts to have runaway serfs returned from Siberia to their homes.<sup>99</sup>

### **The Role of *de iure* Rights**

A central element of the revisionist challenge to the “standard story” about Muscovite conceptions of property has involved an examination of the documentary basis for the alleged absence of a developed notion of property rights in the Russian legal tradition. On concluding his initial survey of Muscovite law codes Weickhardt claims that “[t]he 1649 Code reveals much not only about Muscovy’s concepts of equal justice, but also about its understanding of the *rights of individuals to remain secure in their persons and their property* in the absence of wrongdoing (emphasis mine).”<sup>100</sup>

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<sup>97</sup> Dmytryshyn *et al.*, *Russia’s Conquest of Siberia*, I, p. 443.

<sup>98</sup> Dmytryshyn *et al.*, *Russia’s Conquest of Siberia*, I, pp. xlvi, 476-9.

<sup>99</sup> Dmytryshyn *et al.*, *Russia’s Conquest of Siberia*, I, pp. 348-51, 381.

<sup>100</sup> George G. Weickhardt, “Due Process and Equal Justice in the Muscovite Codes,” *The Russian Review*, LI (1992), p. 480.

While we clearly have to allow for discrepancies between intentions and practice and the written law and judicial procedures, we have no satisfactory reason to assume that the Muscovite law codes did not reflect the state of juridical thinking in the country. Nor did they involve the same degree of abstraction as Soviet constitutions, as rudimentary as law enforcement must have been in many cases.

Another reason why Weickhardt's conclusions should not come as a surprise is because, in spite of her alleged orientalism and centuries of Asian influence, Muscovy was in many essential ways culturally tied to the West. The earliest Russian law codes were based on Western codes and we know for sure that the primary set of moral values that would ordinarily provide the inspiration for legal thinking, namely religion, came to Russia from the West in the form of Orthodox Christianity. It is thus somewhat unlikely that this tradition would have produced entirely different institutions in Russia than it did elsewhere in Europe.

While Muscovy did not have a comprehensive array of laws to govern property relations, certain aspects of property rights were regulated by law. For example, the use of confiscation of property as a punishment for crimes was limited to treason (*Ulozhenie* 2:5, 7:20), even if the definition of "treason" clearly did offer a certain amount of flexibility. The notion of legal liability, similarly, recognized the existence of property claims.

In the case of robbery or theft, the court could reimburse the victims for their damages out of the convicted criminal's movable property (*Ulozhenie* 21:9, 12). The sovereign received any remaining property (*Ulozhenie* 21:26). The law did not prescribe confiscation of property as punishment for other crimes, even for very serious ones, such as murder.<sup>101</sup>

Increasingly, statutory law came to offer protection for even *de iure* conditionally held property. Thus holders of *pomest'e* estates had considerable leeway when it came to failing to fulfill their service obligations. Moreover, by the seventeenth century, the distinction between service land and hereditary estates had become blurred: the state required military service of the holders of both types of estates and

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<sup>101</sup> Weickhardt, "Due Process," p. 475-6.

both types of land also had become heritable.<sup>102</sup> Property could in principle be sold to almost anyone, with the exception of some non-Slavic indigenous tribes and illegitimate children and there were developed mechanisms for settling competing claims and recording property.<sup>103</sup>

The right to own property included even foreigners and a number of foreign merchants acquired real estate. Formal concessions of land and villages were made for various productive purposes. In general, foreigners were relatively free to expand their operations in Russia and competed more or less freely against Russians, although the New Commercial Code of 1667 constituted a serious – albeit in some ways temporary – *de iure* modification.<sup>104</sup>

Even with slaves, property rights – quite apart from the right to buy manumission, which was known in Russia – existed and could produce efficient outcomes. The *Ulozhenie* granted Russian slaves clearly defined legal rights, up to and including the right to sue their masters, and emancipation in certain circumstances. However, most rights were *de facto*, the result of the obvious need to ensure to survival and productivity of slaves.<sup>105</sup> Before the *Ulozhenie*, peasants could also improve their standing at times of difficulty by selling themselves into slavery and thereby gaining protection and tax exemption. Yet the gradual deterioration of their juridical status made this option less likely. While since 1629 lords' debts could be collected from their peasants,

the lord ... did not have, the right to appropriate for his own use the peasant's economic assets ... The peasant ... retained throughout most of the first half of the seventeenth century all of his rights as a citizen to enter into contracts and conduct business in his own name. In 1642, however, the peasant was forbidden to contract debts, for it would have been impossible to satisfy defaults by moving the peasant from his plot and converting him into a slave to work them off.<sup>106</sup>

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<sup>102</sup> *Ibidem*, p. 476. The only real distinction between *votchina* and *pomest'e* lands involved peasant mobility. *Pomest'e* peasants were tied to the land they tilled, while *votchina* peasants were only tied to their lord.

<sup>103</sup> George G. Weickhardt, "The Pre-Petrine Law of Property," *Slavic Review*, LII (1993) 4, pp. 674-5; Hellie, *The Economy*, p. 390.

<sup>104</sup> Kotilaine, "Mercantilism in Pre-Petrine Russia."

<sup>105</sup> Richard Hellie, *Slavery in Russia 1450-1725* (Chicago: The University of Chicago Press, 1983), p. 141 ff.; Weickhardt, "Due Process," p. 477.

Moves at the same time sought to make it illegal to sell black lands and it became possible to claim peasant families as indemnity for crimes committed by their landlord against another landlord: “if one lord’s peasant unintentionally killed another lord’s peasant, the culprit was to be beaten with the knout and handed over with his wife, children, and property to the lord of the murdered peasant.”<sup>107</sup> *De iure*, peasants thus gradually came to be treated as their landlord’s property. Still, landlords receiving fugitive peasants were to suffer only “disgrace” as their penalty.<sup>108</sup>

It is difficult to completely deny Weickhardt’s claim that the increasingly detailed codification of property law took Russia at least part of the way towards the Anglo-Saxon fee simple. However, an alternative interpretation appears more plausible. What late Muscovite property law did above all else is address the problem of transaction costs. By codifying certain – but by no means all – aspects of property relations, the law codes tried to regulate distributional conflicts. Landlords’ control on their land had to appear credible to prevent the emergence of alternative claims.

## **Conclusion**

The goal of economic activity, it is generally accepted, is to find superior ways of meeting people’s material needs. This, in turn, makes economic efficiency a worthy consideration in most people’s eyes. Much attention has been devoted by economic historians to the notion of efficient economic organization. The basic consensus on the issue is clear:

Ideally, by providing the proper incentives, a fully efficient economic organization would insure that the private and social rates of return were the same for each activity and that both were equal among all economic activities. Such a situation would require that each individual desires to maximize his wealth and that he has the exclusive right to use as he

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<sup>106</sup> Hellie, *Enserfment and Military Change*, p. 95; Hellie, *Slavery in Russia*.

<sup>107</sup> Hellie, *Enserfment and Military Change*, p. 120.

<sup>108</sup> Hellie, *Enserfment and Military Change*, p. 121.

sees fit his land, labor, capital, and other possessions; also that he alone has the right to transfer his resources to another, and the property rights are so defined that no one else is either benefited or harmed by his use of his property.<sup>109</sup>

As much as this description is an unrealistic characterization of ideal conditions that have never obtained in human history, much of the history of the Western world can be described in terms of gradual progress towards this goal. The immediate implications of this ideal for Muscovite Russia are threefold: (i) Russian institutions fell far short of this goal, (ii) a great deal of deliberate reform was undertaken by the government to move at the least some of the distance towards this end, and (iii) the often exclusive attention devoted by Russian historians towards the legal framework governing property relations has done comparatively little to shed light on the more general question of economic efficiency.

The above discussion has sought to demonstrate that Muscovite Russia did work out a remarkably comprehensive system governing property relations which in turn resulted in substantial productivity gains. In spite of Weickhardt's optimism, it is difficult to characterize this setup as analogous to the Anglo-Saxon fee simple. Indeed, as was noted above, the evolution of property rights is perfectly compatible with the notion of the whole country's belonging to the tsar as his *votchina*. This, however, seems to be beside the point. After all, as R. Coase pointed out nearly half a century ago, it does not matter, from the viewpoint of economic efficiency, who owns what, so long as someone does.<sup>110</sup> In response to population growth, territorial expansion, external pressure, growing domestic needs, etc., the Russian government developed new ways of administering the productive resources of the country. These institutional responses revolved to a significant degree around fragmenting property rights in a way that gave the various social strata in the Muscovite state adequate incentives to generate a sufficient surplus to ensure survival and to meet the economic needs of the state.

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<sup>109</sup> North and Thomas, *The Rise of the Western World*, p. 91.

<sup>110</sup> Ronald H. Coase, "The Problem of Social Cost," *Journal of Law and Economics*, III (1960) 1.

The “genius” of the Muscovite system lay in increasingly carefully codifying of key aspects of these fragmented rights to as to eliminate distributional conflicts and major disruptions to productive activities. A departure from the ideal of the Coase theorem was inevitably caused by inefficiency in the process of fragmentation, as well as transaction costs. Whether we are prepared to attribute Muscovites a sophisticated understanding of modern probability theory or not, the basic calculation safely made by virtually all people controlling property was that they could retain it *ad vitam*. Regardless of their *de iure* rights, therefore, they were faced with a set of incentives which was in many ways identical to that present in the case of the fee simple.

As effective as the Muscovite model may have seemed at the time, it still did not represent the best practices and thus entailed potentially serious opportunity costs. The obvious answer to such a critique is that the Muscovite system, whatever its flaws, did apparently allow the state to “maximize” its objective function. In other words, the new institutions “worked.” One way of interpreting this discrepancy is to view the Russian government as a satisficer rather than a maximizer; “good enough” was an acceptable outcome. Another possibility would be to characterize the Russian institutions in terms of path-dependency – certain aspects of the political system were effectively set in stone and could not be legitimately challenged.

A utilitarian approach, would include variables such as political stability in the objective function and there is a great deal of evidence to suggest that the rulers of Muscovy were risk-averse. Government control was one way of reducing the chances of political unrest, uprisings (which were common enough as it was), etc. Under this interpretation, the rulers of Muscovy may well have been maximizers. In any event, in spite of the endemic backwardness of the Russian economy, political history is on the Muscovites’ side. The Russian institutional setup over time proved superior to that of her neighbors. Muscovy rose to a global superpower for several centuries while its immediate neighbors declined. More

problematically, however, the rigidity of the Muscovite model made dynamic adjustments later on costly and difficult and, over time, the opportunity costs associated with a model created in response to particular historical circumstances grew dramatically.<sup>111</sup>

The economically significant question in the Russian case is whether the growth path of the Russian economy would have been different under a different regime of property rights, say something approximating the fee simple. What the evidence reviewed here suggests is that the answer to that question might well be negative. The Muscovite property rights regime was remarkably flexible and compatible with economic incentives and often remarkable wealth creation.

The conclusions suggested by this evidence – as rudimentary as it still is – is that the key limiting variable in the Russian case was probably not property rights. As I have suggested above and argued elsewhere, the Russian government pursued policies that prioritized distribution (the Treasury vs. the population) rather than efficiency. Regardless of their property rights, producers did not have access to normal capital and labor markets and were thus often critically limited in their abilities to expand production. And last but not least we have the basic parameters of Russian life – a harsh climate, a low population density, etc. – that made most kinds of economic activity more difficult than they would have been in many parts of Western Europe. It is hard to imagine that a different regime of property rights would have, in and of itself, overcome the handicaps created by these factors. Russia did a great deal with the hand she had been dealt, but doing so presupposed policy choices that led to an institutional divergence from Western Europe. The role of property rights in this divergence should not be overemphasized. It is not even obvious that a different allocation of rights would have done much to even out the distribution of political power, given the numerous other limitations of wealth creation.

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<sup>111</sup> Kotilaine, “A Muscovite Economic Model,” Furubotn and Richter, *Institutions and Economic Theory*, pp. 110-4.