# Collective Responsibility, Petitions, and Representative Practice: England, Russia, and the Ottoman Empire

Part 4 of the book has analyzed differences in representative outcomes between East and West through a process of elimination. A full comparison of cases is hardly possible in such a study, so I have examined the factors that leading social scientists, especially historians, have identified as crucial. The main ones militating against constitutional outcomes in such accounts have been “state control of land,” the imposition of conditional service, and the “weak” property rights this entails. Yet neither of these hypotheses withstands scrutiny given the genetic account of English institutions, since these factors emerge as fundamental for constitutional emergence there. This enhances the arguments of revisionists in both Russian and Ottoman history, who have striven to highlight the commonalities with Western patterns, whilst challenging stereotypical assumptions about these regions.

Yet, profound differences exist between the final form of these regimes, so accounting for them remains challenging. Intriguingly, scholars working in very different veins and fields have converged on a similar assessment of the underlying difference: in the West, depersonalized forms of exchange developed, enabling collective action, whereas the two non-Western cases remained confined to personalized exchange. The latter precluded a language of rights, which by definition apply to whole groups, not individuals. From Russian history to Ottoman economics to general social science theory, the above verdict seems recurrent. The task in this chapter is to demonstrate that these conditions, in as much as they are true, can be traced to the key necessary condition identified in this book. Depersonalized exchange and a language of rights emerged in the West to the degree that the state effectively imposed common obligations, which then triggered common demands for rights. The non-Western cases diverged not initially because of cultural differences or economic development or military pressures, but foremost because the state could not impose common obligations across society on a basis that was state-defined rather than tradition-derived; other variations were endogenous to this primary condition.

Russian historians studying the period, as seen previously, have offered a striking revisionist interpretative frame that has rejected simplistic views of the regime as “despotic.”[[1]](#footnote-1) They have stressed the emerging pluralism and language of claims against the state, especially in the seventeenth century, whilst identifying their limitations and divergence from the West.[[2]](#footnote-2) The assessments also show some strong parallels between England and Russia, especially in the early modern period. The differences remained to be explained, however. Valerie Kivelson has argued that the difference between Russian “subjects” and Western European “citizens” lies in the confinement of the former in pre-democratic forms of political expression, namely petitions, but also supplications, riots, and consultation. The absence of representative institutions flowed from “the absence among subjects of a self-conscious claim to freedom as a citizen’s right.”[[3]](#footnote-3)

For Nancy Kollmann, Russian autocracy was different from the West’s “in that it allowed a multiplicity of interests to be represented without tolerating social pluralism in politics.” Power was the private possession of the sovereign, but it carried no obligation.[[4]](#footnote-4) This same atomism meant that, in Russia, actors in court politics “did not constitute a privileged corporative class, and their political struggles were not expressions of class-based antagonisms. Struggles at court were not over policies and rights, but over personal power as defined in terms of kinship and personal alliances.”[[5]](#footnote-5)

From such a view, it was unsurprising that assemblies failed; deputies “could not proceed from a consciousness of their *interests* to a consciousness of their *rights*,”[[6]](#footnote-6) part of the general lack of social cohesiveness in Russia.[[7]](#footnote-7) The provincial gentrymen remained linked to the center in a manner that was “limited, individualized, and fragmentary.” Their autonomy allowed them to engage in “highly particularistic, local competitions.”[[8]](#footnote-8) This created the impression of “the Muscovite gentry's seeming lack of interest in political participation.”[[9]](#footnote-9)

But as Kleimola notes, it is not the lack of dissent but the lack of *collective* dissent that distinguished Russia.[[10]](#footnote-10) So this cannot be attributed to differences in *demand* for rights across cases: there was a very strong sense of “what [the gentry] expected as their due, an understanding of their “rights.” The difference was, instead, that this demand was “couched in the language of right and wrong rather than that of *corporative* charters of laws,” as in the West.[[11]](#footnote-11) Individual abuses were actively opposed; there was only insufficient *institutionalized* effort to stop them.

This language of corporative demands and extensive institutionalization echoes classics of sociological theory and seminal historical accounts that have focused on the role of corporate estates in the development of the modern state and constitutional order.[[12]](#footnote-12) It was the self-conscious organization of similarly placed individuals under a corporate entity, an estate, that allowed them to claim rights against the state, in such accounts. But these themes also surprisingly echo the conclusions of major social science studies of economic development and social order proceeding from very different premises. These focus on the absence/presence of corporations or other “perpetually lived organizations.”[[13]](#footnote-13)

Corporations were bodies legally authorized to act as individuals, created by royal charter or legislative act, and endowed with perpetual rights. They were adopted in the West in different domains, such as municipalities, universities, or commercial entities.[[14]](#footnote-14) The absence of corporations is the lynchpin of the explanation of the divergence of the Ottoman economy from the West for economist Timur Kuran, for instance. Further, for Douglass North and his co-authors John Wallis and Barry Weingast, formal and informal bodies of such kind were a central condition for the transition from the “natural state” to modern “open access orders:” they allowed the depersonalization of social relations, which, in turn, enabled the creation of organizations able to pursue complex goals beyond the capacities of individuals.[[15]](#footnote-15)

Although specialists may disagree about the adequacy of these explanations, they do capture an important aspect of reality—corporations were after all absent in both Russia and the Ottoman Empire.[[16]](#footnote-16) So why would there be such a pattern across regions? Economic change has been highlighted for the Western side of the story, but as argued elsewhere in this book, such explanations end up endogenous to the political conditions in place.[[17]](#footnote-17) Military pressures have not been shown to be significantly different either, except in ways that also reflect prior levels of political organization. Weakly organized polities cannot wage extensive war and the “lack of military pressures,” as seen in the early history of Russia for instance, often simply reflects the lack of wherewithal to meet them.

Existing theories thus ultimately rely on cultural arguments. They assume that the absence of a cultural template—the corporation, citizens’ rights—suffices to explain differential outcomes. But what the preceding genetic account of Western, especially English, institutions has shown is that these cultural templates were not exogenous; they were not simply a fortuitous presence in Western intellectual flora. Nor was the capacity of collective action, often but mistakenly identified with the “corporate” basis of estates, a natural given that grew spontaneously in Western social structures.

Rather, these emerged in direct relation to the powers of rulers to impose uniform obligations. The language of rights developed to the degree that external power forced social actors to transcend their differences and think of their interests in more collective terms. It was their common subjection to royal power that elicited representative outcomes, not their independent corporate structure. In fact—and this is a widely ignored paradox—the more robust the corporate structure of estates in the West, as in France, Italy, or the Holy Roman Empire, the weaker the representative outcomes; that is where absolutism thrived.

Citizens’ rights and collective action were instead the products of institutionalization under strong rulers that allowed existing ideational germs to grow into effective and regime-defining practices. The same germs existed in the non-Western regimes. They were just not cultivated and the question is why, especially since we’ve also seen that the land regimes shared crucial similarities, namely the dependence of land rights on the ruler.

The two main germs in the Western, especially the English, account, were the principle of representation and the demand for justice mediated through petitions.[[18]](#footnote-18) These were constitutive of parliamentary emergence. Accordingly, in the remainder of this chapter I need to show that the ideas of representation and especially the demands for justice were at least present and salient respectively in the non-Western cases and that what differed was the initial capacity to organize them, impose obligations across social orders, and enforce interaction at the center, initially on the ruler’s terms.

This is not to imply that, if that capacity had been consistently present in the two non-Western cases the outcome would have been necessarily identical with the West. My argument is not one of sufficiency but of necessity. It only suggests that even if preferences had been identical, the capacity was not there and that factor has to be registered before assumptions about “collectivist” identities or authoritarian preferences are projected on the non-Western cases. These were not the pathologies of the non-Western cases; unharnessed atomism was.

## The Kernel of Representative Practice: Legal Representatives in the Ottoman Empire and Russia.

Before it developed philosophical dimensions and matured into a language of rights shaping politics, representation was a simple and traditional legal principle, stemming from the Roman principle of plenipotentiary powers, as we have seen. Parts 2 and 3 showed that English representatives had plenipotentiary powers that ensured that decisions made at the center with the king were binding in represented localities. Further, decisions were enforced because of state capacity. The legal practice of representation thus shaped political representation. Its absence could be one reason why representation never emerged or consolidated in some cases. But legal representation was known and practiced in both the Ottoman and especially the Russian empires, as I show below. It did not have the fully developed form it acquired through ecclesiastical and legal articulation in the West, but before such articulation was arrived at there, representation had simpler, practical origins in every-day legal practice.

In fact, as Weber has pointed out, the idea of representation, of one agent standing in for many, is already embodied in the theory of rule—hardly a Western exclusivity.[[19]](#footnote-19) The idea of “representation from above”, of the ruler being represented by his agents, existed before the people came to be represented.[[20]](#footnote-20) The question is what triggers the extension of the principle to the broader population. Despite common stereotypes, no ideational impediment existed for the extension to broader groups in the non-Western cases.

The legal kernel of representation as a judicial form was theorized and practiced in Islamic law.[[21]](#footnote-21) Legal representatives, the *vekils*, were bound by an articulated set of rules, which distinguished between the principal (*muwakkil*) and the agent himself (*vekil*) and displayed an articulated sense of judicial reasoning.[[22]](#footnote-22) For instance, *vekils* were in some cases not permitted to testify on behalf of their clients, when judges believed that the litigant “would be more likely to reveal the truth.”[[23]](#footnote-23) The Muslim law of partnerships recognized each partner as the *vekil* of the other.[[24]](#footnote-24)

Group representation was also known in the Ottoman Empire, primarily through religious groups. In Christian communities in the Balkans and the Aegean, community leaders assumed responsibility for common obligations and actions and acted as representatives in court and central government. Christian monasteries also appear to have engaged in aggressive bargaining through representatives: they even threatened the loss of tax revenue in order to secure rights over land. The monks of Mount Athos opposed the repossession of their lands by Selim II in 1568 with a clear message: “if you do not order an imperial document of confirmation, we will sell our possessions and pay back the gold we borrowed and we will scatter all around the world; it is certain that our monasteries will be deserted and our taxes, which we customarily pay in a lump sum (*maktu`*) each year, will be lost.”[[25]](#footnote-25) The Sultan complied. Bargaining there was; no institution followed, however.

Jewish communities have also left extensive documentation of group representation and bargaining collectively with the Sultan over taxation.[[26]](#footnote-26) Guild participation was a key form of social organization in major centers like Istanbul, though it was fragmented: no unified organization of Jewish communities (and hence representation) was able to emerge.[[27]](#footnote-27) They did not have “traditional centers or established hierarchy on which the Ottomans could rely as a basis for an administrative system or on which the subjects could rely as a basis for countering and resisting the Ottoman regime.”[[28]](#footnote-28) Neither did the Ottoman state create one.

There was no inherent reason preventing the spread of this practice more broadly to the population either. The egalitarianism permeating Islam, for instance, fed the incipient notions of popular sovereignty described in chapter 12. In the Hadith, after all, “All people are equal, as equal as the teeth of a comb.”[[29]](#footnote-29) Rather, representative practices were localized or highly dependent on prior self-organization of religious communities. They were not applied systematically by the Ottoman administration to other entities and hence did not define the system as a whole. No scholar has argued that something peculiar to *Islamic* doctrine proscribed such collective action. *Waqf* practices analyzed in chapter 12 suggest quite the opposite. Instead, organizational, institutional factors appear more salient. The role of the Catholic Church, with its robust hierarchical structure, was shown to be crucial to the spread of the practice of representation in England and the rest of Europe.[[30]](#footnote-30) Even in Russia, the synodal organization of the Orthodox Church may also have encouraged the use of assemblies in the political realm, though evidence is slim.[[31]](#footnote-31) In Islam, however, ecclesiastical organization was much looser and did not foster particular practices of this kind. But this is not an argument about the doctrinal origin of a political practice. If anything, the practice was inversely related to doctrine and organizational structure: it was the most hierarchical religion of the three, Catholicism, that saw its most articulated application (as my argument about the obligatory nature of representation would predict).

Russian medieval law codes also attest to the use of representatives in court, albeit fleetingly, with special provisions posited.[[32]](#footnote-32) Plenipotentiary powers were defined in article five of the Novgorod Judicial Charter: “If someone selects someone [else to represent him in court], then he must allow him [his representative] to conduct the case.”[[33]](#footnote-33) Judges could represent their own bishops in court.[[34]](#footnote-34) Legal representatives appear in court records even among the peasantry. For instance, a judgment charter in 1501 mentions three peasants representing “all the peasants of the Likurzhskaia canton” against two of the “the metropolitan's petty noblemen.” “Apparently it was a fairly widespread practice for litigants to ask someone else to speak for them in court.” Representatives could be acting either for a whole village or community or just for several individuals.[[35]](#footnote-35) But strict substitution was practiced as well, when “the man who appeared in court did so strictly on behalf of someone else, and was not himself a party to the suit.”[[36]](#footnote-36) As Kollmann has shown in her account of the Russian criminal system, representatives were also used there, for various social actors, but it is not clear how formalized and binding their conditions of action were.[[37]](#footnote-37) In other words, the legal foundation for representation was present in Russia just as much as in England, even though “neither notaries nor lawyers existed as a formal profession until the Great Reforms of the 1860s.”[[38]](#footnote-38) The evidence is slim however on whether Russian representatives had full powers to bind local communities, though in law that was observed.[[39]](#footnote-39)

The principle of representation was presumably also available to the Christian monasteries and churches, as in the Ottoman Empire. These did secure, especially after the sixteenth century, a series of tax and other immunities,[[40]](#footnote-40) so it is plausible negotiations would typically involve a representative. But these exchanges have not been tied to the political representation that did emerge.[[41]](#footnote-41) The church is known instead to have shaped instead the petition drive that culminated in the representative moment of the sixteenth and seventeenth centuries. Ultimately, although representation was practiced for about a century, it did not shape the regime in an enduring way. It’s certainly not, however, the absence of the concept or cultural template of representation that can explain that. Might differential demands for justice explain why?

## Bottom-Up Incentives and Collective Action: Petitions for Justice

In Part 2 of the book, I showed how the sustained demand for justice was fundamental for the emergence of representative institutions. It provided the regularity that was necessary for institutions to become consolidated and that was absent from fiscal pressures generated mostly by war. It was the judicial functions that turned the English Parliament from an incidental and elite-based institution to a regular and inclusive one. Bargaining over taxation was neither frequent nor regular in the early, formative period. Petitions, instead, were the main vehicle for the transmission of local concerns to central authority. They were thus key in imprinting parliament with its principal function, legislation.

Petitions however were far from exclusive to Western polities, as we have seen: they were and are part of a near universal vocabulary of grievance, encountered across regions and periods. Innumerable petitions survive, mostly still unexplored, in the archives of regimes as disparate as not only Russia and the Ottoman Empire, but Iran, China, Japan, India and elsewhere, from the ancient into the colonial, communist, and modern eras.[[42]](#footnote-42) This is why we cannot assume that there was variation between East and West in the demand for rights or that a country like Japan had “less need for adjusting rights,” because of its insular geopolitical location and lack of commercial exchange with other countries.[[43]](#footnote-43) Social conflict and the demand for rights are endogenous to internal exchange and are thus endemic to all societies, regardless of geopolitical or economic conditions. They may be amplified or transformed under military or economic pressure, but the fundamental demand for order and justice is always present.

At least, no systematic studies yet exist to demonstrate differential patterns in petition-making across cases; instead, the general themes appear to be remarkably similar to the English petitions that generated parliamentary legislation. The same prosaic concerns, corruption of officials, miscarriage of justice, excessive taxation, local petty crime, were raised in radically different social and economic contexts.

However, some differences between petitions did emerge over time: Western ones acquired greater theoretical specification of rights. When petitions were collectively submitted, they aggregated local demands into central decision-making: collective petitions—known as “common petitions”—became the primary basis of legislation, as seen in chapter 2. But such *collective* submission would not have occurred if the state had not forced disparate groups to be present on common terms at the center nor if the they were not all bound by common heavy obligations, including taxation, but especially judicial service, nor if the state’s reach did not extend uniformly throughout the territory and across social orders, as it did in England.

Non-Western petitions, conversely, exhibited a recurrent pattern: they were generally individual or narrowly local. Without collective organization, petitions failed to have the *systemic* *and sustained* effects they did in England, even though they were fairly consistently responded to and even though they did lead to legislation—this is the outcome observed in the Ottoman Empire, where collective organization was very localized. Only in the short-lived developments of the sixteenth and seventeenth centuries in Russia did petitions have broad political and societal effects—and that is where representation was observed. But it did not consolidate to shape regime type and the question is whether differences in the demands for justice accounted for this.

Next I describe available historical evidence on petitions in these cases to suggest that it was not differences in demand but in their collective organization that did.

### Ottoman Empire.

Petitions in the Ottoman Empire have only recently begun to attract the systematic attention they deserve and the evidence is overwhelming.[[44]](#footnote-44) Their importance in the administration of justice by the Sultan had long roots in Seljuk and Ottoman practice throughout the Middle East, as shown in the panoramic view of justice in the Middle East since antiquity by the historian Linda Darling.[[45]](#footnote-45) Petitions were read in the “great *divan*,” twice or four times a week. The *divan* was the supreme organ of government, but in origin it was a high court of justice. It was housed at Topkapı Palace, designed with open walls to symbolize “free access of the empire’s subjects to imperial justice.”[[46]](#footnote-46) The forum of petitions also served as court of appeals against *kadı* judgments.[[47]](#footnote-47)

Sultans performed these duties regularly, as recorded in chronicles already from the 1390s. Mehmed the Conqueror ceased to preside in person over imperial councils after about 1475, but he heard the sessions behind a grated window in the “Mansion of Justice”, where all business was discussed.[[48]](#footnote-48) Other high officials, especially the Grand Vizier, eventually took over. The Chamber of Petitions was established in his law-book (*kanunname*) and was lavishly rebuilt under Suleyman the Magnificent in the 1520s.[[49]](#footnote-49)

Petitions were submitted, as in the West, on a wide range of issues, either by ordinary individuals *(arz-ı hal)* or by officials, such as governors or *kadıs* (judges) on behalf of communities *(arz-ı mahzar’lar)*. The latter appears as a symptom of a “top down administration,” typical of absolutist regimes. However, as we have seen, in England the crown also depended on agents to mobilize this county structure throughout the kingdom, the sheriffs. They were tasked with the systematic and obligatory mobilization of English communities through the county court, which allowed “the people” to craft and submit those petitions collectively—the latter was not a spontaneous process. As we’ve seen, English practices appeared bottom-up because they were more effectively under central management. At any rate, historical evidence does not allow the conclusion that there was differential demand for justice or community involvement.

Another major theme was corruption of officials, as in England, either tax collectors or judges (*kadıs*).[[50]](#footnote-50) The sultans would dispatch inspectors, again in the manner of English kings—some would even carry out inspections personally, in disguise, as with Suleyman I, Ahmed II and Murad IV.[[51]](#footnote-51) Petitions usually triggered an imperial response, known to us through a rescript, which in turn usually ordered an investigation that involved the local judge, the *kadı.* This could be escalated if a local official was found to have transgressed, as patronage networks had to be activated for restitution to be successful.[[52]](#footnote-52)

In any case, Ottoman petitions were no less binding: if the administration did not respond, legislation stipulated that the petitioners were no longer subject to the obligations to the state they had contested.[[53]](#footnote-53) Responsiveness was high, especially for some groups. Guild petitions from Istanbul in the seventeenth century, for instance, had their requests “almost always granted.”[[54]](#footnote-54) Further, petitions, although localized, often shaped the legal system as a whole, as petitions leading to legislation did in England. For instance, the *kanunname*, legal codes that were issued in the sultan’s name and distributed to all the judges in the empire, often derived from individual petitions.[[55]](#footnote-55) Identifying a regime as “unlimited” or “arbitrary” simply because it lacked a central representative institution, emerges, yet again, as unwarranted.

This is especially salient with disputes about taxation, which were of major importance.[[56]](#footnote-56) Darling has shown how sophisticated—albeit beset by inefficiencies—was the process of disputing the tax burden, which communities did often, though records seem to start during the sixteenth century.[[57]](#footnote-57) It was thus, once again, not that “bargaining over taxation” did not happen in the Ottoman Empire; it is that it was more atomized. It was also not a central institution where judicial and fiscal demands could be adjudicated that was lacking. The Palace already served this purpose. Rather, it is that subjects were not summoned there on a systematic, obligatory, and collective basis, as with Parliament, where they had to deliberate in common to present petitions that represented more general concerns, instead of just local grievances.[[58]](#footnote-58) Scale is important of course, because it made such central coordination inordinately harder. But it certainly did not preclude the English outcome, where some core territory achieved this integration, whilst outlying territories, like Scotland and Ireland, and eventual the empire itself, were ruled in more “imperial” function.

In Russia, however, such a central focal point was instituted and this helps explain the representative practice that was observed. One needs to explain rather why it did not endure.

### Russia.

 Petitions were the major instrument of redressing grievance and submitting demands to the tsar in Russia as well. Their usual content does not differ from that of English or Ottoman petitions. Of course, survival patterns may be random, so even a systematic comparison may not be representative. Nonetheless, extant recurrent themes are close. Taxation was a major topic and immunities were extensively granted in response to petitions.[[59]](#footnote-59) Exemptions from judicial and administrative service were also requested this way.[[60]](#footnote-60) Land disputes were a major concern.[[61]](#footnote-61) Foremost were concerns about corruption and abuse of power, both by officials and powerful elites.[[62]](#footnote-62) Petitions were the means for the expression of political dissent and demand for justice.

Subjects’ pleas were submitted to the Grand Prince, the tsar, who was strongly encouraged to dispense justice by the clergy.[[63]](#footnote-63) At first, the tsar judged together with *boyars*, as the highest level of the Russian aristocracy. However, the *boyars* eventually acquired an independent venue after 1497.[[64]](#footnote-64)

Some Russian petitions had broad social impact, as widely noted by historians, making them similar in some respects to English ones. For instance, the Russian judicial system saw a major transformation in the 1520s, when law and order broke down throughout much of Muscovy, undermining social cooperation. Numerous petitions were submitted to the capital demanding action. In response, Moscow sent agents to the provinces to stop the crime wave. This established the role of the state directly in criminal justice, producing a “triadic” legal process, with the state as intermediary.[[65]](#footnote-65)

A petition by a group of landholders in 1539, in response to local anarchy and state weakness, also generated the *guba* system, discussed in the previous chapter. The *guba* elders were established locally as provincial brigandage-control officers and extended throughout the realm after their local success. They were “elected” in a manner similar to the selection of MPs in seventeenth century England. All estates voted, but not all could hold office; “worthy and prosperous gentrymen” were needed for positions of authority.[[66]](#footnote-66)

The “deluge” of petitions in the mid-sixteenth century led to greater institutionalization: a special Chancellery formed to handle submissions to the Grand Prince (the *Chelobitnyi Prikaz*).[[67]](#footnote-67) They continued to be central into the seventeenth century. Petitions were crucial in the major reforms announced in the decree of 1619, which emerged “not only as a response to petitions from many people (primarily gentry) but also as the result of extensive consultation.” Petition campaigns also occurred in the 1630s and 1640s. Themes were “corruption, bureaucratism, patronage and favoritism, banditry and violence, paternalism and protectionism”—concerns that differed little from recurrent English grievances. Judicial concerns were also central: in 1637, petitioners asked that trials be held in provincial towns and that judges be chosen locally, requests that continued to be presented in later petitions.[[68]](#footnote-68)

By the 1640s, a special institution emerged where “People Petition[ed] Against Strong People.”[[69]](#footnote-69) The gentry’s main complaint was the one discussed in chapter 12, that peasants were removed by the “strong people of Moscow,” namely the *boyars* and high administrators, but also by church authorities and monasteries. The captors would only return poached peasants to their original locality after the state-imposed five-year statute of limitations had passed—they could hence employ the peasants without penalty. The limitation was not abolished, but the state extended the period of recovery of peasants.[[70]](#footnote-70)

The seventeenth century, in fact, saw a wave of *collective* petitions. These had a moral and religious language absent from local ones, with a clear influence of the Church. Echoing the pattern observed in Magna Carta, where the request was for greater regularization and presence of the king’s justice and intervention, petitions shifted from being against to being in favor of regulation.[[71]](#footnote-71) Early petitions were from the service class, but eventually, by the 1660s, local petitions would even include members of the higher Moscow nobility.[[72]](#footnote-72) Accordingly, petitioner demands eventually generated broad-based legislation, echoing English developments. The great uprising of 1648 was fueled by the “national petition campaigns” of the service nobility of the previous decades.[[73]](#footnote-73) These were not individual, but collective petitions, which shaped the law-code of 1649.

Limitations on petitioner demands may however seem to confirm an absolutist interpretation. For instance, the tsar would not serve as final arbiter in disputes and the people had no access to him; they were punished for even trying.[[74]](#footnote-74) Direct access to the tsar continued to be a problem into the eighteenth century, when Catherine the Great had to issue another set of prohibitions, as did her successors.[[75]](#footnote-75) However, as we've seen, English kings into the seventeenth century had a bodyguard to prevent petitioners from thrusting petitions into their hand, which imposed an obligation to address it.[[76]](#footnote-76) That restrictions were an attempt to meet overwhelming demand is also supported by an incident when Ivan IV was a “terrified teen:” after he refused to answer petitions, there followed ten days of “bloodshed and destruction.”[[77]](#footnote-77)

Further, the state avoided persistent petitions requesting localized justice, which was so extensively, even if not always effectively, provided in England. Litigants could only go to Moscow three times a year to have their cases heard in the early 1600s and this conflicted with service obligations.[[78]](#footnote-78) Their demands were further frustrated later in the century, as local petitions were mediated through the governor who would not send petitions to the center.[[79]](#footnote-79) This too may seem as evidence of an “impersonal bureaucratic administration of the centralized state,” but the account of English judicial development above has shown how integrating local justice in central institutions was possible but predicated on ruler strength.[[80]](#footnote-80) The point is that, despite an impressive amount of control exercised by the tsar, his powers did not extend to subordinating local institutions to the center. Judicial supply was more contested and fragmented in Russia. By contrast, English kings had already developed an effective dual system of courts, royal courts and Chancery, to address both regular judicial demands and equity requests; at the same time, an extraordinary system of penetration into local structures subsumed county judicial activity under royal auspices, as described in chapters 2 and 3. What appears as an autocratic motion in the Russian case reflects a position of institutional weakness.

In terms of social impact, however, petitions in the Russian sixteenth and seventeenth centuries produced outcomes that were closer to those observed in England than Ottoman ones. Common to all these petition drives was the crucial class behind them, the service gentry which owed its land and service to the tsar. As this argument suggests, the petitioning gentry was also crucial for the assemblies flourished in this period. But these practices did not shape the regime as a whole and thus in an enduring way.

Why?

## Collective Responsibility and Corporate Bodies

Two major hypotheses on the institutional divergence between East and West remain to be examined. They both involve forms of collective organization. This can vary from non-state-supported, informal social norms that are found widely even under low conditions of institutionalization, such as collective responsibility at the village level, to the highly formalized legal entities, corporations, that became distinctive of Western Europe.

The first hypothesis is predicated on the traditional distinction between collectivism and individualism. That Russia was defined by collectivism into the twentieth century is encountered even in contemporary textbooks, though historians have challenged it where records permit.[[81]](#footnote-81) A version of collectivism, however, collective responsibility, was indeed pervasive in the premodern era, both in Russia and the Ottoman Empire. In Russia, collective duties are treated as symptoms of an autocratic, oppressive state that enforced them to create a collectivist *mentalité*, one that allowed tsarist absolutism to reproduce itself:[[82]](#footnote-82) “The principle of collective responsibility emerged as one of the key tools of authoritarian rule… Therein lay one of the keys to explaining how east and west came to diverge.”[[83]](#footnote-83) This perspective reflects a dominant narrative of Western development, where the overcoming of collective forms was fundamental for the emergence of a more “individualist” frame believed to undergird the modern polity and economy.[[84]](#footnote-84)

The second hypothesis involves the absence of another form of collective organization: corporative *bodies* (for instance, the nobility, the bourgeois, particular occupational groups or corporations).[[85]](#footnote-85) Non-Western historians note how social groups lacked the corporate character of estates widely seen as integral to the Western notion of rights.[[86]](#footnote-86) Typically, it is corporative Estates endowed with privileges and immunities that are thought to underlie representative regimes in the European context—hence the intense attention given to cities, which were precocious laboratories of democratic practices and freedoms. Economists, on the other hand, have focused on the corporation as an institution critical to Western divergence, but not indigenously generated elsewhere.[[87]](#footnote-87)

Both of these forms of Western corporate organization, however, corporate bodies and corporations, originally mobilized the same dynamics as collective responsibility, the same kind observed in the East. So their absence there is not easily explained. Even more importantly, the focus on these factors to explain eastern divergence runs aground some crucial but unnoted facts. Collective responsibility was pervasive in England and intricately involved with parliamentary emergence, so its presence in the Eastern cases cannot account for their divergent institutional path. Even more important, corporative bodies were weakest in the political arena in England. In fact, as shown earlier in the book, it was precisely the dependence of social groups on the crown, rather than their independence, that enabled parliament. What distinguished the English version of corporative forms was not privilege, but its opposite: obligation. It was the successful imposition by the state of collective responsibility that engendered representation.[[88]](#footnote-88) It was precisely because English social classes, especially the nobility, were *prevented* from forming a corporate structure of estates that the crown was able to integrate them successfully in parliament, as we’ve seen. By contrast, where corporative Estates flourished, as in France or the Holy Roman Empire, absolutism prevailed. The more the corporate privilege, especially immunity from taxation, the more representative institutions were repressed. The question therefore is what factors allowed England to transform collective practices into institutional structures that sustained a polity-wide representative regime, whilst most regions to its south and east developed differently. Answering this does not provide a complete explanation of the divergence—that task exceeds the goal of this account—but it does circumscribe a key necessary condition.

### Collective Responsibility, Eastern and Western.

Collective responsibility was indispensable to pre-modern societies across time and space, in both East and West. Communities showed remarkable capacity to mobilize populations at the local level to get communal work done through this mechanism. “Sureties,” whereby either individuals or communities were pledged to fulfill the responsibilities of one person or the community as a whole, were pervasive not only in Western Europe, Russia, and the Ottoman Empire, but throughout the pre-modern world, since antiquity, from Egypt and Africa, to Japan and China.[[89]](#footnote-89)

Collective responsibility was also prevalent in England, especially during the period of parliamentary emergence. Part 1 has shown how representation itself was a form of collective responsibility: originally an obligation imposed by the king, it bound the community that sent the representative to accept whatever was agreed with the king, on which originally there was little input except from the high nobility. The system worked effectively only to the degree that the crown could effectively mobilize this system *at the center.*

The striking level of subject mobilization achieved by the English crown in the period of parliamentary emergence was tracked in chapter 3, which argued that mobilization especially of the most powerful was fundamental to creating representative institutions that were more inclusive and thus more robust. The crown bound subjects to a wide array of obligations, especially judicial ones, that created the appearance of self-government, but which was “at the king’s command.”[[90]](#footnote-90) Freeholders had to engage in public works, repairs to the king’s property, serve in courts, provide supplies, enforce the peace, inform inquests, and so on, as discussed. Russian scholarship presents a picture of striking similarity at the micro-level, where subject obligations were pervasive, as locals were burdened with a long list of functions, whether of public works, justice enforcement, regulation, welfare provision, or taxation. Ottoman administration also depended on similar mechanisms of enforcement.

This poses the question how England switched to an apparently different, more individualist trajectory. In fact, I argue that collective responsibility did not disappear in England; it was transformed through effective coordination by the state. A greater infrastructural capacity of the state to administer justice through its own officers and institutions, rather than simply local, kin-based self-help, was the key, as we shall see.

To show this, first I describe Ottoman and Russian forms of collective responsibility; then I explain how English forms were transformed, thus isolating the role of the state in shifting interaction from one pattern to another.

Community responsibility was part of early Islamic custom that prevailed throughout the Arabian Peninsula and was also practiced in the lands under Ottoman control. Through a tribal basis, it validated blood ties and ascribed responsibility to the tribe for actions of its members.[[91]](#footnote-91) There was collective responsibility for murder or attempted murder, known as *ḳiṣāṣ*.[[92]](#footnote-92) Blood money had to be paid by the murderer’s solidarity group or oaths of compurgation committed the community to the payment of blood money when the perpetrator was unknown.[[93]](#footnote-93)

Taxation could also be collectively imposed; though records survive mostly from the seventeenth century, its incidence was long-standing.[[94]](#footnote-94) The *kharādj*, for instance, was “in general levied not directly upon individual properties but—outside the suburban areas of the cities—collectively upon the villages, according to the amount and state of the cultivated lands there. Hence the shortfall from an individual in no way reduced the obligations of the collectively responsible body.”[[95]](#footnote-95) Collective responsibility was also used as a method of conflict resolution; however, it was not as effective,[[96]](#footnote-96) leading to an intensification of conflict over time. But it was a major form of social control, especially in provincial towns since the seventeenth century, where “the principle of collective responsibility may have remained a viable tool of social control well until the end of the empire.”[[97]](#footnote-97)

Very similar practices were widely observed in Russia, as analyzed by the historians Horace Dewey and Ann Kleimola, who have illuminated the remarkably extensive workings of the principle.[[98]](#footnote-98) The practice of surety (“*poruka*”), of “persons who bore responsibility for the conduct of others,” was a pervasive and often dreaded, but indispensable aspect of social life.[[99]](#footnote-99) It made families or communities responsible for serious but also lesser crimes, such as murder or theft: the “surety” would have to pay reparations. Failure to comply with authorities resulted in collective fines.[[100]](#footnote-100) The mechanism was also applied to tax collection. If one actor failed to pay taxes, the surety, whether individual or collective, would be obligated to fulfill them instead, upon severe penalty.[[101]](#footnote-101) A large spectrum of tasks, judicial, administrative, military, fiscal, were thus performed through the pressure exercised by individuals from either the same family, kin group, or from some administrative unit.[[102]](#footnote-102)

The similarities with medieval England are striking. Particularly in the period of institutional emergence for the English Parliament, i.e. before 1300, collective responsibility was an important feature of social organization, for instance regarding the keeping of the peace and punishment of crime. It defined the frankpledge system. This probably dated to Anglo-Saxon times, but was reinvigorated by the laws of Henry I and Edward I.[[103]](#footnote-103) “The members acted as mutual sureties that none of them would commit an offence, and that they would produce any member who did.”[[104]](#footnote-104) From the thirteenth century, frankpledge bound mainly the unfree and the landless from the age of 12, in an association of usually10 householders (the tithing). Freeholders and especially lords and the nobility could pledge their land. The system was enforced by the hundred bailiff, as the sheriff’s agent, or the sheriff himself from the mid-twelfth century, both royal agents.[[105]](#footnote-105) Similarly, the hundred was responsible for the fines payable if a non-Englishman was murdered (the *murdrum* fine).[[106]](#footnote-106)

All administrative units were in fact subject to collective responsibility of one sort or other. As Pollock and Maitland wrote,

“The county is amerced [fined] for false judgments, the hundred is fined for murders, the townships are compelled to attend the justices, men are forced into frankpledge, the burghers are jointly and severally liable for the *firma burgi*, the manorial lord treats his villeins as one responsible group. Men are drilled and regimented into communities in order that the state may be strong and the land may be at peace. Much of the communal life that we see is not spontaneous.”[[107]](#footnote-107)

These are the same structures that underlay representative practice in England, as we've seen. Without this system of obligation, representation would not have been so extensive or so binding. Collective responsibility per se therefore cannot be blamed for Russian (or Ottoman) outcomes; causes of variation have to be sought elsewhere. The question is why these practices evolved differently and had divergent institutional effects at the polity level. State capacity emerges as a critical factor. The basis on which collective responsibility was assessed was the state-sustained administrative unit, the county, not local community attachments. Before invoking “attitudes and values deeply rooted in [the] past” to explain the hold of “collectivism” in Russia or elsewhere, it is necessary to examine their endogeneity to ruler power.[[108]](#footnote-108)

Frankpledge itself, at least the surety element of it, slowly disappeared by the fourteenth century in England both because it was failing to deliver criminals and enforce the peace and because a better substitute emerged: the centralized system of justice we have sketched in chapters 2 and 3, predicated on the crown’s strength.[[109]](#footnote-109) But this does not mean that collective responsibility was itself eliminated; it remained on different types of common duty, from jury duty to the many other obligations that flowed from land ownership or other types of social bonds, but especially judicial liability, described in Part 1. Responsibility did not decrease, it was just more effectively aggregated by and at the center.

Why was collective responsibility more state-constituted than kin-based in England? The reasons are complex and part of the broader societal transformation of that period. Economists see the trend, one that applied more broadly in Western Europe, as a response to economic forces and the increase in volume of trade.[[110]](#footnote-110) Collective responsibility had helped secure contract enforcement under conditions of limited government institutions. Replacing it improved economic efficiency, according to North and Thomas;[[111]](#footnote-111) it increased revenue for European states, by undermining spontaneous order institutions.[[112]](#footnote-112) Or, according to Greif, collective responsibility had increased market size so much it was unable to cater to increasing demand.[[113]](#footnote-113) These explanations, however, share a functionalism that has been critiqued in chapter 2.

A fuller explanation requires appreciating the connection of collective responsibility to clan and kinship structures. Its transformation in England is part of the weakening of kin bonds. This is the central theme in two sweeping anthropological interpretations, by Jack Goody and Alan Macfarlane. The former focused on the impact of the Church and the strong trends in ecclesiastical legislation in reducing rights of heirship and thereby weakening clans and encouraging smaller families.[[114]](#footnote-114) Macfarlane traced the rise of “individualism” and the decline of the family-based peasant unit back to the period focused in this account, the thirteenth century.[[115]](#footnote-115)

Though both theories have met with inevitable historical criticism, the broad lines of the arguments reflect important trends. They also point to dynamics that underlie this account, especially the spread of royal power. As Max Weber highlighted long ago, however, the major erosion of kinship structures was first achieved by the Church.[[116]](#footnote-116) One need not accept the strongly materialist hypothesis advanced by Goody—that the Church pursued this policy with the intent of increasing its landholdings—to acknowledge the central insight, that family unit size was reduced and the Church was an important factor.[[117]](#footnote-117) As marriage was regulated both by prohibiting close degrees of consanguinity and by requiring spouse consent (as opposed to clan elder decision), clan power declined and extended family ties weakened.[[118]](#footnote-118) Macfarlane traced similar trends on peasant structures, but he viewed them too as endogenous to clan decline.[[119]](#footnote-119)

Clans were not central in England, in contrast to other British regions (for instance Scotland), from at least the twelfth century. Causality cannot be conclusively established. Maybe kin relations were weaker in England already or maybe the Church was more effective there. The Church was certainly quite assertive: English reformers in the late eleventh century had imposed more extensive degrees of prohibition even than official Church policy, counting back to seven generations instead of four.[[120]](#footnote-120) The higher the degree of prohibition, the more the weakening of the clan, as blood ties receded in salience. That this was necessary suggests clans were not negligible.

But without the state, Church rules can rarely acquire universal application. Inheritance of land was enforced through secular courts and without strong capacity they could not have ensured that laws rather than local custom prevailed. Land was increasingly concentrated and the number of heirs reduced, especially through the legal form of entails, which restricted inheritance to “heirs of the grantee’s body” in a lineal and defined succession.[[121]](#footnote-121) Such measures defined the family unit ever more restrictively and prevented heirs from alienating.

That the Church itself cannot fully explain the weakening of clans is seen by the cases of Italy and Flanders, where, despite great Church strength, clans were also strong: central powers were weaker, however, there.[[122]](#footnote-122) Instead, what mattered is whether Church practices were shored up by strong secular authorities. Yet even if we accord the Church a central role, this still produces a variant of the central theme pursued throughout this book: it was not a stronger demand for individual rights that distinguished England (or even the West more broadly), it was the more effective subjection of the population to a supra-local set of institutional restrictions, in this case, Church-derived and state-supported, that accounts for the differences. The demand for rights was endogenous to that compellence.

From this perspective, it is unsurprising that Russian historians have also observed a weakening of kin structures and collective responsibility the more centralized institutional authority grew. Kinship gradually declined from the sixteenth century, at least in some sectors. Further, from the Muscovite era, the principle of collective responsibility was gradually extended beyond the family and onto administrative units, “in matters of public safety and criminal persecution, for fiscal dues, but also to deal with vagrant runaways in the seventeenth century increasingly.”[[123]](#footnote-123) As the logic advanced in this book would predict, this shift was especially strong for the class that was bound by relations of dependence on the tsar, the lower servitor class, and which dominated the representative activity observed. Clans were not important for the Russian gentry; instead social relations revolved around the “much closer-knit immediate family,”[[124]](#footnote-124) echoing English developments. The practice of partible inheritance further accelerated these trends. Although, as Kivelson have shown, it served the interests of the group, it did so by focusing it onto smaller units that were thus more dependent on the state.[[125]](#footnote-125)

By contrast, the most powerful elite, the *boyars*, retained a strong clan structure that made it less amenable to tsarist control. They were not exempt from collective responsibility but were held responsible for the political behavior of others, a major tool of tsarist control in the sixteenth century.[[126]](#footnote-126) For historian Richard Hellie, this obligation explains the lack of resistance against the tsar. However, the issue is not collective obligation per se, but that it depended on pre-existing kin alliances rather than direct relations with the ruler, as in England.[[127]](#footnote-127) The system inhibited collective action on a supra-local, bureaucratic level, as it reinforced kin obligations and ties at the family level,[[128]](#footnote-128) it did not dilute them.[[129]](#footnote-129)

In fact, “the only significant limitations on individual property in [pre-Petrine] Russia” admitted by Weickhardt in his reconsideration of property rights “were in favor of the clans rather than the state.”[[130]](#footnote-130) Similarly, the *mestnichestvo*, the system that protected the order of precedence among the elite and preserved their status, exacerbated natural rivalries without being countered by strong incentives to collaboration within the elite, as in England.[[131]](#footnote-131) Although Russian historians often see these relations as symbiotic with the tsarist regime and operational (Russia was indeed becoming a formidable power),[[132]](#footnote-132) the previous chapter has suggested multiple levels at which the capacity to transcend these communal structures (rather than just to mobilize them) was severely restricted in Russia as compared to England.

So, although kinship declined as a basis of obligation in some social sectors, collective responsibility did not. However, as noted by Dewey and Kleimola, “the net result of the decline of kinship there was not the emergence of individualism. On the contrary, collective responsibility was extended throughout the fabric of Russian life.” In fact, this explains the paradox noted earlier, between the atomism observed by historians and the extensive collectivist practices: “Collective responsibility became the cement that held an atomized society together in a way that laid the basis for the ascendancy of the all-powerful authoritarian state.”[[133]](#footnote-133) This result is typically attributed “partly to attitudes and values deeply rooted in Russia's past, partly to the conscious effort of the state, the landowners, and others in authority.”[[134]](#footnote-134) However, given that the state’s capacity to transcend these structures was limited, ascribing outcomes to such values assumes the validity of “revealed preferences:” these often tell us what actors *could* do, not necessarily what they wanted, despite ex post rationalizations and accommodations.

### Corporate Bodies and Corporations

Collective responsibility is, however, a stage to be overcome in most accounts of the West. Instead, two other forms of collective organization are considered central: estates organized as corporate bodies and corporations more generally. An estate is a group of people defined by similar legal status, “to which is attached a bundle of rights and duties, privileges and obligations, legal capacities and incapacities, which are publicly recognized.”[[135]](#footnote-135) Corporate estates were highlighted by Max Weber, who connected them to bureaucratic outcomes: the *Ständestat* explained the transition from feudalism to capitalism, but it also provided necessary structures for the emergence of constitutionalism.[[136]](#footnote-136) Corporations more generally have long formed a central part in historical accounts of representative practice on the European continent.[[137]](#footnote-137) As a form of associative practice, corporations are also again at the center of attention of theoretical accounts of political pluralism.[[138]](#footnote-138) As a form of business organization, corporations are increasingly seen as constitutive of the liberal political and economic order.[[139]](#footnote-139)

Neither of these forms emerged indigenously in the non-Western cases. But this does not explain the institutional divergence. The widespread assumption is that Europe diverged because “monarchs in England, France, the Germanies, Poland and Bohemia solved the problem [of coopting social groups] by sharing sovereignty with parliaments and by giving privileges to corporate estates.”[[140]](#footnote-140) However, the prevalent association of corporate estates with constitutionalism is flawed. That corporate estates developed where constitutional democracy later took root (after many trials and reversals), like France or Germany, does not mean that they caused those outcomes. Rather, the more entrenched corporate privileges were, the weaker the state, the more coercive its strategy of expansion, and the weaker the constitutionalism. Constitutionalism and democracy required revolution there.

Furthermore, estates and corporate bodies with privilege and immunities are integrally connected, in such accounts, with the rise of towns as independent political actors,[[141]](#footnote-141) separated from the feudal structures of the countryside and endowed with freedoms and rights as well as legal personhood. The autonomous city has been a focal point of theories explaining the rise of the West,[[142]](#footnote-142) the rise of the state,[[143]](#footnote-143) and economic growth.[[144]](#footnote-144) Immunities of different kind (of service, taxation, jurisdiction) were constitutive of the new, non-feudal order and have tied explanations for the rise of representative government with urban social forces and a weakening of aristocratic power structures, as we have seen. Representative government is thus naturally identified with a dynamic of strong, entrenched groups possessed with rights that they bargain on with the monarch in the institutional setting of a parliament or assembly. The concept of autonomy has been critical to some foundational statements in both state and regime emergence.[[145]](#footnote-145)

However, echoing work that is emphasizing the inhibiting effects of urban autonomy on economic growth,[[146]](#footnote-146) I have argued (in chapter 8) that urban and estate autonomy had an inverse effect on representative practices and institutions *at the polity level*.[[147]](#footnote-147) In fact, how the modern state and representation emerged out of such privileges is never explained—they are assumed to emerge endogenously, typically through an alliance of urban groups with a monarchy intent on limiting the feudal aristocracy, following nineteenth century liberal historiography.[[148]](#footnote-148) Rights and prerogatives of both the ruler and the *Stände* are taken as the element of continuity between the feudal order, the intermediary *Ständestaat*, and finally the constitutional nineteenth century state, through the transformative stage of absolutism, which introduced Roman law codifications and bureaucratic “public law.”[[149]](#footnote-149) But was such a transformation endogenous? Would it have occurred if England did not already serve as a model? Such accounts describe, but don’t explain, this radical transformation.

The role of privilege is also misunderstood. Some accounts of the emergence of the modern state and representative practices emphasize how “absolutism” and the old “feudal” order depended on noble privilege and control of positions of power.[[150]](#footnote-150) Office and service were thus privileges the nobility were actively seeking, as instruments to increase social power. Securing office was usually considered to be “in inverse proportion to the power of the Crown”[[151]](#footnote-151) and could be seen as one of the “rights of political participation,”[[152]](#footnote-152) which again exemplifies the assumed genetic connection between privilege and right. Key of course was the “privilege” to attend parliament as well as to elect deputies to the noble estate, which was typically tied to property ownership. From the Prussian Junkers to the French noblesse de robe, high office would appear to be the essence of corporative privilege.[[153]](#footnote-153) Yet, it was such privilege that had to be *cast aside* for the modern state and more democratic practices to emerge.[[154]](#footnote-154) This dynamic thus cannot be confused with a genetic account of western representation.

What distinguished England, by contrast, is precisely the absence of corporate privileges. Moreover, the *political* role of corporations was also more circumscribed in England. In both cases, it was the coordinating role of the state that was key.

Office and representation were not privileges in the period of parliamentary emergence, but obligations. What was “distinctively peculiar” to England was that its nobles possessed so *few* corporative privileges.[[155]](#footnote-155) As Stubbs wrote, “the English law does not regard the man of most ancient and purest descent as entitled thereby to any right or privilege which is not shared by every freeman,”[[156]](#footnote-156) a point examined at length in chapter 3. English social classes were thus more open and porous than Continental ones, at least in the early period. Further, the “great peculiarity of the baronial estate in England as compared with the continent, is the absence of the idea of caste:” the baronage was not defined by blood; it was a nobility of office or landholding and was established by the royal summons.[[157]](#footnote-157) No formal right existed to a summons; only custom consolidated the presence of some members of the nobility.[[158]](#footnote-158)

The English nobility had fewer privileges, as this book has argued, crucially in its lack of fiscal immunity.[[159]](#footnote-159) By being uniformly subjected to taxation, it was not as separated from the rest of society nor did it possess a set of juridically-defined privileges, although individual members could and did apply for special treatment.[[160]](#footnote-160) By contrast, throughout Europe, nobilities became exempt from the thirteenth century, either from all or usually from most direct taxes[[161]](#footnote-161)—indirect taxes on consumption were hard to avoid. The greater the corporative privilege, the weaker the representative governance: no taxation of the rich, no polity-wide representative governance.

This contrasts sharply of course with the image of a powerful landed English nobility from later centuries. “The richest people in mid-nineteenth-century England, after a century of industrialization, remained aristocratic landowners…The British cabinets of the late nineteenth century were among the most aristocratic in the nation’s history…England represents an extreme instance of the continuity of aristocratic power in European history, but there were parallels throughout Europe.”[[162]](#footnote-162) But this was the long-term result of the gradual weakening of power observed after the fifteenth century. As taxation data suggest, royal control weakened, leading to systemic crisis.[[163]](#footnote-163) The characteristics of the English landed nobility began to approximate Continental conditions. It is not a coincidence that this period also showed a shift to more absolutist forms of governance, with the Tudor and Stuart monarchies. These conditions should not be projected back to the period of institutional emergence, however: at that time, its most powerful classes had the least entrenched “rights” in Europe.

Corporations are the other form of collective organization that were absent in the East but central to the West.[[164]](#footnote-164) Yet their foundations lay in the same practice which in Russia is identified with absolutism: collective responsibility.[[165]](#footnote-165) This is not apparent because of the widespread assumption that impersonal corporations heralded an apparently “individualist,” “modern” political and economic form.[[166]](#footnote-166) That was eventually so, but the account of origins demonstrates how closely enmeshed corporations were with patterns of collective responsibility systematically enforced by the state. Once again, the prevalence of collective responsibility cannot suffice to explain the divergent eastern path on this dimension. Nor can we ascribe “the evolution of the western corporation…on the weakening of central authority following the demise of the western Roman Empire.”[[167]](#footnote-167) Though that may apply to the Continent, the most effectively institutionalized version of the corporation occurred in England and conditions there were different.

Although corporations are typically conceived as economic entities given their later history in business, their initial appearance in pre-modern Europe was as an instrument of governance, with boroughs as a major instance (although the Church pioneered many of these forms).[[168]](#footnote-168) The incorporated English borough, however, was predicated on obligation, the collective responsibility to collect taxation due to the crown, the *firma burgi*, the borough tax farm.[[169]](#footnote-169) This obligation/right is very similar to what we observed in both Russia and the Ottoman Empire and it is one we saw assiduously contested through petitions, as in England.[[170]](#footnote-170) Cases did not differ therefore in degree of bargaining with the ruler; it was the degree and type of institutionalization of that responsibility that varied.

This institutionalization proceeded from the rights to self-taxation to include possession of a seal, right to set by-laws, to own land, freedom of serfs, guild liberties, but also, importantly, to send representatives to parliament. All these gradually accumulated to provide a corporate legal status to some boroughs, the main public administrative bodies in medieval England to formally do so. These rights were given by and dependent on the crown. “Every borough in England from the city of London downwards lives in daily peril of forfeiting its charters, of seeing its mercantile privileges annulled, of seeing its elected magistrates displaced and itself handed over to the mercies of some royal *custos* or *firmarius*.”[[171]](#footnote-171) It was the common subjection to a frame of royal coercion that institutionalized these practices on a systematic basis in England.

Theories of urban liberties and corporative freedoms, by contrast, assume boroughs are at the forefront of representative demands. However, borough representation displays a familiar pattern: the more formally corporate an entity, the weaker the representative practices. Boroughs acquired a more formal corporate status after the thirteenth century; they were not initially dependent on an official royal charter.[[172]](#footnote-172) They were summoned to Parliament in the same manner as counties, by the royal sheriff. In fact, representation was critical to the emergence of the corporation from its early history in the Church.[[173]](#footnote-173) Nonetheless, the greater number of immunities granted to towns generated perverse incentives for parliamentary representation. Given the expense of attendance, which boroughs had to cover themselves, many opted not to attend and so the number of boroughs declined by the fourteenth century.[[174]](#footnote-174) Whether boroughs escaped representation at a significant level has been a controversial topic, but “we may venture to assert…that towns which lay within great ‘liberties’ were more likely to escape representation than royal boroughs were;”[[175]](#footnote-175) in other words, boroughs under direct royal control had more consistent representation.[[176]](#footnote-176) Corporate independence decreased representative demand, it did not enhance it.

## Conclusion

The last two chapters have integrated two canonical non-Western cases in order to further refine the plausibility of the central contention in this book, namely that what truly distinguishes the English case as the most effective institution-builder was stronger control especially over the most powerful segments of the population. They have shown the remarkable extent to which these cases show patterns and practices that differ little, at least at the micro-level, from Western ones, raising the bar in identifying the factors that truly account for differences. Earlier we saw that England in particular was not initially distinguished by a stronger conception of rights, but rather by more effective centralization of power. The non-Western cases, conversely, were distinguished often by being too fair: they applied principles of equality and justice that the West took centuries to establish, for instance partible inheritance. By contrast, the West adopted primogeniture, which deprived all other family members of secure sustenance. As Kokkonen and Sundell have shown, primogeniture was established in all European monarchies by 1801.[[177]](#footnote-177) Before the language of rights was developed, a prior phase of comparatively striking imposition from above subjected most actors to common frames of obligation. European cases and their level of representative practice varied in tandem with this dynamic.

It was however not that obligation was absent in the non-Western cases. To the contrary, its omnipresence has justified the despotic labeling of those regimes. Paradoxically, however, despite the recurrent charges of stifling centralization, it was incomplete centralization that distinguished them. Obligation was still mobilized mostly at the local level and often on the basis of traditional social axes, such as kinship groups. What the more effective centralization of the English system achieved instead was the supra-local organization of obligation in a manner that was directly answerable to the center on—and this was key—a regular basis. If the incentives for centralization were left simply to the pressures of war, which were intermittent and top down, they were inadequate to the task, as the French and Castilian trajectories demonstrate. It is only where such incentives were tied into the judicial demands of the people, which were both relentless and bottom-up, that institutionalization succeeded at the supra-local level. Western Europeans and the English especially “succeeded” not through greater individualism, but by more effectively marshaling technologies of power to force individuals to act in common with others, from whom they would normally be divided, often at the expense of fairness. Demands for individual rights were simply the response.

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1. Poe (1998), Hellie (1998). [↑](#footnote-ref-1)
2. Keep (1970), Kollmann (1987), 1999), Kivelson (1997), 2002), 1996). [↑](#footnote-ref-2)
3. Kivelson (2002, 489). [↑](#footnote-ref-3)
4. Kollmann (1987, 1). [↑](#footnote-ref-4)
5. Kollmann (1987, 2), Kleimola (1977, 25). [↑](#footnote-ref-5)
6. Keep (1957, 119). [↑](#footnote-ref-6)
7. Hellie (2000, 13). [↑](#footnote-ref-7)
8. Kivelson (1996, 152), Crummey (1983, 174), Kleimola (1977, 25). [↑](#footnote-ref-8)
9. Kivelson (1994, 211-2). [↑](#footnote-ref-9)
10. Kleimola (1977, 29). [↑](#footnote-ref-10)
11. Kivelson (1996, 152, italics added). [↑](#footnote-ref-11)
12. Poggi (1978), Poggi (1990), de Lagarde (1937), Lousse (1935). [↑](#footnote-ref-12)
13. Cahen (1970), Kuran (2005) North, et al. (2009, 23). [↑](#footnote-ref-13)
14. Davis (1905). [↑](#footnote-ref-14)
15. North, et al. (2009). [↑](#footnote-ref-15)
16. Owen (1991). [↑](#footnote-ref-16)
17. See below and chapter 7. [↑](#footnote-ref-17)
18. de Soto (2000) has argued that the abstract capacity for representation distinguishes the West and enabled its economic development. [↑](#footnote-ref-18)
19. Weber ([1922] 1978b, 292-8). [↑](#footnote-ref-19)
20. Hoyt (1961, 16). [↑](#footnote-ref-20)
21. Ibn Rušd (1996, Book 43), Tyan (1955, 257-9), Jennings (1975), Rubin (2012). [↑](#footnote-ref-21)
22. The Arabic version is *wakil*; the Ottoman transliteration is *vekil*. On English attorneys, see Hudson (2012, 586-8). [↑](#footnote-ref-22)
23. Tyan (1955, 258). [↑](#footnote-ref-23)
24. Gerber (1981, 113). [↑](#footnote-ref-24)
25. Kermeli (2008, 194). [↑](#footnote-ref-25)
26. Rozen (2010, 33-4). [↑](#footnote-ref-26)
27. Rozen (2010, 69-70). [↑](#footnote-ref-27)
28. Epstein (1982, 113). Kuran (2011, 186) points out that when courts decided on debt restitution or tax collection, decisions could treat the Jewish community as having legal personhood. [↑](#footnote-ref-28)
29. Heyneman (2004, 51), Davis and Robinson (2006). [↑](#footnote-ref-29)
30. Chapter 4. [↑](#footnote-ref-30)
31. Bogatyrev (2000, 137). [↑](#footnote-ref-31)
32. Before the code of 1649, Russian law codes were very slim; Kivelson (2002, 481). [↑](#footnote-ref-32)
33. Four articles reference representation in the Novgorod Judicial Charter, nos 5, 18, 19, and 32; Kaiser (1992). [↑](#footnote-ref-33)
34. Kaiser (1992).\* [↑](#footnote-ref-34)
35. Kleimola (1975, 24). [↑](#footnote-ref-35)
36. Kleimola (1975, 25). [↑](#footnote-ref-36)
37. Kollmann (2012, 38, 359, 42, 72, 78, 218, 169). [↑](#footnote-ref-37)
38. Kollmann (2012, 49). [↑](#footnote-ref-38)
39. In the Pravosudie Mitropolich'e: “20. And a judge himself is to represent [in court] his own bishop, and he is not to send a copy from the trial [to the bishop for confirmation],” which suggests full powers for the representative; Kaiser (1992). [↑](#footnote-ref-39)
40. Dewey (1971). [↑](#footnote-ref-40)
41. No study of the negotiations of monasteries with the tsars seems to exist in the English language, unlike for the Ottoman Empire. [↑](#footnote-ref-41)
42. See footnote \* chapter . [↑](#footnote-ref-42)
43. Greif (2008, 31). [↑](#footnote-ref-43)
44. Faroqhi (1992), Gerber (1994, 127-73), Darling (1996, 246-80), Karaman (2009), Baldwin (2012), Darling (2013, 132, 143-4). [↑](#footnote-ref-44)
45. Darling (2013, 88-90, 132-3, 139-41, 148-9, 164-71). [↑](#footnote-ref-45)
46. Darling (1996, 287). [↑](#footnote-ref-46)
47. Imber (2013, 224-5). [↑](#footnote-ref-47)
48. Inalcik (1973, 89, 90), Imber (2013, 224), Darling (2013, 143). [↑](#footnote-ref-48)
49. Darling (2013, 143). [↑](#footnote-ref-49)
50. Gerber (1994, 154-5). [↑](#footnote-ref-50)
51. Inalcik (1973, 91-2). [↑](#footnote-ref-51)
52. Faroqhi (1992, 2-3). [↑](#footnote-ref-52)
53. Darling (1996)\*. [↑](#footnote-ref-53)
54. Yi (2004, 198). [↑](#footnote-ref-54)
55. See Imber (2011) for examples from the turn of the seventeenth century. [↑](#footnote-ref-55)
56. Inalcik (1973, 91), Darling (1996). [↑](#footnote-ref-56)
57. Darling (1996, 246-80). [↑](#footnote-ref-57)
58. Vast numbers of petitions survive from the sixteenth and seventeenth centuries also introducing tax farmer candidates, stipulating the amounts they proposed to advance to the Treasury. Petitions were submitted for permission to appoint foundation administrators as well; Faroqhi (1992, 4, 5). For England, see Dodd (2007, 126-155) and chapters 2 and 3. [↑](#footnote-ref-58)
59. “The oldest Russian document has been called an "immunity charter;” Dewey (1964, 643). About 500 remain from the fifteenth and early sixteenth centuries and 1,039 between 1504-1584. [↑](#footnote-ref-59)
60. Dewey (1964, 643-4). [↑](#footnote-ref-60)
61. Kleimola (1975, 15, 13). [↑](#footnote-ref-61)
62. Kivelson (1996, 199-200, 225-7, 231-34). [↑](#footnote-ref-62)
63. Kleimola (1975, 11), Crummey (1987, 151), Pipes (1974, 69). [↑](#footnote-ref-63)
64. Kleimola (1975, 13). [↑](#footnote-ref-64)
65. Hellie (2006), Kaiser (1980). [↑](#footnote-ref-65)
66. Kivelson (1996, 143-51, 145). [↑](#footnote-ref-66)
67. Kleimola (1975, 11). [↑](#footnote-ref-67)
68. All quotes are from Kivelson (1996, 211, 215, 216, 225). [↑](#footnote-ref-68)
69. Hosking (2000, 157), Kivelson (1996, 220). [↑](#footnote-ref-69)
70. Kivelson (1996, 219-220). [↑](#footnote-ref-70)
71. Kivelson (1996, 258-9). [↑](#footnote-ref-71)
72. Kivelson (1996, 199, 211, 225-6). [↑](#footnote-ref-72)
73. Kivelson (1996, 216-227). [↑](#footnote-ref-73)
74. Kivelson (1996, 238-9). [↑](#footnote-ref-74)
75. Kivelson (1996, 243). [↑](#footnote-ref-75)
76. See chapter 2. [↑](#footnote-ref-76)
77. Kivelson (1996, 242-3). [↑](#footnote-ref-77)
78. Kivelson (1996, 224-7). [↑](#footnote-ref-78)
79. Kivelson (1996, 140). [↑](#footnote-ref-79)
80. See chapter 3. [↑](#footnote-ref-80)
81. Barrington (2012, 84). Cf. Dennison (2011). [↑](#footnote-ref-81)
82. Dewey and Kleimola (1984, 190-1). [↑](#footnote-ref-82)
83. Dewey and Kleimola (1982, 321). [↑](#footnote-ref-83)
84. Macfarlane (1978). [↑](#footnote-ref-84)
85. Poggi (1990), Hintze ([1931] 1975). [↑](#footnote-ref-85)
86. Kollmann (1987). [↑](#footnote-ref-86)
87. North, et al. (2009), Kuran (2011). [↑](#footnote-ref-87)
88. See Patricia Crone’s explanation of the rise of capitalism in the West, through a Weberian comparison with Muslim alternative paths, by focusing on how the state “drew the teeth of such semi-autonomous groups as exist[ed] within it;” Crone 1999, 260. [↑](#footnote-ref-88)
89. Les sûretés personnelles: Civilisations archaïques, antiques et orientales1974), Les sûretés personnelles: Moyen âge et temps modernes1971), Herrin (2013, 20-1). [↑](#footnote-ref-89)
90. White (1933). [↑](#footnote-ref-90)
91. Crone (1986), Mallat (2003, 702-3). [↑](#footnote-ref-91)
92. Schacht (2012). [↑](#footnote-ref-92)
93. Canbakal (2011). Ottoman secondary sources seem to pick up on the theme from the 1600s. [↑](#footnote-ref-93)
94. Subhan . [↑](#footnote-ref-94)
95. Subhan . The practice was also common in Byzantine provinces; Herrin (2013, 20-1). [↑](#footnote-ref-95)
96. Kuran (2011, 105). [↑](#footnote-ref-96)
97. Canbakal (2011, 92). [↑](#footnote-ref-97)
98. Dewey (1970), 1988), 1982), 1984). [↑](#footnote-ref-98)
99. Dewey (1970). [↑](#footnote-ref-99)
100. Dewey and Kleimola (1984, 185). [↑](#footnote-ref-100)
101. Dewey (1970, 342-3). [↑](#footnote-ref-101)
102. Shaw (2006, 305-6), Pipes (1974, 98-9). [↑](#footnote-ref-102)
103. Hudson (2012, 169-171, 391-5). [↑](#footnote-ref-103)
104. Hudson (2012, 391-2). [↑](#footnote-ref-104)
105. Hudson (2012, 391-3, 555, 717). See also Cam (1960, 125, 124-8, 185-7), Morris (1910), Pollock and Maitland (1898, 558-64, 568-7). [↑](#footnote-ref-105)
106. Hudson (2012, 405-9). [↑](#footnote-ref-106)
107. Pollock and Maitland (1898, 688). [↑](#footnote-ref-107)
108. Dewey and Kleimola (1982, 334). [↑](#footnote-ref-108)
109. Morris (1910, 157, 151-167). Aspects of it survived into the nineteenth century; Morris (1910, 158). [↑](#footnote-ref-109)
110. Benson (1989), North (1991), Besley and Coate (1995), Greif (2002). [↑](#footnote-ref-110)
111. North and Thomas (1973). [↑](#footnote-ref-111)
112. Benson (1989). [↑](#footnote-ref-112)
113. Greif (2002). [↑](#footnote-ref-113)
114. Goody (1983). [↑](#footnote-ref-114)
115. Macfarlane (1978). [↑](#footnote-ref-115)
116. Goody, et al. (1976), Weber ([1922] 1978a, 1244), Hall (1985, 130-33), Lynch (2003), Sabean, et al. (2007), Fukuyama (2011, 526, 262-75). [↑](#footnote-ref-116)
117. Davis (1985), Houlbrooke (1984). [↑](#footnote-ref-117)
118. Hudson (2012, 436-8, 776-82). [↑](#footnote-ref-118)
119. Macfarlane (1978)\*. [↑](#footnote-ref-119)
120. Worby (2010), Hudson (2012, 436, 778). [↑](#footnote-ref-120)
121. Biancalana (2001), Hudson (2012, 652). [↑](#footnote-ref-121)
122. Heers (1974), Heers (2008), d'Avray (2001, 189). [↑](#footnote-ref-122)
123. Dewey and Kleimola (1982, 330, 334). [↑](#footnote-ref-123)
124. Kivelson (1994, 200, 202). [↑](#footnote-ref-124)
125. Kivelson (1994). [↑](#footnote-ref-125)
126. Dewey (1987, 132-3), 1982, 326ff). [↑](#footnote-ref-126)
127. Hellie (2000, 18). [↑](#footnote-ref-127)
128. Kleimola (1977, 26). [↑](#footnote-ref-128)
129. Even this compellence on the *boyars* declined after Ivan IV and his weaker successors, however; Dewey (1987, 132-3). [↑](#footnote-ref-129)
130. Weickhardt (1993, 665). [↑](#footnote-ref-130)
131. Poe (2006, 440), Kleimola (1977, 25-6), Bogatyrev (2006, 254-5). [↑](#footnote-ref-131)
132. Kivelson (1996). [↑](#footnote-ref-132)
133. Dewey and Kleimola (1982, 335). [↑](#footnote-ref-133)
134. Dewey and Kleimola (1982, 334). [↑](#footnote-ref-134)
135. Marshall (1964, 193), Mousnier (1973), Bendix (1977), Blum (1978). [↑](#footnote-ref-135)
136. Weber ([1922] 1978b, 1085), 1947, 139-157), Hintze ([1931] 1975), Poggi (1978, 36-59), Burleigh (1984), Hall (1985, 137), Clark (1995), Poggi (1990). [↑](#footnote-ref-136)
137. Lousse (1935), Lousse (1952), de Lagarde (1937). [↑](#footnote-ref-137)
138. Muñiz Fraticelli (2014), Levy (2014). [↑](#footnote-ref-138)
139. Ciepley (2013), Kuran (2005), Guinnane, et al. (2007). Cf. Lamoreaux and Rosenthal (2004). [↑](#footnote-ref-139)
140. Kollmann (1987, 2). [↑](#footnote-ref-140)
141. Poggi (1978, 37). [↑](#footnote-ref-141)
142. Weber ([1921] 1958), Hall (1985, 136), Stasavage (2014). [↑](#footnote-ref-142)
143. Blockmans (1989), Spruyt (1994). [↑](#footnote-ref-143)
144. Mokyr (1995), Mokyr (1990), DeLong and Shleifer (1993). [↑](#footnote-ref-144)
145. Poggi (1978), Mann (1984), Hall (1994), Ertman (1997). [↑](#footnote-ref-145)
146. Epstein (2000), Ogilvie (2011), Stasavage (2014). [↑](#footnote-ref-146)
147. Tilly (1990) has posited instead an inverse U-shaped relation between cities (as proxies for capital) and states: where levels of capital are too high, they inhibit the growth of the state. However, as I show elsewhere 2015), his two cases of “intermediate” levels of capital and coercion, England and France, do not actually have intermediate levels on either dimension: England is at the bottom quartile in the distribution of rates of European urbanization and it has about double the per capita extraction of military troops compared to France. [↑](#footnote-ref-147)
148. Guizot (1851), Spruyt (1994). A long and distinguished line of French historiography has shifted emphasis to the role of the nobility instead. See especially the work of John Major (1960), 1964), 1994), 1991). [↑](#footnote-ref-148)
149. Poggi (1978, 56-62, 86-7). [↑](#footnote-ref-149)
150. Anderson (1979). [↑](#footnote-ref-150)
151. Bush (1983, 86). [↑](#footnote-ref-151)
152. Bush (1983, 79-120). [↑](#footnote-ref-152)
153. Honorific and seigneurial privileges, as well as those of landownership were equally important in calcifying societal divisions and inequality; Bush (1983, 121-205). [↑](#footnote-ref-153)
154. Moore (1967), Koenigsberger (1971), Asch (2003). [↑](#footnote-ref-154)
155. Bush (1983, 41), Clark (1995), Asch (2003, 25-8). [↑](#footnote-ref-155)
156. Stubbs (1896, 190-1). [↑](#footnote-ref-156)
157. Stubbs (1896, 185). [↑](#footnote-ref-157)
158. Powell and Wallis (1968). [↑](#footnote-ref-158)
159. Bush (1983, 29, 49). [↑](#footnote-ref-159)
160. Willard (1934). [↑](#footnote-ref-160)
161. Bush (1983, 27-64). [↑](#footnote-ref-161)
162. Dewald (1996, 4-5). [↑](#footnote-ref-162)
163. See chapter 6. [↑](#footnote-ref-163)
164. Kuran (2005), Owen (1991). [↑](#footnote-ref-164)
165. Dewey (1970, 339), Dewey and Kleimola (1982, 335), Dewey and Kleimola (1984). [↑](#footnote-ref-165)
166. Greif (2006), North, et al. (2009), Kuran (2005), Kuran (2011). [↑](#footnote-ref-166)
167. Kuran (2005, 792-3). [↑](#footnote-ref-167)
168. Weinbaum (1937). Universities, guilds, fraternities were other important types. Ciepley (2013) has innovatively explored the implications of this genealogy for the modern period. [↑](#footnote-ref-168)
169. Madox (1726), Laski (1917). [↑](#footnote-ref-169)
170. “To take the fees, proceeds, or profits of (an office, tax, etc.) on payment of a fixed sum;” *OED*, s.v. “to farm.” [↑](#footnote-ref-170)
171. Milsom (1968, 678).\* [↑](#footnote-ref-171)
172. Pollock and Maitland (1898, 634-88). [↑](#footnote-ref-172)
173. Laski (1917, 575-7). [↑](#footnote-ref-173)
174. Pollock and Maitland (1898, 641-2).\* [↑](#footnote-ref-174)
175. McKisack (1962, 21). [↑](#footnote-ref-175)
176. As presence in Parliament became increasingly a privilege over time, boroughs started being “invaded” by landed gentry, causing protest; McKisack (1962, 14, 100), Roskell (1954, 48-9). [↑](#footnote-ref-176)
177. Kokkonen and Sundell (2014). [↑](#footnote-ref-177)