

CONSTITUTIONALISM AND POLITICAL CULTURE IN IMPERIAL RUSSIA (LATE 19TH – EARLY 20TH CENTURY)

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This article analyzes the possibility of development of liberal constitutionalism in the Russian Empire during the post-reform period in the late 19th – early 20th century within the context of European history, of which Russia was an integral component. It argues that the Russian autocracy had the potential to transform itself into a constitutional monarchy during the period that followed the Great Reforms of the 1860s (1861–1881) and, second, during the Revolution of 1905–1906 and in its aftermath. This promising evolutionary process was cut short by World War I and rejected by the Soviet period of Russian history that followed. Obstacles to constitutional government were mostly objective in character, but perhaps the most significant problem was the fragmentation and insufficient development of Russian political culture, or better said, cultures that failed to produce the consensus required for effective creation and functioning of a constitutional regime. This failure was further exacerbated by an evolutionary radicalization of revolutions in modern European history that culminated in October 1917. The author concludes that the events of the late 1980s and the Revolution of 1991 changed the character of the Russian historical landscape and provided the potential for renewed development of a pluralistic political system and a strong civil society that is its precondition.

Keywords: autocracy; constitutional monarchy; liberal bureaucracy; Polizeistaat; Rechtsstaat; political culture.

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Introduction

At the turn of the 20th century, the Russian autocracy, as the last, most durable and therefore, arguably, most successful absolute monarchy in modern European history, was rapidly becoming an anachronism in the European state system. Not unlike other European regimes in the past, it faced major and growing political challenges to its continuation and even survival. These challenges were exacerbated by the rapid social and economic growth, starting in the late 1880s–1890s, that was causally linked with and complicated the resolution of political problems.

On the one hand, the Imperial government was confronted with increasingly vocal demands for significant reform. After an era of successful political repression that lasted some twenty years, the autocracy faced rising agitation for political liberalization and popular representation in government (constitutional reform) from within Russian society. These demands originated in the institutions of local self-administration (the *zemstvos* and municipal dumas) and were supported by growing elements of what can be characterized as the Russian urban middle class (the so-called “free professions” and the politically self-conscious elements within the business, industrial and commercial communities).

The oppositional forces within Russian society could have found potential allies among sympathetic members of the Imperial civil service. Members of the liberal bureaucracy had long hoped, following the precedent established during the drafting of the Emancipation Act of 1861, to extend the initiatives of the Great Reforms and to introduce some form of popular representation in the Council of State, the supreme institution of the Russian autocracy specifically entrusted with the function of drafting legislation. The members of the Council were mostly chosen personally by the tsar from the top officials of the central institutions of the state, former ministers, senators as well as some governors and military officials, reaching the end of distinguished careers, who for all practical purposes held tenure for life and had little fear of dismissal for incurring the displeasure of the Emperor (only two individuals were dismissed from the Council during the course of the 19th century). They were proud of their institution and their status as senior statesmen, and they took their official responsibilities seriously and conscientiously. The political significance and legislative role of the Council of State in the system of the Russian

government are often underestimated. For example, only “opinions” of the Council of State, sanctioned by the Emperor, could be designated as “laws” (*zakony*) and were formally distinguished from other governmental actions that had the force of law, such as, for example, Imperial decrees (*ukazy*), manifestoes, etc. However, the last Romanovs, from Alexander II to Nicholas II, regardless of their differences in intelligence, character or personality, were keenly jealous of their prerogatives. They repeatedly rejected such reform proposals as endangering and subverting the principle of autocratic rule and perceived them, not without some logic and reason, as the first step toward the creation of a Russian parliament with all the consequences that that would entail, and in this they could count on the support of the majority of the Imperial bureaucracy and the military. Thus, any hope for an incremental and evolutionary transformation of Imperial government with limitations on the power of the autocracy that could result in a constitutional polity required not only great political skill, persistence, flexibility and restraint on the part of the reformers, both inside and outside of government, but also the ultimate cooperation of the monarch, seemingly a Sisyphean task.

On the other hand, there was the alternative possibility of radical revolution that brought into question the very survival of the Russian autocracy. In the late 1890s and the early years of the 20th century, the Russian Empire witnessed a revival of the revolutionary movement that had its origins in the 1860s. Various revolutionary groups and parties, ranging from anarchists to Socialist Revolutionaries and Marxist Social Democrats, were growing in size and popularity, at least in part because their social base was also expanding, along with the rise and diversification of the middle class. The revolutionaries came from all walks of life, from hereditary nobles to teachers, students and commoners, from privileged estates to the radical urban intelligentsia of mixed social origin. They sought mass support from within the peasantry and the industrial working class with some success. Indeed, the years before 1905 were marked by peasant disturbances and workers’ strikes motivated both by revolutionary agitation and by the growing realization of their own interests by the masses themselves, who were proving capable of playing an independent role in the political process. The modernization of the Russian economy and society were creating consequences that were coming into conflict with the traditional political order.

To be sure, it is difficult, even today, to evaluate the historical significance and real strength of the Russian revolutionary movement, leaving aside the more difficult and ultimately more interesting problem of the social and political consciousness of the masses themselves. Throughout the 20th century, many Western and especially Soviet Marxist historians focused on and extensively studied various 19th-century revolutionary figures, circles and organizations, often very small in numbers and ineffective in action, and even the much more significant movements of the first decades of the 20th century, not only within the context of the contemporary historical

situation but also through the prism of the Revolution of 1917 that followed. In fact, it is possible to claim that Russian history as a whole, from the early Muscovite period onward, is sometimes perceived as a trajectory leading to the Revolution and the creation of the Soviet system as we know it. What actually happened had to happen (this historiographic tendency is not uncommon and was also present, for example, in many Western monographs on the origins and causes of World War I). Historians concentrated their research efforts and powers of analysis on those historical factors and tendencies that seemed to represent causal factors pointing toward 1917 at the risk of neglecting alternatives and potentialities that were also present at the time. This inclination toward the concept of historical inevitability is both tempting and natural, and we simply cannot conceive how we would have evaluated the historical significance of the Russian revolutionary movement had the Revolution not taken place, other than to say that it would have likely been quite different. What we can say with a considerable degree of certainty is that the Russian government was greatly alarmed over revolutionary activity, and with good reason, given, for example, the terrorism of the People's Will and the Socialist Revolutionary Party. In fact, the Russian autocracy was inordinately worried about any and all expressions of political dissent and did its best to suppress them, often with considerable success. Whether a more measured approach that could have driven a wedge between liberals and revolutionaries in Russian society, especially in moments of crisis, would have been more effective is difficult to tell. All the same, the specter of revolution, whether real or imagined, haunted the Russian Empire.

As we all know, the revolutionary option, first manifesting itself in 1905–1906, ultimately won out in 1917, but the question remains as to whether a constitutional system was a possible alternative in Russian history. Could the Russian Empire have been transformed by peaceful evolution into a modern constitutional monarchy and developed a pluralistic political system? Before discussing this question, it would be instructive to look at the nature and content of liberalism itself and the constitutional experience of other major European countries, since Russia was and remains an integral part of modern European history.

1. A Comparative Perspective: Liberalism and Constitutionalism in Europe

As a general proposition, it may be argued that the doctrine of classical European liberalism, and its twin, constitutionalism, originated in the late 17th century (John Locke), developed an economic component in the 18th century (Adam Smith) and culminated in the first half of the 19th century as the ideology of the middle class, championing its political, social and economic interests and opposed to the monarchical, aristocratic and mercantilist (cameralist) structure of the European *anciens régimes*. The philosophy of liberalism basically contained three

complementary but, in some respects, also contradictory elements. The first was the idea of inherent and inalienable human rights, founded in natural law, that belonged to each individual *qua* individual (the assumption of atomistic individualism) and included the rights to life, liberty and property (Locke), as well as the right, among others, to freedom of conscience, religion, speech, the press, petition and assembly as enshrined, for example, in the U.S. Constitution. Perhaps the clearest expression of this emphasis was J.S. Mill's famous essay "On Liberty." This aspect of liberalism also included the principle of equality under the law for all members of society that was, to say the least, unevenly applied through much of the 19th – early 20th century, for example in regard to women. The idea of equality under the law was primarily aimed at the legally defined and hierarchical social organization (estates) of the old order, with its system of unequal privileges and obligations.

The second, and for the purposes of this paper the least relevant, element of liberalism was economic and based on the theories of classical economists, with the major exception, of course, of their last major figure, Karl Marx. Liberal economic theory can be pretty much identified with the patterns and practices of industrial capitalism and *laissez-faire* economics of the late 18th – first half of the 19th century. It was based on the labor theory of value, private ownership of capital and the means of production, sale of wage labor, free trade and individual competition, and the idea of a self-regulating free market that, by operations of an "invisible hand," reconciled the pursuit of selfish private interest by individuals to produce societal economic progress and prosperity. Although the state was not deprived of a positive role in economic life, its main function was primarily negative and limited. The role of government was to permit autonomous functioning of the economy with a minimum of intervention, restraint and regulation. Of course, somewhat contradictorily, the state was also to be proactive in protecting private property rights and creating conditions and institutions that would benefit the growth of capitalism and the interests of the new middle class. For example, the state was expected to prohibit labor unions and strikes because they represented a restraint on trade in liberal philosophy. Later on, as the problematic social consequences of unbridled capitalism became clear and popular discontent rose, liberal reformers began championing policies designed to aid and protect the lower classes of the new industrial society as early as the 1840s.

The third and final element of classical liberalism was political. Political philosophy of liberalism was based on the principle of popular sovereignty, limited franchise, separation of powers, a representative government with either a unicameral or bicameral legislature and an independent judiciary enforcing the rule of law and the civil and political rights of the citizens. These principles were usually embodied in a written constitution that defined the form, powers and institutions of a given state and government. Constitutions were usually constructed by some form of an elected popular assembly, but sometimes granted by the ruler. For most of the

19th century, the majority of European states, whether liberal or authoritarian, were constitutional monarchies, with, of course, the major exception of the Russian Empire. It is sometimes forgotten that as late as 1914 only one major European state, France, was a republic (there were indeed three other republics, the minor states of Portugal, San Marino and Switzerland). In this, as in other respects, the old political order gave way only gradually and reluctantly.

One should note here, however, that liberal constitutionalism had to deal with challenges of its own in the second half of the 19th century. It faced growing demands for extension of the franchise and political representation to include additional social forces, and it had to adjust to the growth of socialism and the self-organization of the working class and the industrial proletariat. In the 20th century, liberalism became fully democratized and adopted the program of the so-called “welfare state” in order to compete not only with the social democrats and communists but also with the phenomenon of fascism. In short, liberalism kept evolving ideologically and programmatically so that today modern liberals, in places such as the United States, prefer to style themselves as “progressives” and champion ideas once characteristic of socialist parties. In fact, there is by now a world of difference between classical and modern liberalism, the former actually appearing to belong on the conservative side of the contemporary political spectrum in the United States and Western Europe.

Be that as it may, liberal constitutionalism in Europe developed primarily in countries with a strong middle class and a developed industrial economy. It originated in and depended on a well-organized civil society with which it stood in a symbiotic relationship. Thus, the influence of liberalism varied in direct proportion to the strength of these factors in different countries and the vitality of the traditional monarchical political and social order that it strove to supplant. By the second half of the 19th century it was victorious in the West, weaker in Central and Southern Europe, and marginally present in the East and the Balkans, and in Russia.

Thus, European liberal and constitutional regimes manifest considerable variety in terms of origin, timing and form. The British constitution, for example, originated in the English Civil War (1640–1660) as a political conflict between royal authority and Parliament that was interrupted by the Restoration of the monarchy and regained momentum only with the so-called Glorious Revolution of 1688. The issue of royal absolutism vs. parliamentarism was decided by the beginning of the 18th century, well before the advent of an industrial society. The product of an oligarchic and deferential society, the British constitution integrated the rising middle class into parliamentary government with the Reform Bill of 1832, and further extended the franchise in 1867. It assumed more democratic forms only in the late 19th century and 20th century, while continuously maintaining its core principle of the supremacy of Parliament. Despite its revolutionary origins and periods of radical popular agitation, the British constitution is essentially incremental and evolutionary in character and has never been formalized in a single document, in part because of its early

origins and in part due to the willingness of the monarchy and the traditional elites ultimately to compromise with demands for sharing political power.

The modern French political system, however, while also originating in a pre-industrial and hierarchical society, began with a political and social revolution in 1789 consciously intended to establish a constitutional regime. Three essentially failed written constitutions (1791, 1793 and 1795) transformed what was originally a constitutional monarchy into a radical republic in conditions of increasing violence and conflict that ended with Napoleon's dictatorship. The tradition of revolutionary radicalism greatly influenced French political history of the 19th century and engendered considerable political instability. Other constitutions and regimes followed Napoleon. Bourbon restoration was followed by the classical liberal constitutional monarchy of Louis Philippe (1830–1848) that was also overthrown by revolution. The revolution of 1848 within four short years led to Napoleon III's regime that hid authoritarian rule behind a constitutional façade. Napoleon III's Empire, according to some historians, manifested and anticipated a number of features of 20th-century dictatorships, and represented an anomaly in the world of 19th-century European monarchies. Thus, it can be argued that the French system of republican and representative government was stabilized only in 1871 with the emergence of the Third Republic. In comparison with Great Britain, French liberalism, although ultimately victorious, and perhaps more democratic in character, had a rocky road to travel.

The experience of Central and Eastern Europe was equally different and the impact of liberalism less than in the West. There, popular demands for constitutional government came later and were shaped and constrained both by strong traditions of royal absolutism and by the later development of the capitalist middle class and industrial economy. As a result, constitutional demands and revolutionary uprisings (for example, in 1848) were generally not successful, and liberal goals had to be compromised and only partially attained. Written constitutions were mostly granted by the existing governments to serve their own purposes or as concessions in response to major policy failures.

For example, the German Constitution of 1871 was engineered by Bismarck to maintain the dominance of Prussia and its military and bureaucracy over the newly formed German Empire. Despite the fact that it had a federal constitution, bicameral legislature and universal manhood suffrage, Imperial Germany was politically authoritarian and only economically liberal. Bismarck, bolstered by the military victories of the 1860s and the successful creation of the *Second Reich*, operated from strength and could use the appeal of German nationalism to gain his objectives. German liberals were torn between their original pacifist and anti-militarist tendencies and the rising tide of nationalism. Moreover, the liberal parties in Germany had to compete with a strong socialist movement and so made common cause with the conservative forces to keep the socialists out of the government before 1914, although the German Social Democratic Party eventually became

the largest single party in Imperial Germany. Bismarck and his successors knew how to manipulate the system to their advantage, and the German liberal political parties had to share power with the monarchy and the traditional Prussian elite, the Junkers. The German Empire was and remained an authoritarian state, despite some democratic trappings, until its demise in 1918.

On the other hand, some states had relatively little to fear from liberalism and introduced constitutional concessions only to save the existing dynasties and governments after major military defeats. For example, the Austrian Empire, after trying to maintain royal absolutism as late as the 1850s, had to grant constitutional concessions after defeat in the Austro-Prussian War of 1866 and was reorganized as Austria-Hungary by the *Ausgleich* of 1867. The Russian Empire made its first constitutional concessions only after defeat in the Russo-Japanese War of 1904–1905. Despite being in the throes of a revolution, the autocracy issued the October Manifesto in 1905 and promulgated the Fundamental Laws of 1906 by unilateral action and without public participation, an action with significant political consequences.

One should also recognize that a constitution is not only a document or an event but also a process. Whatever the constitutional provisions of a given political system, they would have little effect unless supported and implemented by an appropriate and generally shared political culture. Political culture is here defined in broad terms as comprising not only the formal conceptualization of the nature, scope and purposes of government but also the unspoken attitudes and assumptions about proper forms and limits of political action and behavior. In fact, successful constitutionalism requires a general consensus among the key political actors and factions, a political, and not only political, *Weltanschauung* (*mirovozzrenie*), characteristic primarily of countries with well-established civil societies, whether oligarchic or democratic. The government and its officialdom had to share a common political culture with society at large and tacitly had to agree to observe its norms and behavioral habits to make the system work successfully. All of these factors, when considered together, help us understand the significant differences in the constitutional evolution of Western, Central and Eastern Europe, and Russia.

2. *Polizeistaat* and *Rechtsstaat*

Given the relative strength of royal absolutism and its bureaucratic apparatus in Central and Eastern Europe and corresponding weakness of liberal forces, the development of liberal constitutionalism in those areas, of necessity, relied less on formal documents, guarantees and legislative bodies than on the Germanic concept of *Rechtsstaat* (the legal state), a political and legal theory developed by jurists and liberal thinkers in Central Europe. This approach postulated an independent judiciary and political culture that would restrain royal power and the operations and behavior of the administrative apparatus by legal norms. It downplayed the

principle of popular sovereignty and relied on the authority of the legal system to establish limits on state power and to promote civic rights. The idea of “the legal state” (*pravovoe gosudarstvo*) represented the mainstay of this kind of liberalism.¹ It was intended to reconcile the reality of the traditional political and social order with the constitutional aspirations of liberalism. However, the idea that law was the foundation of good government pre-dated the theories of *Rechtsstaat* and can be traced to much older political traditions and practices generally subsumed under the term *Polizeistaat* during the 16th–18th centuries.

Before discussing the meaning and content of the concept of the *Polizeistaat* itself, a brief terminological and definitional analysis is in order. The concept of the police state, developed in the 1930s, is relatively new to political science. It refers to states

characterized by repressive governmental control of political, economic and social life ... by an arbitrary exercise of power by the police and esp.[ecially] secret police in place of the regular operations of the administrative and judicial organs of government according to established legal processes ...²

This usage reflects the modern definition of “police” as pertaining to the agencies of law enforcement that appeared in Europe in the first half of the 19th century and, of course, to modern organs of state security. Until then, throughout the 16th – early 19th century, the concept of “police” embraced the totality of governmental administrative and regulatory activity and was synonymous with “public order,” “proper administration” or even “good government” in all European languages, including English. For Sir William Blackstone, for example, the term “police” meant “the due regulation and domestic order of the kingdom.”³ The vestiges of the older English usage remain today only in phrases such as “the police powers of Congress,” i.e. the regulative authority of the United States legislature, or the expression “policing the grounds,” which means keeping an area clean and in good order. That is why the term *Polizeistaat* is preferable in order to distinguish the traditional from the modern police state.

The traditional *Polizeistaat* (sometimes referred to as “regulative,” “regular” or even “welfare state”) represents a specific form of European absolute monarchy that originated in the 17th century, flowered in the 18th century and was replaced, except in Russia, by modern forms of government in the 19th century. It reached its apogee in the Prussian monarchy of the 17th and 18th centuries, but its ideas and

¹ Leonard Krieger, *The German Idea of Freedom* (Boston: Beacon Press, 1957).

² *Webster's Third New International Dictionary of the English Language* (Cambridge, Mass.: Riverside Press, 1961).

³ *Palgrave's Dictionary of Political Economy* 124 (H. Higgs (ed.), 3rd ed., London: Macmillan, 1926).

practices were adopted by the European states in general, especially during the era of so-called “enlightened despotism.” It originated in the greater power and authority that European kings and princes were beginning to exercise over their territories in the early modern period, starting in the 16th century, and was legitimized by the new conceptualization of natural law that placed primacy on reason and utility as guiding the forms and actions of government. Political theory was secularized and divorced from the “idea of society as the will of God,”⁴ and became a rational, abstract speculation about the principles of natural law, the nature of man, and the form, content and purposes of government. Sovereignty, the distinguishing attribute of the state and, by definition, absolute and indivisible, was vested in the person of the ruler, who functioned as its first servant. Thus, natural law empowered the monarch to exercise wide discretionary, and even arbitrary, authority to provide for the common good and general welfare of the realm as a whole and all of its inhabitants. The monarch, guided by reason but wielding absolute power, and his agents would exercise paternalistic tutelage over society for its own good in order to promote progress. The monarchy would “police” the realm by ordinances, edicts and regulations that would be administered by a rationalized and bureaucratized administration guided and constrained in its actions by standardized and uniform legal rules. In practice, this entailed the wide-ranging and unprecedented expansion of state power and authority over all aspects of political, social and economic life. Social, economic and moral legislation, ranging from family and personal life, control of vagabondage and sumptuary laws to church affairs and religion, education (primary, secondary and university), culture, public health, urban organization and public works, sanitation, fire, and police protection, promotion of trade, regulation of mining, forestry, markets and fairs, manufacturing and agriculture, taxes and tariffs, affecting rich and poor alike, all were grist for the mills of government activity designed to discipline and improve society but, lest we forget, primarily for the interests of the absolute ruler and the state, not for the benefit of the individual subject.⁵ The people were the clay to be shaped by an authoritarian but benevolent and paternalistic order whose duty was to “embitter” (*oblagodetel'stvovat'*)⁶ the people and promote their spiritual and material well-being. As the favorite maxim of Charles III of Spain put it:

Everything for the people, but nothing by the people.⁷

⁴ John B. Wolf, *The Emergence of the Great Powers, 1685–1715* 301 (New York: Harper & Row, 1962).

⁵ Brian Chapman, *Police State* (London: Macmillan, 1970); Reinhold A. Dorwart, *The Prussian Welfare State Before 1740* (Cambridge, Mass.: Harvard University Press, 1971).

⁶ Ивановский В.В. Учебник административного права [Viktor V. Ivanovsky, *Administrative Law Textbook*] 18 (4th ed., Kazan: Typolithography of V.Z. Eremeev, 1911).

⁷ R.J. White, *Europe in the Eighteenth Century* 195 (New York: St. Martin's Press, 1965).

The grandiose scope and objectives of the traditional *Polizeistaat* have tempted some scholars, for example R. Dorwart, to compare it with the modern “welfare state” with its ever-expanding power and jurisdiction, interventionist policies, social engineering and promotion of economic development and progress. While it is true that the traditional police state and the modern welfare state have many features in common, and stand in contrast to the ideas of progress, social improvement and methods of governance championed by classical liberalism that separated them chronologically, there are also significant differences. In theory, the monarch was given absolute power to pursue the common good and general welfare because, “He who holds absolute sovereignty is not understood to be able to will anything but what sane reason can discover to be appropriate for that end” and could, therefore, “rightfully force citizens to do all things which he [judged] to be of any advantage to the public good.”⁸ In reality, the power of the absolute monarch was used to promote personal aggrandizement, defend one’s dynastic interests and permit territorial expansion. The monarchical economic policies were influenced by theories of Central European cameralism, a broader version of the doctrine of mercantilism that went beyond economic and fiscal concerns to embrace the entire sphere of public administration, including political economy, law, legislation and ‘police’ activity of government to create a full blown theory of statecraft. Such theories were represented, for example, in the works of Veit Ludwig von Seckendorff (1626–1692), Christian Wolff (1679–1754), Johann Heinrich Gottlob von Justi (1717–1771) and Joseph von Sonnenfels (1732–1817). Cameralist policies, however, were primarily applied to benefit the royal treasury, to fund a powerful military force and to pay the expenses of the royal court, usually the two largest items in the budget of the 18th-century monarchy.

Even more important are the differences regarding the role and significance of the law under royal absolutism. Public law in the *Polizeistaat* was essentially an expression of the monarchical will, a royal command. It was identified almost exclusively with administrative law and represented government *through* law rather than *the rule of law*, characteristic of 19th- and 20th-century liberal governments. Public law was intended to augment the power of the monarch by introducing uniformity, standardization and greater efficiency in the operations of royal administration as well as to define and circumscribe the jurisdiction and authority of the bureaucracy lest it employ its own discretion⁹ and endanger the exercise of royal authority. Law was the lever for the exercise of royal power, not the protector of the subjects against an arbitrary government or its servants. It was a mechanism of efficient and consistent rule. That is why monarchs such as Joseph II of Austria and Tsar Alexander I

⁸ Samuel Pufendorf, *De jure naturae et gentium libri octo* II 1012, 1077 (C.H. & W.A. Oldfather (trans.), Oxford II 1934) as cited in Krieger 1957, at 53, 58.

⁹ Hans Rosenberg, *Bureaucracy, Aristocracy and Autocracy: The Prussian Experience, 1660–1815* 46–50 (Cambridge, Mass.: Harvard University Press, 1958).

of Russia could speak of constitutions or fundamental laws for their realms without any sense or presence of contradiction.

This situation also fundamentally shaped the nature, role and behavior of the bureaucracy that administered and enforced the monarch's will. Royal officials were, first and foremost, dynastic servants of the monarch, not servants of the public. They were recruited from various social categories, from nobility to commoners, and they included both military officers and civil functionaries, but they owed their primary loyalty to the ruler, despite considerable social and institutional rivalries and competition from within. Eventually, the civil and military bureaucracies became more clearly distinguished and, in Prussia, they emerged as separate occupational social groups (estates) – the civil bureaucracy (*Beamtenstand*) and the corps of military officers (*Officiersstand*). Especially in the civil bureaucracy, their social status was eventually derived from and depended on their professional training and rank in the official hierarchy, regardless of their social origin, and there, as in Russia, they were keenly aware of the significance of the civil service career ladder and their position and place on it. The top layers of the Prussian bureaucracy were reasonably well remunerated for their service and could materially benefit from it as well. Gradually, they also acquired professional expertise, usually consisting of legal training, and developed an esprit de corps.¹⁰ Their authority and self-esteem were derived from their function as the agents of the absolute monarch and they acquired some of the aura of his power. In fact, according to Rosenberg, the Prussian officialdom in the early 19th century emancipated itself from monarchical authority and developed its own bureaucratic absolutism (*Beamtenstaat*).¹¹

The Russian autocracy, starting with Peter the Great, adopted the ideology, institutions and ethos of the *Polizeistaat* as characterized above. While the modernization of Russia had begun already in the 17th century, it is difficult to underestimate the significance of the Petrine revolution for the Russian state, society and culture. It is true that many of his reforms were not clearly thought through and were driven by the exigencies of constant warfare and the needs of the moment, that some proved unrealistic and had to be abandoned soon after his death, and that he lacked human and material resources available to Western absolutism, but it is also true that he accomplished as much as an individual could hope to achieve in a lifetime. While retaining some features of the traditional Muscovite order, for example the principle of compulsory service of the gentry that Prussian monarchs, for instance, would never dare institute, Peter adopted the political theory of royal absolutism based on natural law, the European (primarily Germanic and Scandinavian) organization of absolute government (collegial system), formally structured and hierarchical bureaucracy (Table of Ranks), and even the inquisitorial system of justice administration and

¹⁰ Rosenberg 1958, at 57–136.

¹¹ *Id.* at 175–228.

many of its legal norms. The ethos and program of the *Polizeistaat* were followed, more or less consistently, by his immediate successors, endorsed by Catherine II and maintained by the 19th-century Romanovs, even after the Great Reforms of the 1860s, until the Revolution of 1905–1906, while its echoes could be felt right up until 1917.¹² The Russian Empire was not fertile soil for the propagation of liberal and constitutional ideas, so that alternative means were necessary to champion change and reform.

The Romanov tsars saw autocracy as the natural and fundamental principle of Russian statehood and were prepared to defend it at all costs. In this, they were supported by most of the officialdom, military and much of the Russian public. It is sometimes forgotten how close informational and other links were between Europe and the Russian Empire. The Emperors and their government keenly followed political, social, economic and cultural developments in the West and were prepared to anticipate and forestall what they saw as any unwelcome influences penetrating into the Russian Empire. Although liberal and even radical ideas and sentiments were present in Russian society at large, no Russian statesman, at least starting with the reign of Nicholas I, could espouse liberal ideas or propose reforms that had even a whiff of constitutionalism about them, and the Imperial civil servants were acutely aware of this fact. Their own views, of necessity, had to be internalized, disguised and couched in conventional rhetorical forms, all of which presents problems in analysis of the political culture of the autocracy and its officialdom. And yet, the necessity of reforming the Russian government and society, for a variety of reasons, was becoming ever more apparent as the 19th century progressed, especially after the debacle of the Crimean War. Thus, it stands to reason that any constitutional reform and possible limitation of tsarist autocracy was much more likely to follow the Central European rather than the Western model.

The initial impetus for reform dates, interestingly enough, to the reign of Nicholas I and was based on pragmatic and utilitarian grounds. It produced the codification of Russian law by Michael Speransky and efforts to improve the administration of justice by the creation of the Imperial School of Jurisprudence in 1835. The elite school, comparable to the Lyceum of Tsarskoe Selo, was established with the express purpose of training individuals from the hereditary nobility of modest means, many on state scholarship, to serve in the Ministry of Justice, the Senate and the courts for a minimum of six years after graduation. Given the scarcity of trained jurists of any kind in the Imperial bureaucracy, its graduates were recruited by many other institutions of the central government and played a role out of proportion to their relatively

¹² Сыромятников Б.И. «Регулярное» государство Петра Первого и его идеология. Ч. 1 [Boris I. Syromyatnikov, *The Regulatory State of Peter the First and Its Ideology. Part 1*] (Moscow: Publishing House of the USSR Academy of Sciences, 1943); Marc Raeff, *The Well-Ordered Police State: Social and Institutional Change Through Law in the Germanies and Russia, 1600–1800* (New Haven, Conn.: Yale University Press, 1983).

small numbers during the reigns of Alexander II and Alexander III in formulating the policies of the Russian autocracy. Other officials, such as Nicholas Milyutin, were also acutely aware of the unsatisfactory state of affairs in the provincial administration that could not be trusted to provide accurate and relevant information to the central government for its decision-making process. The Crimean War convinced Alexander II that more radical steps were required, including the abolition of serfdom, military reform, reorganization of local and municipal government, etc. All of this gave an opening to reform-minded officials in the central government to develop a strategy that would bring Russia closer to Europe, but without any ostensible undermining of the principle of autocracy. The concept of *Rechtsstaat*, without ever being formally articulated within the ranks of the Imperial civil service, became the tool, as will be discussed below, for attainment of their goals.¹³

The first step in this direction, possibly unintentionally, had already been taken. The Russian Codex of Laws (*Svod zakonov*) was compiled in the 1830s under the aegis of Speransky. Article 1 of the Fundamental Laws in the first volume defined the attributes of the tsar's power. The All-Russian Emperor was described as an autocratic/absolute (*samoderzhavnyy*) and "unlimited" (*neogranichennyy*) monarch, whose authority was "ordained by God himself." Article 47 defined the method by which his authority was exercised and formalized the principle of "legality" (*zakonnost'*):

The Russian Empire is governed on the firm basis of positive laws, establishments, and statutes emanating from the autocratic power.

These principles represented two key attributes of the European *Polizeistaat* and de facto recognized the Germanic doctrine of the auto-limitation of the monarch in the Russian autocracy. The two articles, when taken together, proclaimed that the Russian autocrat governed not despotically but through legal means, which meant that he had to observe the laws promulgated by his authority until and unless they were modified by him through formally established procedures. The tsars tacitly accepted this principle as, for example, when Alexander II wanted to dismiss Senator M. Lyuboshchinsky for an impolitic public speech and was told by the Minister of Justice that he could not do so because the senator served in one of the two departments of the Senate which were part of the judicial reform of 1864 that provided judges with tenure for life (*nesmeniaemost'*). The problem, of course, was one of how to implement this principle fully and consistently in practice for the Russian government as a whole. The liberal civil servants hoped to achieve this goal by broadening the conceptualization of "legality" and institutionalizing it throughout the scope and functioning of the Russian autocracy. As a result, de

¹³ William B. Lincoln, *In the Vanguard of Reform: Russia's Enlightened Bureaucrats 1825–1861* (DeKalb: Northern Illinois University Press, 1982); Richard S. Wortman, *The Development of Russian Legal Consciousness* (Chicago: University of Chicago Press, 1976).

facto constitutional limitations on the Russian autocracy could be implemented by institutional and legal reform without any overt reference to constitutional order. It goes without saying, however, that Russian reformers faced monumental obstacles in this attempt to establish the Russian variant of *Rechtsstaat* on Russian soil.

To begin with, there were serious structural impediments to the development of liberal constitutionalism in the Russian Empire. The prerogatives of the Russian tsars were greater than those of the Western monarchs, and their control over their bureaucratic apparatus and the military firmer, at least after 1825. They had little to fear from an organized society although they relied heavily on the landed gentry for both political and administrative support, and their government was seen by many as necessary to control the vast masses of the potentially volatile peasantry.

However, the Russian autocrats lacked the requisite human and material resources for effective governance to match those of Western absolutism and European governments in general, a problem apparent already to Peter the Great and his 18th-century successors. Paradoxically enough, even the allegedly mighty militarized and bureaucratized autocracy of Nicholas I could barely administer its domains, much less meet the ambitious goals and program of the *Polizeistaat*. A significant part of the problem was that Russian society, in comparison with the West, simply lacked sufficient numbers of educated individuals to staff a large state apparatus, especially those with legal and technical training that were becoming prerequisites for a successful bureaucratic career elsewhere in Europe. Furthermore, Russian law did not set any qualifications, other than social background, as required for state service, although formal education was becoming a necessity for a successful civil service career during the first half of the 19th century. An effort sponsored by Speransky to require educational qualifications for entering the Table of Ranks in the reign of Alexander I proved exceedingly unpopular and was soon abandoned. The lack of proper governance was felt especially in the provincial government, as well as in the administration of justice (interestingly enough, the latter was successfully resolved by state sponsorship of legal education and the reform of the judicial administration in 1864). In the view of one American historian, the Russian Empire in the 19th century was simply “undergoverned.” To illustrate his point, he estimated that in mid-19th century the Russian Empire had the ratio of somewhere between 1.1 to 1.3 civil servants per 1,000 of the population, while liberal Britain had 4.1 and France 4.8.¹⁴ While one can quibble about what to include in the definition of civil servants or government officials, the contention in this argument rings true.

The scope of state activity was expanding in Russia as well as in the rest of Europe during the 19th century and demanded a more numerous and more professionally trained bureaucracy, especially after 1861 when the government could no longer

¹⁴ S. Frederick Starr, *Decentralization and Self-Government in Russia, 1820–1870* 48 *passim* (Princeton: Princeton University Press, 1972).

rely on the gentry landlords to police the peasantry. The *zemstvo* reform of 1864 and the municipal reform of 1870 attempted to address this problem. However, the main difficulty with the new institutions was that they embodied features that reflected the traditional autocratic conceptions of the relationship between the state and society. They were less institutions of self-government as understood in Europe and more organs of self-administration, echoing a pattern that can be traced back to the Muscovite autocracy and the reforms of Catherine the Great. They were empowered to deal only with “local” (*mestnye*) and “economic” (*khozyaystvennyye*) matters and had no right to involve themselves in “matters of state” (*obshchegosudarstvennyye dela*) that remained the exclusive preserve of the bureaucracy. The autocracy and its servants retained full control over “state” (*gosudarstvennyye*) or “governmental” (*pravitel'stvennyye*) affairs. *Zemstvos* and municipal Dumas lacked full jurisdictional and fiscal autonomy, performed many duties mandated by government and were under the close supervision of the Ministry of the Interior. In the minds of many Russian bureaucrats imbued with the ethos of the *Polizeistaat*, as well as the law, they were only empowered to deal with “societal” (*obshchestvennyye*) not “governmental” affairs. This situation produced tension and conflict between the “State” (*gosudarstvo*) and “Society” (*obshchestvo*). It should be stressed that these are not just technical terms but also code words that represent the subtext of political discourse and reflect differing political cultures of 19th-century Russia. Nevertheless, despite its inadequacies, the reform of local government as well as the judicial reform of 1864 proved to be the most successful of the Great Reforms and introduced what has been characterized as “germs of constitutionalism” in the Russian autocracy.¹⁵

Second, the Russian monarchy had a powerful social base in the military and the Imperial civil service. The growth of the civil service bureaucracy began in the reign of Catherine the Great, especially after the provincial reform of 1775 (for much of the 18th century many administrative functions were performed by military officers), and intensified in the reign of Nicholas, although the size of the Russian bureaucracy was still relatively modest. As late as the 1860s, the top three ranks of the civil bureaucracy in the Table of Ranks numbered only a few hundred individuals. However, the growth of the civil service, and its rising importance in the Imperial government in comparison with the traditional role of the military, had profound social and political consequences. By law, only hereditary noblemen, or children of individuals in state service (*gosudarstvennaya sluzhba*), could enter service and progress through the Table of Ranks. In practice, many state servitors, especially in the provincial bureaucracy, were recruited from non-noble social groups and eventually (sometimes generationally) rose to the estate of hereditary nobility

¹⁵ Marc Szeftel, *The Form of Government of the Russian Empire Prior to the Constitutional Reforms of 1905–06 in Essays in Russian and Soviet History in Honor of Geroid Tanquary Robinson* 105–119 (J.S. Curtiss (ed.), New York: Columbia University Press, 1963).

through state service. Equally important was the fact that many state officials were not only well-to-do gentry, but also came from the poor landed or even landless nobility who could not support themselves and their families from their estates only.¹⁶ This situation gave rise to a distinct and growing social subgroup comprised primarily of landless state servitors who depended on the government for both their social status and their income and comprised a significant portion of the civil service officials, not only in the provincial government but also in the central government in St. Petersburg. They were professional, career bureaucrats who also had a collective interest in the maintenance and survival of Russian absolutism.

However, the Russian bureaucracy was more than just an occupational group. It was a significant social category in its own right, with its own loyalties and interests that cut across the official structure of the Russian system of estates. This category overlapped with but cannot be identified with the traditional landed gentry (*поместное дворянство*) nor with the estate of hereditary nobility (*потомственное дворянство*), many of whose members were no longer involved in state service and could be said to belong, socially and economically, to the urban middle class. Therefore, the autocracy no longer had to rely primarily on the landed gentry for political support and government service, as it had for centuries.¹⁷ It created its own social base in the Imperial civil service and the officer corps, although by this time the military played no active role in Russian politics. In my opinion, that is one reason, along with the traditional fear of peasant revolt and growing recognition of the iniquity of servitude, why the abolition of serfdom, impossible to attain in the 18th century, was accomplished peacefully in 1861. The tsar and his bureaucracy ultimately put the interests of the state above the interests of the noble landlords and overcame what was in any case a lukewarm defense of serfdom, both inside and outside of government. In this connection, it is worthy of note that the democratic United States, with a much stronger civil society and a constitutional, limited and representative government, fought a bitter civil war over the issue of slavery at the same time. The Russian experience with the abolition of serfdom, paradoxically enough, testifies to the continuing power and prestige of the autocracy in the 19th century.

As their numbers grew and their role in the administration of the state became ever more prominent, the majority of the civil service officialdom adhered to the

¹⁶ Walter M. Pintner, *The Social Characteristics of the Early Nineteenth Century Russian Bureaucracy*, 29(3) *Slavic Review* 429 (1970).

¹⁷ Тарановский Т.К. Особенности российской самодержавной монархии в XIX столетии // Российская монархия: вопросы истории и теории: Межвузовский сборник статей, посвященный 450-летию учреждения царства в России (1547–1997 гг.) [Theodore K. Taranovski, *Distinguishing Features of the Russian Absolute Monarchy in the 19th Century in The Russian Monarchy: Questions of History and Theory: Interuniversity Collection of Articles Dedicated to the 450th Anniversary of the Establishment of the Kingdom in Russia (1547–1997)*] 157 (Voronezh: Istoki, 1998).

traditional ethos of the *Polizeistaat*.¹⁸ What could be termed the conservative wing within the Russian bureaucracy was situated mostly in the Ministry of the Interior, the largest and most important institution of the Imperial civil administration, and in the provincial bureaucracy under its control. The conservatives supported the personalized and bureaucratized absolutism embodied in the Emperor, and saw themselves primarily as the dynastic servants of the sovereign monarch who partook of the aura of his power. They were not public servants in the modern sense of the term. Only the Emperor and his bureaucracy were capable of serving the common good and the general welfare of the state and the nation as a whole. The entire sphere of what can be called politics, the formulation and implementation of public policy, was not only the exclusive monopoly of the Imperial government, it was also shrouded in official and legal secrecy. Society and public opinion, unlike in the rest of Europe, were formally excluded from participation in this process. The people were subjects, not citizens. In the view of the bureaucracy, people outside of government simply lacked the information and breadth of vision necessary to promote state purposes. They were only capable of pursuing selfish and narrow private interests. In terms of social policy, the conservatives supported the system of Russian estates and maintenance of the traditional social hierarchy, with the leading role of the gentry and its control over the now emancipated peasantry. They were suspicious of European modernity, and saw it, not without reason, as potentially threatening the survival of the Russian political and social order. In practice, conservative bureaucrats often exercised discretionary and even arbitrary authority, and exhibited personal and professional arrogance and disdain for the public.

These ideological principles and patterns of behavior, reflective of the traditional *Polizeistaat*, were perhaps more pronounced in the case of the Russian autocracy than elsewhere in Europe and certainly seemed so within the cultural and political context of the 19th century. The political culture of the autocracy was often subsumed under the term "arbitrariness" (*proizvol*) by the reformers in government and its critics in society. It was another code word that was juxtaposed and counterpoised with its ideological opposite, "legality" (*zakonnost'*), whose meaning was broadened to become the leitmotiv of the newly emerging political culture of liberalism within the Imperial civil service. The law was now perceived as embodying normative standards and values. This culture was related both to the Anglo-Saxon notion of the rule

¹⁸ Theodore Taranovski, *The Politics of Counter-Reform, Autocracy and Bureaucracy in the Reign of Alexander III, 1881–1894* (1976) (unpublished Ph.D. dissertation, Harvard University). This work analyzes government institutions of the 19th century, the relationship between the tsar and the civil service, the evolution of bureaucracy and its ideologies, and political conflicts within the autocracy. Since this work is not readily available, the author's more accessible publications are cited at appropriate points in this article. See Тарановский Т.К. Судебная реформа и политическая культура царской России // Великие реформы в России. 1856–1874 [Theodore K. Taranovski, *Judicial Reform and Political Culture of Tsarist Russia in The Great Reforms in Russia, 1856–1874*] 301 (L.G. Zakharova et al. (eds.), Moscow: Moscow State University Press, 1992).

of law and to the Germanic notion of *Rechtsstaat* and arose primarily within the elite levels of Russian administration by the middle of the 19th century. The liberal civil servants were primarily jurists by profession, mostly graduates of the School of Jurisprudence, strategically situated in the judiciary and key institutions of the central government such as the Senate and the Council of State, and patronized by powerful individuals such as the Grand Duke Konstantin Nikolaevich and the Grand Duchess Elena Pavlovna. Arising from pragmatic and utilitarian impulses, bureaucratic liberalism acquired in time a more coherent ideological content.

The liberals, although always a minority in the Imperial civil service, were the shapers and organizers of the Great Reforms of the 1860s, beginning with the emancipation of the serfs. They recognized the dignity of man and assumed the existence of human rights. They wanted further rationalization of the autocracy by introducing representatives of "society" into the operations of the Imperial government, starting already in the 1860s. This effort culminated in 1881 with M.T. Loris-Melikov's proposal to enlarge the Council of State by introducing a limited number of representatives from the *zemstvos* and municipal Dumas and giving some formal role to the public in drafting legislation. The proposal was rejected by Alexander III, and, in my view, his decision marked the end of the first attempt to create a Russian *Rechtsstaat* and introduce elements of constitutionalism in the Russian autocracy.

The liberals not only drafted the judicial statutes of 1864 but also supported the Ministry of Justice in its perennial conflict with the Ministry of the Interior that lasted for the rest of the 19th century. They created an independent judiciary and separated it from the executive, with the Emperor retaining only the power of pardon, and introduced the irremovability of judges, trial by jury, public trials, and oral and adversary procedure.¹⁹ They successfully managed to derail the proposed judicial counter-reform, initiated in 1894, both because of the death of Alexander III and because of the resistance of jurists to the specifics. They supported the *zemstvo* and municipal reforms of 1864 and 1870 and, on the whole successfully, defended their principles against the conservative counter-reforms of 1890 and 1892. They could not, however, defeat the effort to replace justices of the peace with the land captains in 1889 that undermined the liberal principle of separation of administrative and judicial power, as the tsar intervened directly to override the decision of the Council of State and side with the conservatives.

In terms of social policy, the liberal bureaucrats wanted to emancipate society by ensuring equality under the law for all of its members. In their view, this could be done by breaking down the "estate" characteristics of Russian institutions (*soslovnost'*) by moving them first toward the equality of estates (*vsesoslovnost'*) in terms of composition and membership, and eventually adopting the principle

¹⁹ Samuel Kucherov, *Courts, Lawyers, and Trials Under the Last Three Tsars* (New York: Frederick A. Praeger, 1953).

of “non-estatism” (*bessoslovnost'*). This would amount to the legal recognition of equal citizenship in the Russian body politic. They supported civil emancipation of the Russian peasantry and opposed what they perceived as the constraints of the peasant commune, favoring the advantages of free labor. In short, they wanted further expansion of the principles of the Great Reforms in the Russian government and society. The main underpinning of this ideology, as already indicated, was the principle of legality that required further limitations on the power of the monarch, curtailment of the discretionary authority of the administrative apparatus, and supervision of strict enforcement of the law by the organs of regular and administrative justice. The liberal bureaucrats increasingly conceived of themselves not only as servants of the state, but also as servants of the public.²⁰

The conservatives may have won most of the battles during the so-called era of reaction, but they did not win the war. This outcome was, at least in part, the product of the systematization, professionalization, bureaucratization and institutional evolution of the Imperial government that became more complex and arguably more efficient during the course of the century. For example, by the late 19th century, the organs of the central government had developed their own “institutional points of view” that were recognized as both legitimate and necessary within the bureaucracy as a whole and by the Emperor himself. This provided an opportunity for the liberal officials to defend and promote their views. As a result, liberal resistance to the program of the counter-reforms produced a certain stalemate, and even stagnation in the formulation of the internal policy of the Empire, as neither side could carry the day. This was not a desirable outcome at a time when decisive action was needed to manage rapid social and economic changes that were bound eventually to present significant challenges to the political order as well.²¹

Another equally important impediment to the emergence of constitutional government in Russia was the unbalanced and underdeveloped structure of Russian society that was slowly evolving to approximate the European pattern. It has been noted that constitutionalism and liberalism in the 19th century depended on a strong civil society and middle class. Russian society as late as 1914 was 85 percent agrarian and only 15 percent urban, one of the greatest imbalances in all of Europe.²² The Russian peasantry, while it had concrete social and economic interests, lacked

²⁰ Зайончковский П.А. Российское самодержавие в конце XIX столетия [Peter F. Zayonchkovsky, *The Russian Autocracy at the End of the 19th Century*] (Moscow: Mysl, 1970); Захарова Л.Г. Земская контрреформа 1890 г. [Larisa G. Zakharova, *The Zemstvo Counter-Reform of 1890*] (Moscow: Moscow State University Press, 1968); Theodore Taranovski, *The Aborted Counter-Reform: Murav'ev Commission and the Judicial Statutes of 1864*, 89(2) *Jahrbücher für Geschichte Osteuropas* 161 (1981).

²¹ Theodore Taranovski, *Alexander III and His Bureaucracy: The Limitation of Autocratic Power*, 26(2–3) *Canadian Slavonic Papers/Revue Canadienne des Slavistes* 207 (1984).

²² Россия 1913 год. Статистико-документальный справочник [*Russia in 1913: Reference Book of Statistics and Documents*] (St. Petersburg: Institute of Russian History, 1995).

a coherent political agenda. Russian businessmen and merchants on the whole were slow to become politicized, and the social groups that could be characterized as middle class were too few in number. Liberalism within Russian society was espoused primarily by segments of the landed gentry represented in the *zemstvos* and by the free professions in the cities. However, today it is widely recognized that a civil society had evolved in Russia by the end of the 19th century.²³ The plethora of civic and charitable organizations, scholarly and learned societies, professional unions, meetings and congresses amply testify to this fact. This phenomenon boded well for the future of constitutionalism and liberalism in Russian history.

The Empire was also plagued by a persistent and growing revolutionary movement which had an impact on Russian politics that was much greater than its numerical strength. In the minds of some scholars, the assassination of Alexander II in 1881 was a fateful step in Russian history. It took the topic of political liberalization off the agenda for more than two decades, it delayed and undercut the possibility of further modernization of the autocracy and it helped revive bureaucratic conservatism. The Russian populists who assassinated the tsar undermined the achievements of the liberal bureaucracy and effectively helped end the first effort to establish a *Rechtsstaat* on Russian soil.²⁴

Finally, the multiethnic and religiously diverse character of the Russian Empire posed significant obstacles to creating a constitutional government that would meet the aspirations of all of its inhabitants. The Imperial government, well aware of the problems presented by the sprawling Empire, created separate administrative regimes for the borderlands (*okrainy*) as it extended its sway over the Caucasus and Central Asia during the course of the 19th century. It paid attention to local conditions and culture and tried to avoid conflict, with some major exceptions. Such accommodation was becoming difficult as the century progressed. The pre-modern ties of dynastic loyalty and Imperial patriotism were undermined by the rising tide of nationalism in Europe that also affected the Russian Empire. Attempts to control the situation through the policy of Russification, another manifestation of nationalism, were counter-productive and provoked growing hostility even in previously unproblematic areas

²³ Joseph Bradley, *Subjects into Citizens: Societies, Civil Society, and Autocracy in Tsarist Russia*, 107(4) *American Historical Review* 1094 (2002).

²⁴ Author's note: In 1968–1969, I was a graduate student at Moscow State University, where my advisor was the late Professor Peter Andreevich Zayonchkovsky. On one occasion, while walking together in downtown Moscow, right by the building that eventually housed the Russian State Duma, Peter Andreevich discussed his ongoing research (he shared his manuscript of *Rossiyskoe samoderzhavie ...* with me even before publication, although we were working on the same topic) and made the observation that the murder of Alexander II by the populists was a huge mistake. He had reached the conclusion that if Alexander II had lived, the tsar would have finally accepted reform projects then under consideration. That decision would have opened the way to the evolution of a constitutional monarchy in Russia, and the country would have avoided revolution. I have always considered his statement to be an act of civic, intellectual and moral courage, even though it could not be, of course, voiced publicly or in print in the Soviet Union.

such as Finland by the early 20th century. The full impact of the “national question,” however, did not become apparent until much later.

3. The Second Chance and Partial Success

One can argue that these impediments to constitutionalism could have been overcome by an evolutionary process, originating within the government itself, even if under pressure, that started by the mid-19th century, after the Crimean War exposed the weaknesses of the Russian state and society. This did not occur, and time was not on the side of the reformers. After the turn of the century, the rising unrest within the peasantry and an expanding working class, the revival of the revolutionary movement, and the growing militancy and political organization of the Russian liberals, especially after Nicholas II dismissed their aspirations as “senseless dreams” in 1895, combined with the disaster of the Russo-Japanese war, clearly threatened the survival of the Russian autocracy. The demands for a fundamental reform of the political system could no longer be contained by police measures. Tension was pent up, and evolution was becoming increasingly less likely than revolution, which finally took place in 1905–1906. Even so, one should not forget that revolutions could also lead to constitutions, France being a prime example.

The last attempts at governmental reform failed to produce any concrete results. Prince P.D. Svyatopolk-Mirsky’s attempt to revive Loris-Melikov’s proposals in 1904, after the war had already started, was sabotaged by Nicholas II, and the indirectly elected and consultative so-called Bulygin Duma of 1905, now endorsed by the government and sanctioned by the Emperor, was a classic case of too little too late political concession. With their backs to the wall, Nicholas II and his government, now led by S. Witte, issued the October Manifesto and eventually promulgated the Fundamental Laws in 1906 that signified the end of the traditional *Polizeistaat* and marked the creation of a constitutional monarchy, despite the monarch’s insistence on retaining his title and many levers of real political power. The expansion of the franchise, the creation of the State Duma and the appearance of formal political parties, as well as a series of other legislative acts, represented the most radical step toward constitutionalism in Russian history. Could this second chance for constitutional government have been made to work in practice and expand on the framework provided by the admittedly inadequate Fundamental Laws? The answer is a qualified yes.

The creation of a constitutional regime was bound to produce immediate conflict between the executive and legislative branches of government. Only a shared political culture favoring pragmatism and compromise could assure success, but such a culture was unlikely to manifest itself in the fervor of a revolutionary situation, whether in 17th-century England, 18th-century France or 20th-century Russia. In fact, the absence of such consensus and the presence of divergent and competing

political cultures in the Russian state and society was another key element that worked against successful implementation of constitutionalism in the Russian Empire, both before and after the Revolution of 1905–1906.

The main impediments to Russian constitutionalism were not so much the shortcomings and inadequacies of the Fundamental Laws themselves as the fragmentation, disunity and polarization of the Russian political spectrum in the early 20th century. The Emperor and the conservative wing of his bureaucracy were unwilling to make concessions or give up the reins of power at least in part because of the radical nature of the demands placed upon them, and they were suspicious of the new institutions from the start. To be sure, the Russian bureaucracy had blurred some of the ideological distinction between the conservatives and the liberals and had become more pragmatic and flexible in search of solutions to Russia's problems.²⁵ It could produce reformers such as Witte and Stolypin, but the generation of the civil service liberals of the 1860s–1880s was largely gone from the historical scene. The conservative bureaucrats, supported by a recalcitrant tsar, even if they were no longer as steeped in the ethos of the Russian *Polizeistaat* as their predecessors had been, were unlikely to accommodate the demands of Russian society as expressed by the State Duma. Finally, Nicholas II lacked the leadership skills and political common sense, such as exhibited by the British monarchy, to preside over the process of the weakening and further transformation of the Russian autocracy.

On the other side, the liberal forces, initially coalescing around the Constitutional Democratic Party in the elections for the First Duma, were not the classical liberals of 19th-century Europe, espousing limited government and *laissez-faire* economics. They had become radicalized and politically well-organized already before the revolution, but their tactical and political differences made it difficult to create a united front and to accept Witte's offer of cooperation. Moreover, the 1905 program of the Kadet party went far beyond political and civil rights to embrace major social and economic demands and envisioned an active role for liberal government that foreshadowed the platforms of 20th-century democratic and socialist parties.²⁶ In my opinion, the Constitutional Democrats were in many ways ahead of their time; but they also overplayed their hand, which should not be surprising, and lost much of their political influence at a time when they had the best chance of becoming the leading political force in Russian society.

This only benefitted the revolutionary parties, whose leaders often came from the radical intelligentsia, and who simply wanted to overthrow the established political, social and economic order. The elections to the Second Duma provided

²⁵ Richard G. Robbins, Jr., *The Tsar's Viceroy, Russian Provincial Governors in the Last Years of the Empire* (Ithaca, N.Y.: Cornell University Press, 1987).

²⁶ *Programs of the Russian Political Parties in Imperial Russia: A Sourcebook, 1700–1917* 438–444 (B. Dmytryshyn (ed.), 3rd ed., Fort Worth, TX: Holt, Rinehart & Winston, Inc., 1990).

them with parliamentary immunity and a propaganda platform and shifted the political spectrum further to the left. Unfortunately, the Russian intelligentsia that dominated Russian cultural life from the 1860s to the 1890s and eventually played a significant role in Russian politics was ill-equipped to adopt a positive role in the construction of a constitutional political system. Its materialist intellectual and maximalist political outlook, derived from the most radical tendencies of progressive European thought, was always a form of messianic utopianism. To be sure, visions of Russian exceptionalism were also to be found in religious and conservative thought that pursued its own version of "the Russian idea." However, the political culture of the radical intelligentsia, from the nihilists and revolutionary democrats of the 1860s to the Socialist Revolutionaries and Social Democrats, represented primarily a destructive rather than a constructive force in Russian life and saw Russia as a laboratory in which to create its own vision of a political and social paradise. The revolutionaries, on occasion, could gain sympathy from the broader strata of Russian society, for example in the 1870s. By the early 20th century they also appealed to the peasant and working class masses. However, they were intellectually both unable and unwilling to engage in the political compromise, gradualism and pragmatism that is the stuff of constitutional government. They lived theory and revolutionary activism and had little practical experience of actual politics. The Russian intelligentsia has been admired in pre-revolutionary, Soviet and post-Soviet times, but a note of caution is called for. The 19th- and early 20th-century radicals, along with their supporters who adopted the attitude of "no enemy to the left," bear heavy historical responsibility before the people of Russia for the ultimate failure of the second constitutional experiment in 1917 and for the history that followed it.

Nevertheless, one can still reasonably argue that the new political system, established in 1906–1907, had a fighting chance of success. By the elections for the Third Duma, the political system showed signs of stabilization. The government was learning how to operate under new circumstances. The independent judiciary established in 1864 had survived the "era of reaction" and the role of the judiciary continued to rise in importance. The judicial institutions were tentatively beginning to use precedent in reaching their decisions, an activity expressly forbidden by the Russian and Continental norms of positive law, but characteristic of the common law system in Great Britain. A system of "administrative justice" designed to resolve disputes between executive organs of royal administration as well as between the government and institutions of society and even private individuals to protect their rights was also in the process of development.²⁷ Terrorism and armed struggle had been overcome, and the revolutionary parties largely marginalized by 1914. The

²⁷ История Правительствующего Сената за двести лет. Т. 4 [*The History of the Ruling Senate over 200 Years. Vol. 4*] 141–142, 176 (St. Petersburg: Senate Printing House, 1911); Корф С.А. Административная юстиция в России [Sergei A. Korf, *Administrative Justice in Russia*] (St. Petersburg: Printing House Trenke & Fusno, 1910).

electoral system, although not truly representative, provided certain stability and was dominated by moderate political forces, including the Cadets who had lost much of their original revolutionary zeal. The Stolypin agrarian reform was making progress, although it was far from complete. In short, by 1914 one could expect that the political, social and economic problems facing the Russian state and society were susceptible to purely political resolution. Russia needed more time, but history failed to provide it.

Conclusion

There is a tendency among historians and social scientists to neglect or downplay the role of contingency, of fortuitous and accidental development or an event that rearranges the order and balance of the usual probabilities and potentialities of the course of human history. A political assassination in 1914 and the war that followed were one such accident with profound significance for the history of the world as well as for the future of the Russian state and society. It was primarily the stress of World War I and the inability of the Russian monarchy and society to overcome the ramifications that afflicted all of the combatants in World War I to a greater or lesser degree, especially the huge loss of life and the economic suffering. This failure produced the revolutions of February and October 1917 but also, lest we forget, a revolution in Germany as well. It is the height of irony that a prescient prediction of the consequences of Russia's entering the war was made by one of the most conservative Russian statesmen, Peter N. Durnovo, in a memorandum submitted to Nicholas II in February 1914.²⁸

One additional observation may prove useful in this discussion of Russian constitutionalism and revolution. When one looks at the history of major European revolutions as a whole during the modern era, one can discern a definite pattern. As we approach the 20th century, European revolutions, like modern war, grow in their scope and intensity, a phenomenon clearly linked with the modernization and democratization of European states and society. The English Revolution was primarily a political struggle between elites, although the religious aspect played a significant role. The French Revolution was not only more violent but characterized by both political and social conflict that ultimately produced the victory not only of a new political system but also of a new dominant class in French society. The Russian Revolution was the culmination of these trends. It involved the spheres not only of politics and social structure, but also of the very nature of the economic order. It strove to reshape and create a completely new brand of humanity and establish a totalitarian system based on a single world-view that did not shrink from the most

²⁸ *Documents of Russian History, 1914–1917* 3–23 (F.A. Golder (ed.), E. Aronsberg (trans.), New York and London: Century Co., 1927).

violent means of accomplishing its goals. The victory of the October Revolution destroyed pre-revolutionary efforts to establish constitutionalism in Russia, as well as many other features of the past, and the “total” character of the Soviet state and society made it highly unlikely that such efforts could be renewed or succeed under the new political regime.

However, the events of the late 1980s and the Revolution of 1991 changed the character of the Russian historical landscape. The links between the past and the present can never be entirely severed, only attenuated. The political and juridical heritage of pre-revolutionary liberalism provides evidence that the evolution and establishment of constitutional government was possible and was taking place in the Russian Empire before 1917, and that it had a certain logical progression and trajectory. Starting in the 18th century among some aristocratic circles, constitutional ideas also arose within the elite levels of government bureaucracy in the 19th century, paralleling the development of liberalism within society at large.²⁹ There is no reason why such a process could not be renewed in the post-Soviet historical environment in the conditions of political, social and economic change that are taking place in contemporary Russia. The final result could well be a Russian pluralistic and deeply rooted constitutional political system, supported by a strong civil society, which is its precondition.

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²⁹ Vladimir Leontovitsch, *Geschichte der Liberalismus in Russland [History of Liberalism in Russia]* (Frankfurt am Main: Vittorio Klostermann, 1957); George Fischer, *Russian Liberalism: From Gentry to Intelligentsia* (Cambridge: Harvard University Press, 1958).

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