Local Self-Government (Zemstvo/a) and Judicial Reforms

Despite its reputation of having a bureaucracy that meddled and interfered with the lives of the empire’s subjects, Russia was, in reality under-governed. Simply put, there were not enough officials to administer the realm. Keep in mind the vastness of the empire as well as the sad state of the roads and means of communication as partial explanations for the difficulties confronting the imperial administration. One of the pressing concerns for Russian rulers since the eighteenth century was the development of bureaucratic control throughout the far reaches of the empire. The first half of the nineteenth century saw a proliferation of commissions set up to address this matter. The poor state of governance challenged even the most astute officials, many of whom embraced the idea that perhaps St. Petersburg should promote local self-government rather than pursue the dream of exerting centralized control over the populace.

The decision to emancipate the serfs prompted the government to address this problem of under-governance because it had to fill the vacuum created by the end of the landlord’s control over the peasantry. Moreover, the landed gentry expected to be compensated for this loss of power and control by extending to it the right to participate in institutions of local government and administration (and thereby replacing appointed officials who ruled over provincial Russia). To be sure, gentry of all political inclinations were motivated by self-interest, namely the desire to ensure their continued domination of local affairs. After all, the landlords could no longer control the affairs of the peasant communes. Some gentry, however, believed that bureaucratic intervention and regimentation would hinder social and economic progress. As one prominent member of the gentry stated, the time had come to emancipate “the people as a whole,” and not only the peasants.

On January 1, 1864, the government announced the creation of zemstvos on the local level (districts and provincial). Each zemstvo board consisted of an assembly and an executive board, the members of which were elected by the local populace. However, the local populace voted in three separate electoral colleges: individual owners of property regardless of soslovie; urban inhabitants who paid a certain amount in taxes; and village communes. The purpose of dividing the electorate into separate colleges was to ensure the domination of the zemstvos by the local gentry: representation was proportional to landownership. Not surprisingly, the majority of delegates to the zemstvos and members of the executive boards (selected by the zemstvo assemblies) were local gentry landowners.

What were the functions and powers of the zemstvos? According to the statute, they were to deal with “local economic needs” such as the upkeep of roads and bridges, the maintenance of hospitals, the promotion of public health, education, and the local economy, the provision of poor relief. They accomplished quite a bit in these areas. But the ability of the zemstvos to carry out their plans was limited by the lack of funds (zemstvos had limited tax powers) and the need to rely on police and other government officials to execute the zemstvos’ decisions. In the decades after 1864 zemstvos struggled to assert their autonomy from the central government, while St. Petersburg sought to keep the upper hand in local affairs and prevent the infringement on autocratic
The zemstvos were a junior partner to the central government in the countryside since provincial governors could interfere with the work of the zemstvos.

The zemstvos were a step towards modernizing and democratizing local government. They were an acknowledgment that the central government could not address many of the pressing needs of rural Russia. More importantly, the zemstvos marked a break with the soslovie basis of society since property ownership, not birth and status, determined a person’s role in the zemstvos. This is an important step toward a reformulation of how Russian society should be structured: true, the soslovie system remained in effect until 1917, but social, economic, and political developments were beginning to corrode it. Because of what the zemstvos represented in terms of challenging gentry dominance, the government made sure the gentry dominated the zemstvos, which could have undermined the gentry’s traditional status and privilege.

In 1870 the government issued regulations concerning the governance of cities. The regulations provided for the election of a municipal council (duma) by tax-paying residents and were constructed to ensure that the richest tax-payers (and therefore the fewest in number) dominated the city councils. The functions of these institutions paralleled those of the zemstvos.

The overhaul of the judicial system would not have occurred in the absence of the serf emancipation. The end of serfdom meant the end of the serfowners’ arbitrary authority and power over the peasants she/he owned. There was also a need to develop a system to defend property rights and handle litigation, especially now that peasants could own land. New institutions had to fill the void, and the man in charge of transforming the judicial system was an official (Loris-Melikov) who had professional expertise in legal and judicial matters.

Prior to 1864, when the new judicial statutes were promulgated, Russian courts were notoriously corrupt and unfair. Judicial proceedings were frequently held in secret, and judges enjoyed enormous leeway in the application of the law. The courts were also part of the executive branch since the judges were government officials. Punishments meted out by judges were often severe, and thousands of innocent people lingered in prisons or in Siberian exile because of the corruption and ignorance of judges and lawyers. Efforts to reform the judiciary before the serf emancipation failed because of the lack of will and intent on the part of the government.

The 1864 statutes provided Russia with a judicial system that embodied the legal principles of West European jurisprudence. The statutes acknowledged the principle of equality before the law and introduced trial by jury. Moreover, the judiciary became formally independent from the other branches of government. Over the next several decades the new court system worked well and became the envy of foreign observers who believed that the new Russian judiciary might be the harbinger of other progressive political reforms. Still, the principles of the rule of law and equality before the law as well as the independence of the courts conflicted with the underlying principles of autocratic rule. Unfortunately, the principles were not consistently applied in practice,
though we should not overlook the shift that the new judiciary meant for Russian society. After all, legal equality directly challenged the inherent inequality of soslovii.

Notwithstanding all the wonderful aspects of the judicial reform, the statutes excluded the peasants from the new administration of justice. Peasants had their own courts (volost courts) to settle legal matters among peasants. They operated according to customary peasant law, and peasants used the new courts if they were involved in a matter involving a non-peasant. In short, the reform did not operate to incorporate peasants into the world of urban justice.