

# Serfs, slaves, or wage earners? The legal status of labour in Russia from a comparative perspective, from the sixteenth to the nineteenth century\*

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## Abstract

*Comparative analyses of labour in Russia and the West often assume a dividing line between free and forced labour that is universally applicable. The first aim of this article is to show that, in Russia, the historical and institutional definition of serfdom poses a problem. I will therefore explore Russian legislation, and how it was applied, from the sixteenth to the nineteenth century. Contrary to generally accepted arguments, serfdom as such was never clearly introduced institutionally in Russia. I will also discuss the presence of slaves in Russia, and the association between certain forms of servitude (especially for debt) and slavery. The presence of chattel slaves in the empire was related to territorial expansion, and to commercial relations with the Caucasus and the Ottoman Empire. Russian forms of bondage are compared to those in other situations, such as indentured service in the West, debt servitude in India, and Islamic slavery. My conclusion is that, not only in Russia but also around the globe, the prevailing forms of labour were not those familiar to us today, which were not introduced until the early twentieth century. Russia constituted an extreme case in a world in which severe constraints were imposed everywhere on labour and its movement, and the legal status of the wage earner and the peasant was lower than that of the master.*

Since at least the eighteenth century, many comparative analyses of labour in Russia and the West have been carried out as if the dividing line between free and forced labour was universally defined in ahistorical terms. Free labour in the West was opposed to serfdom in eastern Europe, which in turn was held to be a form of forced labour, along with slavery and indentured service. Medievalists since Marc Bloch<sup>1</sup> have produced more and more critical studies of western European ‘serfdom’.<sup>2</sup> However, it has only been in the last two

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1 Marc Bloch, ‘Serf de la glèbe: histoire d’une expression toute faite’, *Revue Historique*, 36, 1921, pp. 220–42.

2 Guy Bois, *La Crise du féodalisme*, Paris: Presses de Sciences-Po, 1980; George Duby, *Les trois ordres ou l’imaginaire du féodalisme*, Paris: Gallimard, 1978; Pierre Bonnassie, *From slavery to feudalism*,

decades that historians have followed this example to show that, in Prussia, Lithuania, and Poland, the line between 'free' work and serfdom was fluid, negotiable, and negotiated, and that it was rooted not only in philosophical and political debates, but also in the way that social actors appropriated legal rules.<sup>3</sup> These new interpretations of eastern Europe's 'second serfdom' have partly reiterated the ways in which the historiography of slavery and indentured service has evolved over at least the last two decades, emphasizing the shifting line dividing free labour from slavery.<sup>4</sup> For example, until the middle of the nineteenth century, indentured service was viewed as a voluntary contract rather than as a form of servitude. The definition of indentured service, or the French *contrat d'engagement*, was based on 'ordinary' contracts, Masters and Servants Acts in the British Empire, or the renting of services in the French Empire.<sup>5</sup> Similar conclusions might be reached regarding forms of servitude in the Ottoman Empire, although this case has been investigated to a much lesser degree.<sup>6</sup> It is surprising, at first glance, that Russia has remained on the sidelines of this debate. Discussions of serfdom in Russia concern its creation by the state or by landlords,<sup>7</sup> or its profitability.<sup>8</sup> Questions about the nature of serfdom, or its very existence, surface in a few histories of ideas,<sup>9</sup> but have seldom been touched upon in economic and social history.

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Cambridge: Cambridge University Press, 1991; Tom Scott, ed., *The peasantries of Europe: from the fourteenth to the eighteenth centuries*, London: Routledge, 1998.

- 3 Edgar Melton, 'Population structure, the market economy and the transformation of Gutsherrschaft in East Central Europe, 1650–1800: the cases of Brandenburg and Bohemia', *German History*, 16, 3, 1998, pp. 297–324; William Hagen, *Ordinary Prussians: Brandenburg Junkers and villagers, 1500–1840*, Cambridge: Cambridge University Press, 2002.
- 4 Stanley Engerman, ed., *Terms of labor: slavery, serfdom and free labor*, Stanford, CA: Stanford University Press, 1999; Robert Steinfield, *The invention of free labor: the employment relation in English and American law and culture, 1350–1870*, Chapel Hill, NC: University of North Carolina Press, 1991; Michael L. Bush, *Servitude in modern times*, Cambridge: Polity Press, 2000.
- 5 Steinfield, *Invention*.
- 6 Ehud Toledano, *Slavery and abolition in the Ottoman Middle East*, Seattle, WA: University of Washington Press, 1998; Omer Lutfi Barkan, 'Le servage existait-il en Turquie?', *Annales ESC*, 11, 1956, pp. 54–60.
- 7 Jerome Blum, *Lord and peasant in Russia: from the ninth to the nineteenth century*, New York: Atheneum, 1964; Alexander Gerschenkron, *Economic backwardness in historical perspective*, Cambridge, MA: Harvard University Press, 1962; Richard Hellie, *Enserfment and military change in Muscovy*, Chicago, IL: University of Chicago Press, 1971; Peter Kolchin, *Unfree labor: American slavery and Russian serfdom*, Cambridge, MA: Harvard University Press, 1987; Daniel Field, *The end of serfdom: nobility and bureaucracy in Russia, 1855–1861*, Cambridge, MA: Harvard University Press, 1976; Steven Hoch, *Serfdom and social control in Russia: Petrowskoe, a village in Tambov*, Chicago, IL: University of Chicago Press, 1986.
- 8 Ivan D. Koval'chenko, *Russkoe krepostnoe krest'ianstvo v pervoi polovine 19th v. (The Russian serf economy during the first half of the nineteenth century)*, Moscow: Nauka, 1967; Ian Blanchard, *Russia's age of silver: precious metal production and economic growth in the eighteenth century*, London: Routledge, 1989; David Moon, *The abolition of serfdom in Russia, 1762–1907*, London: Pearson Education, 2001; Tracy K. Dennison, 'Did serfdom matter? Russian rural society, 1750–1860', *Historical Research*, 79, 203, 2003, pp. 74–89; Edgar Melton, 'Proto-industrialization, serf agriculture, and agrarian social structure: two estates in nineteenth-century Russia', *Past and Present*, 115, 1987, pp. 73–81; Edgar Melton, 'Enlightened seigniorialism and its dilemmas in serf Russia, 1750–1830', *Journal of Modern History*, 62, 4, 1990, pp. 675–708; Evsey Domar and Michael Machina, 'On the profitability of Russian serfdom', *Journal of Economic History*, 44, 4, 1984, pp. 919–55.
- 9 Larry Wolff, *Inventing eastern Europe: the map of civilization on the mind of enlightenment*, Stanford, CA: Stanford University Press, 1994; Alessandro Stanziani, 'Free labor–forced labor: an uncertain boundary? The circulation of economic ideas between Russia and Europe from the 18th to the mid-19th century', *Kritika: Explorations in Russian and Eurasian History*, 9, 1, 2008, pp. 27–52.

The aim of this article is to show that the historical and institutional definition of serfdom in Russia poses a problem, and that the legal status of peasants and labourers is worth investigating further. I will study Russian legislation, and how it was applied in this area over the long term (sixteenth to nineteenth centuries). I will show that, contrary to generally accepted arguments, serfdom as such was never clearly introduced institutionally in Russia. Instead, over three centuries, we find regulations aimed at defining ‘nobles’ and those who were legally entitled to own and transfer inhabited estates. Forms of dependence were no doubt extreme compared with their counterparts in western Europe during the same period, but it was less a question of an opposition between free and forced labour than of gradations within a common world.

I will also discuss the presence of slaves in Russia, and examine the association between certain forms of servitude (especially for debt) and chattel slavery. We find the presence of genuine slaves in the empire, as a result of the expansion of the Russian Empire towards the south, the east, and the west, and due to commercial relations with the Caucasus and Islamic empires. These forms of bondage will be compared with those existing at the same time in other situations, notably indentured service in western metropolises and colonies, debt servitude in India, and Islamic slavery. My work is based on sources from the period, especially materials in Russian archives, which contain many judicial decisions. In addition, I have consulted numerous collections of Russian laws, decrees, and ‘high’ jurisprudence (134 volumes in three series).<sup>10</sup> From a comparative perspective, I have also had recourse to French archives and English and French case law of the eighteenth and nineteenth centuries.

However, legal documents and legal definitions of status are not everything, for it is also important to know how norms were applied. I will show that, in Russia, not only nobles and the bourgeoisie but also peasants and labourers made widespread use of norms defining ‘genuine landowners’ and their rights. They used these rules to challenge a particular title to ownership, the rights over labour that were associated with the ownership of land, and hence their own obligations to their master. The rights of peasants were distinctly inferior to those of other social strata, but they did exist. Well before the reforms of 1861 that officially abolished serfdom, half the peasants on private estates had already acquired a different legal status, becoming state peasants or city dwellers. Among the remaining private peasants, only about half still owed labour services. Conversely, after 1861, many legal and economic constraints on peasants were kept in place.

These findings lead us to two more general conclusions. First, rather than opposing *ancien régime* systems to others and stressing institutional breaks such as the abolition of serfdom, it is preferable to take into consideration the slow evolution of markets, especially labour markets, and their institutions, which had both rigid and flexible characteristics. Second, between the seventeenth and the nineteenth century, not only in Russia but also around the globe, labour statuses and regulations were not those familiar to us today, which were not introduced until the early twentieth century.<sup>11</sup> This approach is indispensable to avoid anachronism, and to understand how economies and institutions worked during the early modern period, and how they evolved towards current forms of labour control.

10 *Polnoe sobranie zakonov Rossiskoi Imperii* (Full collection of laws of the Russian Empire – henceforth PSZ), three series: I: 1649–1825, 46 vols., St Petersburg, 1830; II: 1825–81, 55 vols., St Petersburg, 1830–84; III: 1881–1913, 33 vols., St Petersburg, 1885–1916.

11 Stanley Engerman, ‘Slavery at different times and places’, *American Historical Review*, 105, 2, 2000, pp. 480–4.

I will begin by studying the presence of slaves and captives in the Russian Empire. I will then analyse *khology*: that is, forms of dependence ranging from domestic service to quasi-slavery, under contracts that were widespread in Russia until their abolition in 1725, but which had little impact in the countryside. In the third section, I look at the gradual introduction of legislation relating to rural ‘serfdom’. In the fourth section, we will see how regulations were applied, and ensuing changes in status. In the last section, conclusions will be drawn concerning the development of serfdom in Russia, and I will offer general observations on the ‘second serfdom’ of eastern Europe. In my conclusion, I attempt to place Russian forms of labour within a still more general framework, questioning the typology of servitude in the world and forms of so-called ‘free’ labour in the West during the period under study.

## Captives at the crossroads of empires

The Russian Empire interacted with Islamic regions in which chattel slavery was common, as the only legitimate form of coerced labour under Islamic law. Muslim Tatars of the Crimea raided widely for Russian subjects, as well as Poles and Lithuanians, and exported most of their captives to the Ottomans.<sup>12</sup> From the 1570s, about 20,000 slaves were sold annually in the port of Kaffa on the Black Sea.<sup>13</sup> Until the early seventeenth century, Russians, above all Cossacks, also sold captives to the Tatars, or directly to the Ottomans.<sup>14</sup> Rules governed the criteria for redeeming Russian captives. Thus, Kalmyk Mongols agreed in 1661 to free Russians whom they had acquired through Tatars, and in 1678 to return Russians whom they themselves had taken captive.<sup>15</sup> As late as the mid nineteenth century, the Russians were redeeming slaves from Turkistan.<sup>16</sup>

The Russian Empire also gradually incorporated areas where local populations had long practised forms of servitude and slave-trading.<sup>17</sup> Many inhabitants of the Caucasus, especially Christian Georgians and Armenians, together with heterodox Muslim Circassians, were sent as slaves to the Ottoman Empire, whether overland or across the Black Sea. For the first three-quarters of the nineteenth century, the Ottomans imported between 16,000 and 18,000 such slaves on average every year.<sup>18</sup> Some male slaves entered the servile administrative elite of the Ottoman Empire, while many women ended up in the harems of the rich

12 William G. Clarence-Smith, *Islam and the abolition of slavery*, London: Hurst, 2006, p. 13.

13 Halil Inalcik, ‘Servile labour in the Ottoman Empire’, in Abraham Ascher, Tibor Halasi-Kun, and Bela Kiraly, eds., *The mutual effects of the Islamic and Judeo-Christian worlds: the east European patterns*, Brooklin, NY: College Press, 1979, pp. 39–40; Yvonne Seng, ‘Fugitives and factotums: slaves in early sixteenth-century Istanbul’, *Journal of the Economic and Social History of the Orient*, 39, 2, 1996, pp. 136–69.

14 Alan Fisher, ‘Muscovy and the Black Sea trade’, *Canadian–American Slavic Studies*, 6, 4, 1972, pp. 582–93.

15 *Materialy po istorii Uzbekskoi, Tadzhikskoi i (Materials for the history of Soviet Uzbekistan, Tajikistan, and Turkmenistan)*, part 1, Leningrad: AN SSSR, 1932, pp. 386–97, cited in Richard Hellie, *Slavery in Russia, 1450–1725*, Chicago, IL: University of Chicago Press, 1982, p. 25, n. 43.

16 Clarence-Smith, *Islam*, pp. 118–19.

17 *Sbornik Imperatorskogo Russkogo Istoricheskogo Obshchestvo (Collected works of the Imperial Russian historical society)*, vol. 41, St Petersburg, 1884, pp. 42–3, 52–3, 104–7, 115–21, 146–57.

18 Toledano, *Slavery*, p. 8.

and powerful. Circassian families at times sold their own children to intermediaries, who transported them to Ottoman territory. Under British pressure, the flow of slaves from the Caucasus was suspended in 1854, but it grew again after the end of the Crimean War. Moreover, the brutal Russian conquest of Circassia led to an influx of between half a million and a million refugees into the Ottoman domains between 1854 and 1865, of whom perhaps a tenth were of servile status.<sup>19</sup> These massive arrivals increased numbers of agricultural slaves, relatively small beforehand.<sup>20</sup>

Captives also arrived in the Russian Empire from both Muslim and Catholic areas. According to the Russian laws of the period, captives were intended to serve the elites as administrative assistants or domestics. Their maximum term of service was supposed to last only until the death of the master to whom they had been entrusted. They could also be redeemed by an agreement between the Russian state and their country of origin. If they converted to Orthodox Christianity, they might be emancipated, although this was not mandatory. Several sources note the problems encountered by the Moscow authorities in ensuring compliance with these norms, and servitude for war captives persisted. After the Thirteen Years War (1654–67), nobles to whom Lithuanian and Polish captives were attributed did not register them, and tended, in practice, to treat them as genuine slaves.<sup>21</sup> In 1655, Poles, Lithuanians, and others, both adults and children, were openly sold on the streets of Moscow.<sup>22</sup> As a result of this war, many people were sold in Russia, at times becoming *khology*, as discussed below.<sup>23</sup>

In short, real slaves were present in Russia. As in other historical situations, they were typically taken in raids where boundaries were uncertain, or during military operations in the strict sense. From a geopolitical standpoint, these forms of slavery were linked to conflicts with the Islamic world, notably the Ottoman and Persian empires, as well as to the conflicts that tore Europe apart in the seventeenth century.<sup>24</sup>

## ***Khology*: slaves, serfs, or indentured servants?**

We now have to determine whether there were other forms of slavery in Russia, particularly service for debts, which concerned not only foreign ethnic and religious groups but also Russians themselves. In the Russian language, from the fourteenth to the sixteenth century, the term *krepost'* designated a legal document pertaining to a sale, ownership, or a loan. This document has usually been identified with the proof of a landowner's rights over peasants.

19 Thomas Barrett, 'Lines of uncertainty: the frontier of the north Caucasus', *Slavic Review*, 54, 3, 1995, pp. 578–601; Clarence-Smith, *Islam*, pp. 13–14.

20 Toledano, *Slavery*, p. 81; Barkan, 'Le servage'.

21 Hellie, *Slavery*, pp. 68–69.

22 Paul of Aleppo, *The travels of Macarius: extracts from the diary of the travels of Macarius, Patriarch of Antioch*, ed. by Lady Laura Ridding, London: Oxford University Press, 1936, pp. 28, 76.

23 Aleksandr' L. Khoroshkevich, *Russkoe gosudarstvo v sisteme mezhdunarodnykh otnoshenii kontsa XV–nachala XVI v. (The Russian state in the system of international relations towards the end of the fifteenth and the beginning of the sixteenth century)*, Moscow: Nauka, 1980, pp. 30–2.

24 David Brion Davis, *Slavery and human progress*, New York: Oxford University Press, 1984; Robert Crumme, *The formation of Muscovy, 1304–1614*, London: Longman, 1987.

As long as the document and the peasant's obligations remained valid, the latter's mobility was restricted. In addition to peasants with these obligations, others were considered to be *starinnye* ('long established'), and hence without obligations of *krepost'* to the noble landowner. They had to prove their status with a document issued by the administration.<sup>25</sup>

*Krepost'* designated both the contract between peasant and noble, and the certification of its validity by the state, giving it at once a contractual and an administrative value.<sup>26</sup> And yet, in the official regulations adopted from this period up to the famous *Ulozhenie* of 1649, which is generally considered to have institutionalized serfdom in Russia, the word *krepost'* was not associated with peasants in general. Rather, it pertained to a particular category of people, the *khology*, and an associated type of contract, *kholopstvo*. The *Ulozhenie* of 1649 devoted an entire section to this topic.<sup>27</sup>

Richard Hellie initially translated *kholopstvo* as 'bondage', but later preferred the term 'slavery'. Herbert Leventer objected to the latter translation, emphasizing that the status of Russian *khology* was not transferred to their children, that their servitude was temporary, and that they could accumulate and transfer property. He therefore thought that *kholop* corresponded instead to the English word 'servant'. Hellie retorted that, in Russian, *kholop* was a synonym for *rab* (slave), and that, even if the conditions of the *khology* were different from those of slaves in antiquity and the Americas, they were perfectly compatible with those of other forms of slavery.<sup>28</sup>

Translating *kholop* as 'slave' is partly justified by the fact that, when Peter the Great abolished this status, the documents of the period associated the *kholopost'* with slaves (*rab*). This association of ideas dates from the early eighteenth century, however, and occurred in the special context of the reforms of Peter the Great. At the time, the word *rab* was used to designate a form of dependence with no specific legal value, insofar as slavery in the strict sense was prohibited, so that *rab* designated either a former slave, one mentioned in the Bible, or the symbolic relationship that the nobles maintained with the Tsar.<sup>29</sup>

Let us try instead to grasp the meaning and content of the word *kholop* through the centuries prior to its official abolition. From the fifteenth century at least, the word appeared in quite disparate sources: certain *Sudebniki* (law collections) and judicial cases, as well as private transactions, contracts, memoranda, estate accounts, registrations with solicitors, and

25 Mikhail F. Vladimirskii-Budanov, *Obzor istorii russkogo prava (Summary of the history of Russian law)*, sixth edn, Kiev: Izdanie knigoprodstva N. Ia. Oglobina, 1909.

26 *Entsiklopedicheskii slovar' Brokgauz-Efron (Encyclopaedia Brokgauz-Efron)*, vol. 16, St Petersburg: Brokgauz, 1895, entry for *krest'ianie* (peasant), p. 681. See also *Slovar' russkogo iazika XVIII veka (Dictionary of the Russian language of the eighteenth century)*, vol. 10, St Petersburg: Sorokin, 1998, entry for *krepostnoi*.

27 Hellie, *Slavery*; Elena I. Kolycheva, *Khlopstvo i krepostnichestvo, konets XV–XVI vek (The khology and enslavement, end of the fifteenth century to sixteenth century)*, Moscow: Nauka 1971; Viktor M. Paneiakh, *Khlopstvo v pervoi polovine XVII veke (Khlopstvo in the first half of the seventeenth century)*, Leningrad: Nauka, 1984.

28 Richard Hellie, 'Recent Soviet historiography on medieval and early modern Russian slavery', *Russian Review*, 35, 1, 1976, pp. 1–36; Herbert Leventer, 'Comments on Richard Hellie's 'Recent Soviet historiography on medieval and early modern Russian slavery'', *Russian Review*, 36, 1, 1977, pp. 64–7; Richard Hellie, 'Reply', *Russian Review*, 36, 1, 1977, pp. 68–75.

29 Marshall Poe, 'What did Russians mean when they called themselves "slaves of the tsar"?', *Slavic Review*, 57, 3, 1998, pp. 585–608.

so on. These documents never speak of *kholopstvo* in general, but qualify the word with another: *starinnoe* ('hereditary'), *polnoe* ('full'), *dokladnoe* ('registered'), *dolgovoe* ('obligated', 'indebted'), *zhiloe* ('limited to a period of time'), *dobrovol'noe* ('voluntary'), *kabal'noe* ('limited to service'). The latter was by far the most widespread term, found in 80–92% of known contracts of *kholopstvo*, depending on the period.<sup>30</sup> This multiplicity of qualifiers is significant because it indicates a set of contracts rather than a single formal personal status.

Let us take the most widespread of these contracts, the *kabal'noe kholopstvo*, which appears in legislation, disputes, contracts between private individuals, wills, and estate inventories.<sup>31</sup> All these documents mention the length of service and the possibility of transforming a six-month or one-year contract into a contract of unlimited service.<sup>32</sup> However, the latter practice was prohibited in the early seventeenth century.<sup>33</sup> The code of 1550 clearly emphasized that the *kabal'nye* were not *dolgovye* ('indebted'). In subsequent years (1586 and 1597), new provisions confirmed that the *kabal'nye* could remain obligated only for the duration of the creditor's life, and that the latter could not transfer the obligations to anyone, either in the form of a sale or an inheritance.<sup>34</sup> This latter provision could be interpreted as the desire to maintain the *kholop* in a state close to slavery, but it is equally legitimate to interpret it as a provision aimed to exclude that form of dependence, and the link with the previous provisions would seem to confirm the latter interpretation. This conclusion is bolstered by all the contracts that have been found, which indicate the length of commitment, usually limited to one year.<sup>35</sup> Moreover, the term translated by Hellie as 'slavery for debt' (*dolgovoe kholopstvo*) actually referred, according to the *Sudebnik* of 1550 and 1589, to labour services due by those who had been condemned to make a payment in compensation, but had found themselves unable to do so. However, that could only be in special cases, for, on 1 October 1560, creditors were prohibited from making debtors sign this type of clause (service obligations) in contractual commitments.<sup>36</sup>

It remains to examine the most extreme forms of *kholopstvo*. The 'full' (*pol'noe*) variety was very old, and had three main sources. The *kholop* himself or herself might ask to be included in this category, as a form of repayment of a debt to the authorities. Second, if a

30 Out of 2,499 documents with the words *kholop* or *kholopstvo*, 2,116 refer to the *kabal'noe* variety (Hellie, *Slavery*, p. 33). Examples of contracts are in the Saltykov-Shchedrin Library in St Petersburg, manuscript section, *Obsheche sobranie gramot*, nos. 1727, 1937, 1941, 2017, 2019, 2348, 2406, 2635, 2672, 3026, 3081, 3392, 3475, 3486.

31 L. V. Cherepnin and S. V. Bakhrushin, eds., *Dokumenty i dogorovnye gramoty velikikh i udel'nykh kniaziei XIV–XVI vv.* (*Documents and acts decreed by princes, fourteenth to sixteenth centuries*), Moscow: Nauka, 1950, p. 409, n. 98.

32 Paneiakh, *Kholopstvo*; Viktor Paneiakh, 'Ulozhenie 1597 g. o kholopstve' ('Ulozhenie of 1597 on *kholopstvo*'), *Istoricheskoe Zapiski*, 77, 1955, pp. 154–89.

33 In 1609, this was reduced from six to five months, and was further reduced to three months in 1649: *Akty istoricheskie, sobrannye i izdannye arkheograficheskoiu kommissieiu* (*Historical acts, collected and published by the Archaeographical Commission*), 5 vols., St Petersburg, 1841–2, vol. 2, no. 85.

34 Paneiakh, 'Ulozhenie 1597', p. 161.

35 Viktor M. Paneiakh, *Kabal'noe kholopstvo na Rusi v XVI veke* (*Temporary limited servants in Russia in the sixteenth century*), Leningrad: Nauka, 1967, pp. 127–8.

36 Mikhail F. Vladimirkii-Budanov, *Khristomatiia po istorii russkogo prava* (*Compendium of the history of Russian law*), St Petersburg: Izdanie knigoprodstva N. Ia. Oglobina, 1875, vol. 3, pp. 29–30, 41.

female *kholop* married a free man, without the authorization of the person entitled to the wife's service, her husband became *pol'noe kholop*. The third source was domestic service contracts established for an unlimited length of time, but such contracts have been found only between 1430 and 1554, with none appearing after that date. The most widely accepted hypothesis is that this form of dependence tended to be transformed into other forms of *kholopstvo* of a temporary nature.

The hereditary variety (*starinnoe kholopstvo*) seems to come closest to slavery in the strict sense. It expresses the condition of those whose parents were *khology*. It was possible to transfer such *khology* in wills, or as a dowry or gift. In the contracts examined by Hellie, there were 5,575 *khology* between 1430 and 1598, 483 of whom were hereditary. The *kabal'nye knigi*, at the end of the seventeenth century, mentions 418 hereditary *khology* out of a total of 2,168 registered at the time. The available sources do not allow us to say whether this higher percentage testifies to the poor economic situation of the time, or to a long-term trend, as this type of commitment was prohibited by the decrees of 1586 and 1593.

To be sure, Iakovlev, and more recently Paneiakh, have found disputes and contracts concerning *starinnye khology* in the middle of the seventeenth century, decades after the official abolition of this type of contract.<sup>37</sup> In other words, despite the official prohibition, several lords continued to impose forms of contractual servitude of a permanent and hereditary type. The authorities devoted much attention to what amounted to illegal slavery, and attempted to penalize transgressors; by banning this kind of servitude, the government sought to limit the power of nobles over peasants, and thereby strengthen state authority in relation to the owners of large estates. Furthermore, the *khology* were exempt from taxation, which reduced the revenue of the state. At the same time, when hereditary *kholopstvo* was prohibited, the *krepost'* over the peasants was reinforced, in the sense that the latter were subject to legal forms of dependence on landowners and the state. This was a measure intended to strengthen small landowners, and to encourage their alliance with the state.

Measures to eradicate hereditary servitude had important consequences. Rather than exclude part of the population from all civil rights, as in the case of slavery, the solution consisted in assigning highly differentiated rights to the various strata of the population, and dividing them into legally distinct groups. The peasants saw their rights severely restricted, while city dwellers were prohibited from subjecting themselves, even voluntarily, to any form of *krepost'* or *kholopstvo*. Numerous provisions defined those entitled to sign, as creditors, a *kholopstvo* contract, as well as those who were entitled to enter into such relations as debtors. Thus, in 1641, the following were excluded from the category of creditors entitled to demand labour service: all *tiaglye liudi* (people subject to *tiaglo*, the unit of taxation), including peasants and artisans as well as other taxpayers, priests, artillerymen, and monastery servants.<sup>38</sup> Conversely, starting in 1590, city dwellers subject to taxation (*posad*) were prohibited from offering these forms of labour service. In 1628, this prohibition was extended to include musketeers, soldiers, and all the intermediate ranks of the civil service and the military. The interpretation of these norms posed problems, as the categories were rather general.

37 Paneiakh, *Kabal'noe*; Aleksandr' I. Iakovlev, *Kholopstvo i khology v moskovskom gosudarstve XVII v. (Kholopstvo and khology in the Russian state in the seventeenth century)*, Moscow: Nauka, 1943.

38 Hellie, *Slavery*, p. 75; Iakovlev, *Kholopstvo*, p. 316.

In the case of professions such as barbers, seamstresses, trappers, and small craftsmen, the question arose as to whether or not they could legitimately enter into *kholopstvo* contracts. The many petitions sent to the chancellery concerning such individuals demonstrate their involvement in these contracts, their desire to be able to continue being taken on as *kholopy*, and their use of the law to challenge the claims of their counterparts.<sup>39</sup>

From this point of view, the 119 articles of section 20 of the *Ulozhenie* of 1649 that were devoted to *kholopy* reproduced in large part the provisions of earlier legislation. For those who failed to meet their legal obligations (debts, penalties, fines, theft, etc.), the text indicated the amount of work required to repay their debt or, in general, to fulfil their obligation. Once the work was completed, the creditor brought the debtor back before an official, who released the debtor from all obligations. Section 20 of the *Ulozhenie* also mentions other conditions for release from *kholopstvo*. Various articles speak of both debts and *krepost'*, with the latter viewed as justifying the debt.

The core provisions of section 20 of the *Ulozhenie* depart from the rules found in some slaveholding systems, although they are not very different from slavery in Islamic and Catholic areas. *Kholopy* were free to marry, and such an act was inviolable. The wife of a *kholop* was obliged to remain in residence until her husband's debt was repaid, but, upon the death of the husband, his wife's dowry passed to her family, and not to the landowner-creditor.<sup>40</sup> The *kholop* could be called as a witness in a trial, which meant that legal personality was acknowledged. Diverging most from systems of slavery elsewhere, a master of *kholopy* had no obligation to feed or provide care for elderly *kholopy*, whereas this obligation formed part of a master's commitment throughout the length of the contract itself.<sup>41</sup>

Overall, when Peter the Great abolished the *kholopstvo* status in 1725, it concerned 10% of the population.<sup>42</sup> The 2,500 contracts and documents that have been recovered are almost all (92%) from the Novgorod region and were signed (in 80% of the cases) between 1581 and 1603. According to Hellie's calculations, 23% of the cases involved single men, and 60.4% couples without children. The rest were couples with a minor child (1.6%), widowers (4%), widows (3.7%), married women (2.5%), and unmarried women (4.2%), while the status of the others was unknown. In the majority of cases, the *kholopy* were between ten and thirty-four years of age, but about 10% were between the ages of ten and fourteen, and the same percentage between the ages of five and nine. Finally, men made up at least two-thirds, and often virtually all, of the *kholopy* throughout the period under study, from the sixteenth to the late seventeenth century.<sup>43</sup> Nearly all the *kholopy* were domestic servants, and they were rarely assigned to farm work.

39 *Opisanie dokumentov i bumag, khraniashchikhsia v moskovskom arkhive ministerstva iustitsii* (*Inventary of documents and papers kept in the Moscow Archives of the Ministry of Justice*), vol. 15, St Petersburg, 1908.

40 Petr Ivanovich Ivanov, *Alfavitnyi ukazatel' familii i lits, upominaemykh v boiarkikh knigach, khraniashchikhsia v l-m otdelenii moskovskogo arkhiva ministerstva iustitsii*, (*Alphabetical index of families and persons named in the boyari books, conserved in the first section of the Moscow Archives of the Ministry of Justice*), Moscow: Ministerstvo Iustitsii, 1853.

41 Hellie, *Slavery*, p. 211.

42 Kolycheva, *Kholopstvo*; Panciakh, *Kholopstvo*.

43 Hellie, *Slavery*, pp. 423–4.

The available contracts show that about 20% of the *khology* concerned children between five and fourteen years of age, who were placed in service by their parents, under one-year contracts that were often renewable. Some contracts were for rather long periods. Such contracts were signed by the most disadvantaged among the city population, and the numbers rose at the turn of the seventeenth century, at a time of serious economic crisis. In a way, it meant placing children in service to ensure their survival. From this point of view, the *khology* contract for children sprang from the same motives as several contracts of this type that were widespread during the same period in France and England (servants in husbandry), albeit with different legal terms and institutional conditions.<sup>44</sup> The other *khology* contracts referred to adults working as servants. Loans were sometimes the formal reason for these contracts, but the terms of the loans often suggest that these were really servants' wages.

Taking these elements into account, we can conclude that most of the aspects of *khology*, above all following the decline in its hereditary forms, resemble other types of indebtedness and limitation on mobility, such as forms of contractual servitude widely found in the same period among Hindu populations in India, and in parts of China. Temporary servitude fell within the scope of contracts that were considered 'free' and voluntary from a legal standpoint. Freedom of commitment did not exclude the renewal of contracts for up to several decades, or even throughout the lifetime of the 'indebted' person.<sup>45</sup> However, the Russian situation differed from the one prevalent in the Islamic world, where *sharia* law forbade all forms of bondage for debt, crimes, and indigence, even if they occurred in practice under customary or sultans' law.<sup>46</sup>

In virtually all the known Russian contracts, and increasingly so over time, the status of *khology* could not be transferred to descendents, and that is essentially what distinguished this system from slavery in antiquity and in the Americas. From this point of view, the contracts in question resembled indentured service in the British Empire. As Robert Steinfeld has shown, until the 1830s and 1840s, this contract was considered a form of voluntary commitment and, as such, it was the opposite of forced labour, which was identified with slavery and serfdom. That said, the voluntary nature of the commitment did not exclude quite harsh conditions of exploitation.<sup>47</sup> It was no accident that, as indentures disappeared for Europeans emigrating to the United States by the mid nineteenth century, their use expanded for the Chinese, Indian, African, and other 'coolies' working in European colonies and Latin American countries after the formal abolition of slavery.<sup>48</sup>

In other words, by their very existence, forms of voluntary bondage testify to the variety of labour commitments, and to continuity rather than opposition between these forms,

44 Anne Kusmaul, *Servants in husbandry*, Cambridge: Cambridge University Press, 1981.

45 Gyan Prakash, 'Terms of servitude: the colonial discourse on slavery and bondage in India', in Martin Klein ed., *Breaking the chains: slavery, bondage and emancipation in modern Africa and Asia*, Madison, WI: University of Wisconsin Press, 1986, pp. 131–49; Harriet T. Zurndorfer, *Change and continuity in Chinese local history: the development of Hui-chou Prefecture, 800 to 1800*, Leiden: E. J. Brill, 1989, notably ch. 5.

46 Clarence-Smith, *Islam*, pp. 74–80; Toledano, *Slavery*.

47 Steinfeld, *Invention*, p. 11; David Galenson, *White servitude in colonial America: an economic analysis*, Cambridge: Cambridge University Press, 1981.

48 Pieter C. Emmer, ed., *Colonialism and migration: indentured labour before and after slavery*, Dordrecht: Martinus Nijhoff, 1986; Klein, *Breaking the chains*.

ranging from statutory and hereditary slavery to 'free' labour. Indeed, it would have been impossible to define voluntary bondage without the Master and Servant Act and its imperial variants, which assimilated the wage earner less to the one we know today than to the servant inherited from pre-industrial periods. The indentured labourer was a particular form of servant.<sup>49</sup> Fugitives from the ranks of apprentices, domestics, and the indentured were caught by the state's police forces, and were subject to criminal procedures. Such 'penal sanctions' applied equally to the Russian *khology*.

However, unlike these workers in other parts of the world, the *khology* were seldom intended for farm work. One reason that slaves and *khology* were rarely found in Russian agriculture could be that masses of serfs performed such functions. *Khology* and serfs therefore appear to have been complementary, and this may have constituted one of the dominant features of Russian history.<sup>50</sup> Another reason could be that, when slavery declines, serfdom increases. In this case, the Russian case would resemble the rise of indentured labour in Southeast Asia after the abolition of slavery.<sup>51</sup>

From the empirical standpoint, as we have seen, the *khology* developed from the sixteenth to the end of the seventeenth century, and disappeared in the early eighteenth century. Increasingly harsh peasant servitude was recorded during this period, which would appear to confirm the second hypothesis. However, before leaning towards this conclusion, we should take a closer look at the legal status and the conditions of the mass of peasants. What did it mean to be 'enserfed' in Russia at this time?

## Serfs or peasants?

It is necessary to examine carefully the legal conditions to which the rural population in Russia was subjected, starting with the limitations on their movements. Such restrictions were first laid down in 1455–62 for monastery peasants; the provisions were later entered in the *sudebnik* of 1550, and were thus appropriated by the state.<sup>52</sup> They were extended to the peasantry as a whole as part of a particular operation, namely the attempt by Moscow statesmen to establish a land registry.<sup>53</sup> Indeed, the adoption of a land registry law in 1592–3 was immediately followed by a prohibition on the peasantry moving, even during the winter months, so that properties and their resident population could be properly identified. The state oversaw compliance with these provisions, and yet authorized considerable movements of peasant families during the first half of the seventeenth century. The archives of lawyers, local institutions, and estates show that a large number of permissions

49 Steinfeld, *Invention*; Galenson, *White servitude*; David Northrup, *Indentured labor in the age of imperialism, 1834–1922*, Cambridge: Cambridge University Press, 1995.

50 Hellie, *Slavery*; Hellie, *Enserfment*.

51 Emmer, *Colonialism*; Klein, *Breaking the chains*.

52 Daniel Kaiser, *The growth of law in medieval Russia*, Princeton, NJ: Princeton University Press, 1980; Dmitri Grekov, *Sudebniki XV–XVII vekov*, Moscow: Akademia Nauk SSSR, 1952.

53 Archives of Ancient Russia (henceforth RGADA), *pistsovye knigi* (cadastral documents) in numerous collections, including: fond 1239, opis' 3, chast 17, 69–72, 74, 76, 86–7; fond 396, opis' 2, chast 5 (1616–1732); fond 1209, opis' 1, chast 1–3, opis' 2, chast 1–2, opis' 16–72.

to travel were granted throughout this period, to both individual and families,<sup>54</sup> as well as for marriages outside a landowner's estate.<sup>55</sup>

Peasants tended to move either from smaller estates to larger ones or to newly annexed regions. In the first case, the owners of large estates challenged the rights of small-estate owners over 'fugitive' peasants. In the second case, the tsarist authorities, both central and local, allowed peasant mobility, with a view to promoting colonization. That is why the vast majority of landowners could only seek to take advantage of norms governing 'fugitives' in terms of the compensation due. They could not stop mobility but sought to be in a better position to negotiate the conditions of authorizations with other landowners and the tsarist authorities. Provisions concerning peasant mobility were therefore a compromise between the tax and military requirements of the Russian state and the interests of provincial landowners and non-noble elites in the administration.<sup>56</sup>

It was in this context that the famous *Ulozhenie* of 1649 was issued, with section 11 containing articles on fugitive peasants. Much of the text is devoted to the documentary evidence that nobles had to provide in order to have peasants returned. On this topic, the regulation does not refer in any way to ownership rights and titles over peasants, as would be the case for serfdom or slavery, but rather to land-registry certification concerning noble estates. As was the case for the regulations adopted from the sixteenth century, this text aimed first and foremost to impose upon nobles state certification of their ownership rights over land. Only on that basis could they have a right to transfer land along with the resident population, and be able to claim labour services and raise credit. This explains why the regulations placed less emphasis on punishing fugitive peasants than on sanctioning nobles who took them in.<sup>57</sup>

This preoccupation also explains why peasants who settled on an estate continued to sign a contract with the lord. This contract reflected a different legal status for master and peasant, which was a source of inequality, dependence, and a particular form of servitude. The fact that the norms defined the landowners and avoided mentioning 'serfs' did not mean that servitude did not exist, but gave it more flexible characteristics. This element was to play a crucial role in the workings and evolution of the Russian rural world. Within the framework provided by these provisions, there continued to be a widespread tendency for landowners to authorize both marriages outside the estate<sup>58</sup> and the emigration of entire families, the latter encouraged by the tsarist authorities to further colonization.

Movements between the countryside and cities should also be taken into consideration. Here again, it would be a mistake to underestimate the amount of mobility. Quite often, when peasants moved from an estate, it was the individual owner who assigned some of

54 Helle, *Enserfment*, p. 142; Daniel Morrison, *Trading peasants and urbanization in eighteenth-century Russia: the central industrial region*, London: Longman, 1987. RGADA, fond 294, opis' 2.

55 RGADA, fond 615. John Bushnell, 'Did serf owners control serf marriage? Orlov serfs and their neighbours, 1773–1861', *Slavic Review*, 52, 3, 1993, pp. 419–45.

56 David Moon, 'Peasant migration and the settlement of Russian frontiers, 1550–1897', *Historical Journal*, 40, 4, 1997, pp. 859–93; Williard Sunderland, 'Peasants on the move: state peasant resettlement in imperial Russia, 1805–1830', *Russian Review*, 52, 4, 1993, pp. 472–85; Serguei I. Bruk and Vladimir M. Kabuzan, 'Dinamika chislennosti i rasselenie russkogo etnosa, 1678–1917' ('Quantitative dynamics of Russian ethnic groups, 1678–1917'), *Sovetskaya Istoriografiya*, 4, 1982, pp. 9–25.

57 *Ulozhenie*, ch. 11, n. 10.

58 Thousands of certificates were delivered every year: RGADA, fond 615; Bushnell, 'Serf owners'.

his peasants to workshops and factories. These movements, which occurred rather frequently,<sup>59</sup> supported the development of the proto-industrial and industrial sectors in Russia from the seventeenth to the nineteenth century.<sup>60</sup>

In addition to these recorded and authorized transfers, many forms of mobility were illegal and shadowy. Some peasants did not have an authorization from the landowner, the rural commune, or the rural authorities. Others had the necessary paperwork, but chose to settle in a city without registering or paying taxes. Although local tradesmen protested, the municipalities competed with each other to help workers and small merchants become established. They agreed not to register them officially, provided that they made a fixed payment.<sup>61</sup>

In short, the norms controlling peasant mobility attempted to accommodate the different interests of small- and large-estate owners, the state, the municipalities, agriculture, industry, and trade. In this context, the title of 'genuine owner', and hence the possibility of owning and transferring inhabited estates, became a crucial issue. In this regard, however, the *Ulozhenie* of 1649 was unable to solve the main problem for which it had been adopted, which was to introduce cooperative agreements among landowners. In reality, disputes intensified,<sup>62</sup> and the authorities were hard pressed to enforce compliance with the norms and contracts governing peasant settlement.

This explains why, throughout the eighteenth century, a great number of texts were still seeking to define who was entitled to own and transfer inhabited estates. Conditions were gradually tightened up. A decree of 1730 prohibited servants and peasants from acquiring and owning real estate, whether through inheritance or otherwise.<sup>63</sup> Then, in 1739, soldiers and the lower echelons of the administration who did not own estates lost the right to acquire and transfer inhabited estates, or to establish *krepost'* relationships with *vol'nye liudi* (free people). In 1746, this prohibition was widened to include the clergy, merchants, city guilds, Cossacks, and *raznochintsy* (people of different ranks).<sup>64</sup> Finally, several regulations adopted between 1754 and 1758 prohibited non-nobles from owning inhabited estates. These restrictions led to numerous petitions, written by non-noble officers, manufacturers, and merchants. They asked that a distinction be made between the ownership of labourers (urban or rural) and that of entire villages, with only the latter being prohibited to non-nobles.<sup>65</sup>

Numerous judicial disputes concerning the validity of noble titles also pitted landowners against the administration, and landowners against each other. Such disputes arose when

59 Governors' reports detail the regional specialization: RGADA, fond 1281, in particular of St Petersburg area: opis' 6; Smolensk: opis' 6; Moscow: opis' 5; Vladimir: opis' 4; Kaluga: opis' 6.

60 Elena I. Indova, 'O rossiskikh manufakturakh vtoroi poloviny XVIII v.' ('On Russian manufacturing during the second half of the eighteenth century'), in *Istoricheskaiia geografiia Rossii: XIX-nachalo XX v.*, Moscow: Nauka, 1975, pp. 248–345.

61 RGADA, fond 291, several files; also in Elise Kimerling Wirtschafter, *Structures of society*, Dekalb, IL: Northern Illinois Press, 1994, p. 181, n. 85. On trading serfs, see RGADA, fond 1287, opis' 3.

62 RGADA, fond 615 ('krepostnye knigi mestnykh uchrezhdenii XVI–XVIII v' – 'register of the deeds of local institutions, sixteenth–eighteenth century', opis' 1; fond 294, opis' 1–3.

63 PSZ, series I, vol. 8, no. 5633. See also Blum, *Lord and peasant*, pp. 358–62.

64 PSZ, series I, vol. 12, nos. 9332, 9367.

65 François-Xavier Coquin, *La Grande commission législative 1767–1768: les cahiers de doléances urbains, province de Moscou*, Paris: Publication de la Faculté des Lettres et Sciences Humaines de Paris-Sorbonne, 1972, pp. 110 and 161–3.

estates were to be transferred, dowries were constituted, or an inheritance needed to be settled.<sup>66</sup> Disagreements also emerged when it was envisaged that the rank of ‘noble of the Russian Empire’ should be granted to landowners in newly annexed regions such as Poland. According to the statistics of the Ministry of Justice, in 1845 alone, 6,400 requests for confirmation of noble titles were addressed to it, only half of which were validated.<sup>67</sup>

Problems of definition of status, and of the permeability of social categories, also held for those who were the objects of noble rights, namely peasants and labourers. The definition of the latter was the mirror image of the definition of nobles and merchants. Hence, the same rules defining the ‘claimants to estate ownership’ were increasingly used not only by nobles and merchants but also by the tsarist administration and by peasants and labourers themselves.

## The change of legal status: an administrative act versus judicial proceedings

The appropriation of the rules of law by a variety of economic and social agents has been the subject of an impressive number of works in history, law, sociology, and anthropology. The analysis of judicial conflicts has helped renew the history of indentured service<sup>68</sup> and of slavery.<sup>69</sup> Slaves, runaway slaves, and indentured servants made considerable use of the law, challenging the idea of unlimited dependence. Legal pluralism gave these systems more flexibility, and has led scholars to consider abolition less as a break with the past than as a step in a long-term process.

For tsarist Russia, a growing interest in law and its use by economic and social groups has been almost entirely limited to the period from 1864, following legal reforms and the introduction of a genuine hierarchical system of justice.<sup>70</sup> The analysis of the law during the period of ‘serfdom’, in contrast, remains virtually unknown, and this gap needs to be filled. The materials exist, as we have a significant number of documents concerning judicial disputes involving both *khology* and peasants.

66 Moscow Archives (henceforth TsGIAM), fond 54. See also Wirtschafter, *Structures*, pp. 71–4.

67 *Otchet ministerstvo iustitsii za 1845*, St Petersburg, 1846, p. xix.

68 Steinfeld, *Invention*.

69 Lauren Benton, *Law and colonial culture*, Cambridge: Cambridge University Press, 2002; Michael Craton, *Empire, enslavement and freedom in the Caribbean*, Kingston, Jamaica: Ian Randle, 1997; Marc Galanter, *Law and society in modern India*, Delhi: Oxford University Press, 1989; Douglas Hay and Paul Craven, *Masters, servants and magistrates in Britain and the Empire, 1562–1955*, Chapel Hill, NC: University of North Carolina Press, 2004; Alan Watson, *Slave law in the Americas*, Athens, GA: University of Georgia Press, 1989.

70 Wirtschafter, *Structures*; Virginia Martin, *Law and custom in the steppe: the Kazakh of the Middle Horde and Russian colonialism in the nineteenth century*, Richmond: Curzon Press, 2001; Jane Burbank, *Russian peasants go to court: legal culture in the countryside, 1906–1917*, Bloomington, IN: Indiana University Press, 2004; *Kritika*, special issues, 6, 1, 2005 and 7, 1, 2006. Russian historiography offers more on the pre-emancipation period: Natalia.N. Efremova, *Sudoustroistvo Rossii v XVIII–pervoi polovine XIXe v (The judicial organization of Russia, eighteenth century to first half of the nineteenth century)*, Moscow: Nauka, 1993; Ekaterina A. Pravilova, *Zakonnost’ I prava lichnosti: administrativnaia iustitsiia v Rossii, vtoraiia polovina XIX v.–oktiabr’ 1917 (Legality and the rights of the person: administrative justice in Russia, second half of the nineteenth century to October 1917)*, St Petersburg: SZAGS, 2000.

It is possible to distinguish two main tendencies in the disputes concerning *khology*, one involving several ‘claimants to title’ and the other between such claimants and *khology*. In cases involving several claimants, the main issue concerned those who claimed to have established a *kholopstvo* contract in good faith with someone who had previously signed one with another master. Such an individual was legally a ‘fugitive’. In the early sixteenth century, the *Rusaskaia pravda* (article 118) stated that the first claimant to rights could recover the fugitive, but had to compensate a buyer who had acted in good faith. However, the *Sudebnik* of 1550 adopted the principle of *caveat emptor*: the buyer of a title over a *kholog* could not be usually compensated, especially if he had been negligent.<sup>71</sup> Finally, the *Ulozhenie* of 1649 returned to the earlier principle. In every case, written documents were required to prove the validity of a plaintiff’s claims.

There were also disputes between those who claimed rights over people and those in a situation of obligation, who might object to the original obligation, or to the terms of its cancellation. These conflicts were so numerous that a *khologii prikaz* (chancellery) was set up in the seventeenth century to resolve issues of this kind.<sup>72</sup> Among the most frequent disputes were those concerning types of *kholopstvo*. The prohibition against hereditary *kholopstvo* towards the end of the seventeenth century did not in fact put an end to this practice. Many cases were brought before the court at this time, by the *khology* himself, often by the children of a *khology*, or by new masters who were claiming their rights. These disputes confirm that it was not impossible for the *khology* to win a case, although the chances were slim compared with those of ‘claimants to title’. At the same time, this use of rights was possible because it intersected with the interests of other lords, other claimants over *khology*, or of the state itself, for the reasons mentioned above.

These conclusions also apply to peasants, at least from the late eighteenth century. While it is true that peasants did not initially have the right to sue the landowner, this situation was changing well before the ‘great reforms’ of 1861–4. In 1770, peasant courts were set up. To be sure, these courts had limited powers, and were under the control of local nobles. Moreover, the peasants were still not allowed to sue nobles over matters of corporal punishment or work organization. However, the validation of ownership rights, and therefore of peasant obligations, was easier to establish, insofar as these disputes were usually multilateral, implicating other nobles, family members (heirs, cousins, and so forth), and the tsarist administration, which was itself interested in defining ownership rights. These multiple interests explain the adoption between the end of the eighteenth century and 1861 of numerous laws aimed at facilitating the submission of cases to these courts, and challenges of ownership rights to ‘inhabited estates’.

These provisions were initially designed to resolve disputes within noble families, as well as between different categories of nobles, or even between nobles and merchants, but they came to be appropriated by peasants and workers in workshops and factories. These developments testified to the peasants’ awareness of the numerous regulations governing the

71 Hellie, *Slavery*, pp. 194–8; *Rusaskaia istoricheskaia biblioteka*, 17, 1898, pp. 106–7, nn. 298–9.

72 A.K. Leont’ev, *Obrazovanie prikaznoi sistemy upravleniia v ruskom gosudarstve. Iz istorii sozdaniia tsentralizovannogo gosudarstvennogo apparata v kontse XV–pervoi polovine XVI v. (The formation of a chancellery system in the Russian state: history of the formation of the centralized state, fifteenth–sixteenth century)*, Moscow: Moskovskii Universitet, 1961, pp. 179–92.

ownership of estates and serfs. For example, in many cases, the plaintiffs emphasized that the transfer of the estate took place through the intermediation of a non-noble, which was a prohibited practice. In other cases, the plaintiffs demonstrated that the landowner was not a noble but a merchant, and, as such, prohibited from ownership.<sup>73</sup>

The tsarist authorities even improved the ability of the common people to challenge the ownership rights of their masters, by adopting several norms favourable to their cause between 1801 and 1858. There were a number of reasons for this attitude: the need for political stability by avoiding peasant unrest and limiting conflicts between nobles; paternalistic criticism of the obligations imposed on peasants; and the desire of tsarist statesmen to facilitate land ownership by bourgeois elements and ‘service nobles’.<sup>74</sup>

Proceedings instituted by peasants became so numerous that, between 1837 and 1840, the senate even decided to call a halt to cases where serfs were still living with their master.<sup>75</sup> Overall, between 1833 and 1858, the senate recorded 15,153 cases of illegal estate ownership, and thus of illegal ‘servitude’. These cases were recorded in the anthology of laws and jurisprudence, and the details were kept in the senate archives. For local courts, only partial estimates are possible at present, with 22,000 known cases of this type during the same period.<sup>76</sup> In addition to this figure, it is necessary to include all the peasants who changed status following a unilateral act by the landowner.<sup>77</sup> It is difficult to gauge the significance of these figures, as there is no systematic study available that is broken down by province. According to estimates of the period, at the ninth *reviziia* (tax census) in 1851, in twelve provinces, eleven thousand *meshchane* (merchants) were former private peasants.<sup>78</sup>

Such favourable outcomes should not make us forget the problems that peasants encountered when they tried to institute proceedings against a real or self-proclaimed noble. Quite often, local courts handed down totally different rulings. Several judges considered peasant petitions to be inadmissible, and refused to grant them recourse to an appeal.<sup>79</sup> Many cases of noble landowners bribing judges were also recorded. Finally, pre-trial investigations were lengthy, and it was often a decade before a case came to trial. Measures aimed at changing this state of affairs were not adopted until the end of the 1840s, when a new law facilitated judicial proceedings for all those who considered that their obligations to an estate owner were illegal.<sup>80</sup> In other words, eighteenth- and nineteenth-century Russia was far from resembling

73 TsGIAM, fond 54 (Moskovskoe gubernskoe upravlenie), 1783–1917, opis’ 1: for example, delo 56, 284, 966, 1509. Rossiskie Gosudarstvennoe Imperialskie Arkhivi (Russian Imperial Archives – henceforth RGIA), fond 1149, opis’ 2, delo 20 and delo 44. Gosudarstvennie Arkhivi Rossiskoi Federatsii (State Archives of the Russian Federation – henceforth GARF), fond 109, opis’ 3, delo 1885.

74 Moon, *Abolition*; Blum, *Lord and peasant*; Hoch, *Serfdom*; Daniel Saunders, *Russia in the age of reaction and reform, 1801–1881*, London: Longman, 1992.

75 RGIA, fond 1149, opis’ 2, delo 90. See also Wirtschafter, *Structures*, p. 84.

76 PSZ, series II, vol. 20, no. 19283, vol. 22, no. 20825; RGIA, fond 1149, opis’ 3, delo 125.

77 *Svod zakonov rossiskoi imperii* (Collection of laws of the Russian Empire), St Petersburg, 1832, vol. 9, art. 674–80, 1833, art. 1148–84, 1857.

78 P. V. Keppen (P. V. Köppen), *Deviataia reviziia: issledovanie o chisle zhitel’ei v Rossii v 1851 godu* (The ninth census: study on the population of Russia in 1851), St Petersburg, 1857, pp. 6, 7, 21, 88, 95–100, 127, 142–4, 152, 159.

79 RGIA, fond 1149, opis’ 2, delo 20. See also Wirtschafter, *Structures*, pp. 79, 119.

80 Law of 1847, in PSZ, series II, vol. 22, no. 20825.

the Britain and France of the nineteenth- and twentieth-century; but nonetheless it was also not the 'land of serfdom' that is usually represented.

This conclusion becomes all the more striking if we take into consideration the fact that changes in the status of 'private' peasants also took place by administrative action, notably through military service. Once a conscript had completed his military service of twenty years' duration, he entered the category of *raznochintsy* (people of different ranks, belonging to the urban population). He could therefore move about freely, and settle in a city. Hoch and Augustine estimate that 433,750 peasants changed their legal status in this manner between 1833 and 1858 alone.<sup>81</sup> Other forms of administrative reclassification of peasants from private estates took place for political reasons. Thus, the authorities reclassified peasants of nobles who took part in acts of 'sedition' in Poland, Ukraine, Belarus, and the 'western provinces' between 1838 and 1849. Taking these regions as a whole, an estimated 264,000 peasants were seized, including 72,500 who became peasants of the state. Finally, between 1803 and 1858, numerous laws were passed to facilitate the change of legal status of peasants for more strictly economic and social reasons. Changes occurred in cases of nobles without heirs, mortgaged estates, purchase of land by peasants, and so forth. In all, about a million peasants changed categories between 1800 and 1858. Half of private peasants were re-assigned to other categories, to such an extent that, in 1858, only 40% of peasants were classified as 'private' peasants, and only half of those were still subject to labour obligations.<sup>82</sup>

## Legal status, labour, and the dynamics of the 'second serfdom'

These elements lead us to more general conclusions, first of all concerning the reforms of 1861. From our perspective, these reforms should be viewed as part of a long-term process. Rather than marking a sharp break, passing from serfdom to free labour, they can be seen as just one step in a long process of transforming the legal and economic status of labour in Russia. The reforms of that year in many ways reflected measures already adopted towards peasants in the western regions of the empire, along with the regulations of 1803 and 1841, aimed at emancipating the peasants from any obligation to landowners, while granting them a plot of land.<sup>83</sup> The main difference was that the reforms of 1861 were imposed administratively, and across the board. At the same time, the state financed a good portion of these operations, while contributing to setting a relatively high price for the land granted to peasants, through the much-debated work of local arbitration commissions. Significant continuities also emerged in the labour market. While peasants were formerly not 'serfs' in the traditional sense of the term, after 1861 they were not free wage earners in the classic sense of the term. Internal passports were still required, and failure on the part of wage earners and peasants to comply with their contractual commitments was punishable by the criminal code. Finally, labour obligations continued to be heavy when peasants obtained

81 Steven Hoch and Wilson Augustine, 'The tax census and the decline of the serf population in imperial Russia, 1833–1858', *Slavic Review* 38, 3, 1979, pp. 403–25.

82 Hoch and Augustine, 'Tax census'; Moon, *Abolition*.

83 Field, *End of serfdom*, pp. 77–83.

land or entered into loan contracts, such as labour services in exchange for an advance of seeds, or the loan of tools.<sup>84</sup>

One important implication of this conclusion is that the schema for breaking down forms of coerced labour was quite similar to ones experienced in other historical contexts, as was also the case for ‘entering into serfdom’ and the ways in which ‘serfdom’ operated in Russia. This evolution entailed a sequence of legal and legislative decisions, as well as an appropriation of legal rules by workers themselves. Russian peasants contributed to their own emancipation by relying on norms theoretically designed for other purposes. The tsarist autocracy was thus a far more flexible system than is usually asserted, even if it was neither egalitarian nor democratic.

These conclusions coincide with those recently established with regard to other parts of central and eastern Europe, notably Brandenburg and Bohemia. Contrary to traditional interpretations, the period from 1650 to 1800 is now seen as having been distinguished by a transformation of the *Gutsherrschaft* and of the legal status of peasants, well before the reforms of the early nineteenth century.<sup>85</sup> ‘Unlimited labour service’ was restricted in significant ways, and gave rise to numerous disputes between peasants and lords, as trials in local courts beginning in the seventeenth century testify. The enlightened autocrat Frederick II (1740–86) adopted measures to reduce or even eliminate hereditary forms of dependence, widened access for peasants to courts of justice, reduced labour obligations, and recorded the obligations of peasants towards lords in contracts that could, on occasion, be used as evidence.<sup>86</sup> Similar points can be made about other regions of central and eastern Europe. For example, about half of Polish households towards the end of the sixteenth century had servants.<sup>87</sup> In Schleswig-Holstein, Mecklenburg, Swedish Pomerania, and Lusatia, numerous forms of personal dependence were widespread.<sup>88</sup> At the same time, the line between ‘free peasants’ and ‘serfs’ was qualified at the time when quitrent replaced labour services in Prussia. As in Russia, the authorities at the time encouraged a change in the legal status of peasants.<sup>89</sup> Judicial disputes grew in number and, already during the first quarter of the eighteenth century, it was not uncommon for peasants to submit cases to the Berlin Court of Appeals.<sup>90</sup>

84 Hoch, *Serfdom*, Peter Gatrell, *The tsarist economy, 1850–1917*, London: Longman, 1986; Moon, *Abolition*; Paul Gregory, *Before command: an economic history of Russia from emancipation to the first five-year plan*, Princeton, NJ: Princeton University Press, 1994.

85 Edgar Melton, ‘The decline of Prussian Gutsherrschaft and the rise of the Junker as rural patron’, *German History*, 12, 1994, pp. 334–50; William Hagen, ‘Village life in East-Elbian Germany and Poland, 1400–1800’, in Tom Scott, *Peasantries*, pp. 145–90; Sheilagh Ogilvie, ‘Communities and the second serfdom in early modern Bohemia’, *Past and Present*, 187, 2005, pp. 69–119.

86 Hagen ‘Village life’, p. 149.

87 Robert Frost, ‘The nobility of Poland-Lithuania, 1569–1795’, in Hamish Scott, ed., *The European nobilities in the seventeenth and eighteenth centuries, vol. II: Northern, Central and Eastern Europe*, London: Routledge, 1995, pp. 183–222; Hagen, ‘Village life’; W. Hagen, ‘Capitalism and the countryside in early modern Europe: interpretations, models, debates’, *Agricultural History*, 62, 1988, pp. 13–47.

88 Hagen, ‘Village life’, p. 175.

89 Hartmut Harnisch, ‘Bäuerliche Ökonomie und Mentalität unter den Bedingungen den ostelbischen Gutsherrschaft in den letzten Jahrzehnten vor Beginn der Agrarreformen’, *Jahrbuch für Wirtschaftsgeschichte*, 24, 3, 1989, pp. 87–108.

90 Hartmut Harnisch, *Kapitalistische Agrarreform und Industrielle Revolution*, Weimar: Böhlau, 1989.

These observations lead us to the following general conclusion, that the ‘second serfdom’ is a phenomenon that deserves to be reassessed from both an institutional and economic standpoint. Far from being a mere copy of the serfdom of Europe’s Dark Ages, these forms of restriction on mobility were part of a context in which the constraints weighing upon a large percentage of the population (especially in rural communities), although considerable, nevertheless allowed some leeway to those involved. The legal statuses of peasants, labourers, and noble landowners were mutually defined, which meant that their respective rights and obligations were not absolute, but changed over time according to the particular estate and region concerned. But if that was the case, then where should we draw the line separating the Russian labour system from the forms of labour encountered in western Europe and its colonies?

## Conclusion: forms of servitude and institutional dynamics

Russia was not exceptional from the point of view of slavery in the strict sense. Slavery was rarely inflicted on Russians themselves, but it was widely found in relation to prisoners of war and ethnic minorities, some of whom in turn practised slavery within their own societies. Russia was a society with slaves, but not a slave society.

The *kholopy* were numerous, and subject to clearly marked forms of dependence, but we would have trouble identifying them as slaves, at least once the hereditary element had been eliminated. These forms of dependence often came to resemble indentured service and debt bondage. There was hardly any difference between loan and apprenticeship contracts and *kholopstvo*. Even if the real conditions of these labourers could hardly be distinguished from those of wage earners in the strict sense, or even slaves, their different legal status was important. It brought out complex relationships of continuity, rather than breaking with the past, and challenges any simple opposition between servitude, slavery, and ‘free’ labour.

This general principle was also valid for the British and French cases. British indentured service was defined using ‘ordinary’ contracts, Masters and Servants Acts, and apprenticeship; while French *engagement* rested on the renting of services and apprenticeship. These contracts also provided for criminal sanctions, the recovery of ‘fugitives’ by the forces of the state, and a different legal status being applied to master and servant. Hence, British indentured service and French *engagement* formed two variants of one and the same legal notion of labour that embraced the *kholopy*.

If neither *kholopy* nor slaves constituted a Russian ‘specificity’, should we look for this in serfdom? In reality, the disappearance of *kholopy*, or rather their merger with the peasants after 1725, in no way entailed the enslavement of the latter. Serfdom and servitude did not correspond to the stereotypical image that we have had of them since the eighteenth century. The ‘serfs’ were never defined as such in tsarist law, except in the years immediately preceding the 1861 Emancipation Act. The system that has been called the ‘second serfdom’ in eastern Europe and Russia was therefore a form of dependence that was at once statutory and contractual, although never institutionalized as such, and which gradually weakened in the eighteenth and nineteenth centuries. These forms of dependence were no doubt harsher

than those experienced by peasants in western Europe: a good portion of the peasants on Russia's private estates never changed estates, and lived under hard conditions of submission. Nevertheless, these peasants did have rights, however reduced they may have been: they could sue the landowners in a court of law, and challenge their right to own land. With the help of the Tsarist authorities, the legal and economic possibilities emerging from these rights increased during the first half of the nineteenth century.

Russia might therefore be defined as an extreme form of a more general model. This consisted in limiting the movements of labourers and peasants, subjecting them to penal sanctions, and imposing on them a different legal status from that of their masters and employers. Such a model was widespread in the western world, including its colonies, from the seventeenth to nearly the end of the nineteenth century. Many categories of workers had fewer rights and legal and economic assets than 'free' labourers, who in turn definitely had fewer rights at the time than those attributed to them in the twentieth century. Not only the indentured servant but also the domestic servant had a different legal status than that of the employer. Russia may have constituted an extreme case, but this was in a world in which, from the standpoint of 'freedom', the range of forms of labour expressed a continuity. There were subtle gradations, rather than an outright opposition, between free and forced labour.

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