Part 6 Why Representation In The West: Petitions, Collective Responsibility, and Supra-Local Organization

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

In the previous chapter, a paradox of Russian history—the efflorescence of representative assemblies during one of the most apparently tyrannical rules—was explained through the logic advanced in this book. I argued that the tyranny was a symptom of the weakness of Ivan IV (now well-attested by historians), especially over the most powerful class, the *boyars*. Whatever constitutional practices developed were, by contrast, with the servitor class, which was tied with relations of dependence to the tsar, predicated on grants of land. This is a pattern that is familiar from the previous chapters. Accordingly, given the incapacity to also constrain the most powerful social class, these constitutional practices neither defined the regime as a whole nor were pervasive enough in order to survive over time. As we’ve seen, English royal capacity to bind the nobility was critical for the control over broader sections of population, thus allowing representative practices to become both entrenched and inclusive.

Russian historians studying the period, however, have offered a different diagnosis of the institutional divergence of England and Russia. These assessments come within a striking revisionist interpretative frame that has decisively rejected simplistic views of the regime as “despotic,”[[1]](#footnote-1) and has stressed the emerging pluralism and language of rights, especially in the seventeenth century, whilst identifying their limitations—goals shared by this analysis.[[2]](#footnote-2) The assessments also show the strong parallels between England and Russia, especially in the Early Modern period.[[3]](#footnote-3) Valerie Kivelson, in particular, 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;” these features together enable the despotic interpretation to prevail.[[4]](#footnote-4)

For Nancy Kollmann, Russian autocracy was different than 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.[[5]](#footnote-5) 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.”[[6]](#footnote-6)

Despite an apparently different perspective, both of these assessments converge on the dynamics highlighted in this account. Instead of seeing these conditions—whether a confinement to pre-democratic forms of political expression or the personalization of politics—as final assessments, my account explains them as endogenous to structural conditions of power and its organization, from the fact that Russia was a “minimally governed society in most ways.”[[7]](#footnote-7) The argument advanced heretofore explains precisely the *“absence*” in Russia of“specific electoral institutions” that would have allowed moving beyond “the previous forms of political expression—supplication, petition, consultation, and riot,” the latter being as abundant in Russia as they continued to be in England into the modern period.[[8]](#footnote-8) By providing a genetic account of electoral institutions in the English case, the book has shown how state power was instrumental in bringing them about.

By the same token, as these historians have overwhelmingly shown, there was no shortage of language of rights in Russia either. Rather, I argue, the difference lies in the lack of effective collective organization that could bring disparate social groups under a single institutional setting—which is how Parliament emerged in England. It was not a weakness in “civic culture” that generated the divergence in Russia; it was the weakness of the state to impose an institutional frame in which such a culture would thrive. The precondition of “social pluralism in politics” was the collective organization of the multiple social interests in an institutional frame at the behest of the state at some earlier point in time. In Russia, social pluralism did not have an equivalent in politics because absolutist rulers were unable to control the most powerful. The more that was the case, the more rulers had to exercise violence and coercion over the weaker subjects and social sectors to achieve governance. This pattern is quite systematic across time and place.[[9]](#footnote-9)

At the same time, the concerns of historians are not too distant from what, for some scholars in the social sciences, is a critical dimension for economic development and social order: the absence/presence of corporations or other “perpetually lived organizations.”[[10]](#footnote-10) 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.[[11]](#footnote-11) In the account of 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.[[12]](#footnote-12) The economist Timur Kuran has made the absence of corporations the lynchpin of his explanation of the divergence of the Ottoman economy from the West. The *vakıfs* discussed in chapter 10*,* trusts over land and its usufruct that allowed the naming of heirs in perpetuity,[[13]](#footnote-13) did not perform the same functions as the corporation in the West.[[14]](#footnote-14)

This suggests that the absence of such ideational templates in the non-Western cases accounts, in part at least, for their divergent institutional paths. It could be similarly said that the legal frame of proctorial representation, which has loomed so large in this account, was also absent in these cases. This would suggest that a cultural argument ultimately can best explain these patterns. However, chapter 10 has shown that the legal nature of the *vakıfs* did not itself foreclose the development of more corporate social forms and that the capacity of the state to impose an institutional frame was more crucial. In fact, a central theme of this account is that the more complex organizations, for instance cities or elites as corporate groups with entrenched rights, developed *outside* the control of the state, the more they impeded both social and political development at a polity level and in enduring ways.

The earlier parts of this account, moreover, have also highlighted some more key dynamics for the emergence of representative institutions in the West: the seeking of justice via petitions from the ruler and the collective responsibility of social groups for obligations towards the state, especially based on land relations. This chapter brings brings these different strands together. It will show that the concept of representation, although it did not exist in the extensive form we observed in the Western cases, was also present, at least *in nuce*, and used in the two non-Western ones. The chapter will also discuss the overabundance of petitions as a mode of demanding rights, in language and content that differs little from the West. Finally, it will show how collective responsibility was widespread in the latter two as well and how local life was, apparently, as burdened with state obligations as we have observed in England. In short, the different cultural templates we observed in the West can be discovered outside it as well; in fact, traits thought to distinguish the eastern cases and explain their absolutism were central to the English trajectory as well.

The difference, instead, I argue, lies in the stronger capacity of the state to impose these duties at a supra-local level; this created a common institutional frame that could then be harnessed to channel demands for justice in ways that resulted in governance that included most groups. As Russian and Ottoman petitions demonstrate, it’s not the demand for rights that was absent. Accordingly, it was not the presence of rights in England, but their successful constriction by the state, that triggered the institutional responses that resulted in representation. Rights and their demand was endogenous to institutional expansion. In Russia and the Ottoman Empire, such constriction just did not occur in a centralized, homogeneous, institutionalized frame, as it did in England, thus preventing the collective action that is necessary to transform a demand for better individual treatment into one of social justice that applies to groups broader than your own.

A comparison of medieval England with early modern Russia and Ottoman Empire can raise methodological objections however. These are not equivalent units; the first is a small state, the latter two are empires. Moreover, comparing cases at different chronological points may seem questionable. Most studies typically compare the non-Western cases with early modern England (and France). Nonetheless, the comparison is apt. First, as argued already, the question of size is relative. England may be small in itself, but this did not stop it from having “imperial” relations not only with Scotland and Ireland, which it never fully integrated, but later with quarter of the globe. Accordingly, nothing prevented either of the two empires from developing an equivalent strong “core,” with high levels of integration and administration, and to later expand on that strong basis. Yet such a core never developed in either case—this is part of what the comparison aims to explain in a sense. Second, a contemporaneous comparison may be even more problematic, since England had centuries of intense and continuous institutional development before the fifteenth and sixteenth centuries. Instead, I use the same selection criteria as for the rest of the book and England itself. I identify points where institutional activity spikes, in the work of historians, and move backwards from there. This means the articulation of sultanic justice by the turn of the sixteenth century and the efflorescence of assemblies in Russia in the late sixteenth century.

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

As shown in parts 2 and 3, English representatives had plenipotentiary powers that ensured that decisions made at the center with the king were binding in represented localities. Further, state capacity ensured decisions were enforced. The legal practice of representation is thus constitutive of representation. Its absence could be one reason why representation never emerged or consolidated in some cases. But representation was known and practiced in both the Ottoman and 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 that in itself should not be necessary. In any case, as Weber has pointed out, the idea of representation, of one agent standing in for many, is already embodied in the theory of rule.[[15]](#footnote-15) The idea of “representation from above”, of the ruler being represented by his agents, existed before the people came to be represented.[[16]](#footnote-16) The question is what triggers the extension of the principle to the broader population, when the principle is clearly available. Given the fundamental egalitarianism of the Islamic religion and the incipient notions of popular sovereignty described in chapter 10, no ideational impediment existed for the extension. In the Hadith, after all, “All people are equal, as equal as the teeth of a comb.”[[17]](#footnote-17)

The legal kernel of representation as a judicial form was theorized and practiced in Islamic law.[[18]](#footnote-18) 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.[[19]](#footnote-19) 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.”[[20]](#footnote-20) The Muslim law of partnerships recognized each partner as the *vekil* of the other.[[21]](#footnote-21)

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.”[[22]](#footnote-22) The Sultan complied. No institution followed, however.

Jewish communities have also left extensive documentation of group representation and bargaining collectively with the Sultan over taxation.[[23]](#footnote-23) 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.[[24]](#footnote-24) Τhey 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.”[[25]](#footnote-25)

In any case, such practices were localized and 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. If two of the Abrahamic religions displayed these practices, it cannot be the religious component that is causing the divergence; at least, no argument has been made that there is something peculiar to the Islamic religion that proscribed such collective action. *Waqf* practices analyzed in chapter 10 suggest quite the opposite.

In Russia, medieval law codes also attest to the use of representatives in court, albeit fleetingly, with special provisions posited.[[26]](#footnote-26) 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.”[[27]](#footnote-27) Judges could represent their own bishops in court.[[28]](#footnote-28) 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.[[29]](#footnote-29) 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.”[[30]](#footnote-30) As Kollmann has shown in her impressive account of the Russian criminal system, representatives were also used in the justice system, for various social actors, but it is not clear how formalized and binding their conditions of action were.[[31]](#footnote-31)

As in the Ottoman Empire, however, the principle of representation was not introduced into the political realm, even though presumably it was also available to the Christian monasteries and churches. These did secure, especially after the sixteenth century, a series of tax and other immunities,[[32]](#footnote-32) so it is plausible negotiations would typically involve a representative.[[33]](#footnote-33) We have seen in the previous chapter how the church was important for the petition drive that culminated in the representative moment of the sixteenth and seventeenth centuries (though the drive was not collectively organized at the supra-local level). The ideational template of representation was thus not absent in the Russian case either; in the final section, we will also see how the idea that some individuals could bind the whole community was integral to the widely prevalent practice of collective responsibility. Instead, it was the collective organization of society at the behest of the state that was absent or weaker.

## 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 institutional fusion of judicial and fiscal functions that turned Parliament from an incidental and partial institution to a regular and inclusive one. Petitions were the main vehicle for the transmission of local concerns to central authority and they were thus key in imprinting parliament with its principal function: legislation. When such petitions were collectively submitted, they aggregated local demands into central decision-making: collective petitions—known as “common petitions”—became the primary basis of legislation.

Petitions however were far from exclusive to Western polities: they were and are part of a near universal vocabulary of grievance, encountered across regions and periods. Innumerable petitions survive, in most cases 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.[[34]](#footnote-34) 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.[[35]](#footnote-35) 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.

Although much research remains to be done, the *content* of the English petitions that generated Parliamentary legislation appears to have been little different from that of petitions presented throughout other regions. The same prosaic concerns, corruption of officials, miscarriage of justice, excessive taxation, were raised in radically different social and economic contexts. Regional differences between petitions emerged over time: Western ones acquired greater theoretical specification in the articulation of rights. But such articulation would not have been engendered in the first place without the systematic practice of *collective* representation being imposed by the state—this forced the articulation of concerns in more general, inclusive terms.

Non-Western petitions, accordingly, 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 some short-lived developments in Russia did petitions have broad political and societal effects in the sixteenth and seventeenth centuries, as we saw in the last chapter.

Next I describe available historical evidence on petitions in these cases, before moving to explain the variation in collective organization between them in the next section.\*

### Ottoman Empire

Petitions in the Ottoman Empire have only recently begun to attract the systematic attention they deserve and the evidence is overwhelming.[[36]](#footnote-36) Their importance in the administration of justice by the Sultan had long roots in Seljuk and Ottoman practice throughout the Middle East.[[37]](#footnote-37) 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.”[[38]](#footnote-38) The forum of petitions also served as court of appeals against *kadı* judgments.[[39]](#footnote-39)

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.[[40]](#footnote-40) 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.[[41]](#footnote-41)

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)*. 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. The difference rather lay in the systematic and obligatory mobilization of communities by the crown through the county court, which allowed “the people” to craft and submit those petitions collectively, not in differential demand for justice or community involvement.

Disputes about taxation were of major importance.[[42]](#footnote-42) The historian Linda 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.[[43]](#footnote-43) It was thus not that “bargaining over taxation” did not happen in the Ottoman Empire; it is that it was more atomized. It was not a central institution where judicial and fiscal demands could be adjudicated either that was lacking; 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.[[44]](#footnote-44)

Another major theme was corruption of officials, as in England, either tax collectors or judges (*kadıs*).[[45]](#footnote-45) 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.[[46]](#footnote-46) 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.[[47]](#footnote-47)

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.[[48]](#footnote-48) Responsiveness was high, especially for some groups. Guild petitions from Istanbul in the seventeenth century, for instance, had their requests “almost always granted.”[[49]](#footnote-49) Identifying a regime as “unlimited” or “arbitrary” simply because it lacked a central representative institution, emerges, yet again, as unwarranted. 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.[[50]](#footnote-50)

In short, petitions were a major mechanism structuring and channeling grievance. Yet in the Ottoman Empire petitions were submitted from either the individual, the village, guild, or the town level and were dealt with on an individual basis by the sultan or other officials.[[51]](#footnote-51) No central mechanism or clearing house existed to aggregate such concerns into a collective, supra-local platform and from there to broadly applicable legislation, at least not systematically.

### 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. Taxation was a major topic and immunities were granted in response to petitions extensively.[[52]](#footnote-52) Exemptions from judicial and administrative service were also requested this way.[[53]](#footnote-53) Petitions were the means for the expression of political dissent and demand for justice.

Subjects’ pleas were submitted to the Grand Prince, who was strongly encouraged to dispense justice by the clergy.[[54]](#footnote-54) Land disputes were a major concern.[[55]](#footnote-55) At first, the tsar judged together with *boyars*, the highest level of the Russian aristocracy.[[56]](#footnote-56) However, the *boyars* eventually became independent, as their own court was established in 1497.

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 against crime. 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.[[57]](#footnote-57)

A petition by a group of landholders in 1539, in response to local anarchy and state weakness, in fact generated the *guba* system, discussed in the previous chapter. The *guba* elders were the provincial brigandage-control officers, established locally in the early sixteenth century and extended throughout the realm after their local success. *Guba* elders were “elected” in a manner similar to the selection of MPs in seventeenth century England.[[58]](#footnote-58) All estates voted, but not all could hold office; “worthy and prosperous gentrymen” were needed for positions of authority. When the institution declined after the mid-seventeenth century, elders exploited their power and position, leading to complaints submitted again via petitions. The “deluge” of such petitions in the mid-sixteenth century led to the formation of a special chancery to handle submissions to the Grand Prince (the *Chelobitnyi Prikaz*).

The importance of petitions continued into the seventeenth century. In the early 1600s, a Chancellery where “People Petition Against Strong People” was founded. The gentry’s main complaint was that fugitive peasants were removed by the “strong people of Moscow,” but also by church authorities and monasteries, who would only return them to their original locality after the state-imposed five-year statute of limitations had passed—they could hence be employed by their captors without penalty. The limitation was not abolished: the state only extended the period of recovery of peasants.[[59]](#footnote-59)

The major reforms announced in the decree of 1619 were explained “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.[[60]](#footnote-60)

In the seventeenth century, moreover, we observe a wave of collective petitions. With a clear influence of the church, these national petitions had moral and religious language absent from local ones. Early petitions were from the service nobility (also referred to as gentry), but eventually, by the 1660s, local petitions would even include members of the higher Moscow nobility.[[61]](#footnote-61) 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 already from the 1600s.[[62]](#footnote-62) These were not individual, but collective petitions, which surely contributed to their resulting in strong regulation in the law-code of 1649. As this argument predicts, the efflorescence of petitions within a context of conditional land relations creates conditions for more representative governance, even if the weaker institutionalization and reduced presence of the upper nobility made the process more conflictual.

Some key petitioner demands were rejected, unsurprisingly: the tsar would not serve as final arbiter in disputes and the people would have no access to him; they would be punished for even trying.[[63]](#footnote-63) 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.[[64]](#footnote-64) One could mistake these refusals for symptoms of an autocratic regime unwilling to consider equity concerns of its subjects. However, English kings were also besieged by petitioners from the high Middle Ages and in the seventeenth century a bodyguard was required to prevent petitions being thrust in their hand, which imposed an obligation to address it.[[65]](#footnote-65) If tsars passed more autocratic constraints, it was probably because they had greater difficulty in imposing limits on subject access. Moreover, English kings had already developed the dual system of courts, royal courts and Chancery, to address both regular judicial demands and equity requests, making direct appeals less necessary. What appears as an autocratic motion in the Russian case reflects a position of institutional weakness, which placed an overwhelming burden on these informal means of justice-seeking.

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. It is no accident from the perspective of this argument that assemblies flourished in this period. Moreover, increased assembly activity resulted from the creation of a new “servitor” class, to whom lands were given conditionally by successive tsars, again echoing the logic of the English case. But these practices did not shape the regime as a whole. In England they did because of the infrastructural power of the English crown.

In the next section, I will examine how variation in the imposition of collective obligation at the supra-local level is a further key dimension on which English outcomes diverged from both Ottoman and Russian ones.

## Collective Responsibility

Chapter 3 tracked the striking level of subject mobilization achieved by the English crown in the period of parliamentary emergence and argued that it 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.”[[66]](#footnote-66) 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, and taxation. Ottoman administration also depended on similar mechanisms of enforcement.

The performance of such tasks was indispensable to any community seeking to manage its affairs and pre-modern societies across time and space showed remarkable capacity to mobilize populations at the local level to get communal work done through the same mechanism: collective responsibility. “Sureties,” whereby either individuals or communities were pledged to fulfill the responsibilities of either 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.[[67]](#footnote-67)

Yet in the Russian context, such duties are treated as symptoms of an autocratic, oppressive state that applied collective responsibility to create a collectivist *mentalité*, one that allowed tsarist absolutism to reproduce itself.[[68]](#footnote-68) This perspective stems from 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 economy and polity. In economics, collective responsibility is treated as an early way of developing exchange through intercommunity impersonal exchange, by assigning contract enforcement to the community as a whole.[[69]](#footnote-69) The shift to *individual* responsibility occurred as part of the increase in volume of trade that occurred after the thirteenth century. In short, modernity required a move away from such “elementary” forms of social interaction.

This poses the question how England, where collective responsibility was also widely applied in the medieval period, switched to an apparently different, more individualist trajectory. Economic theories explain the shift in the economic domain as either a way to improve efficiency, as in North and Thomas,[[70]](#footnote-70) or, according to economist Avner Greif, because the original system’s success in fostering trade growth eventually undermined it, by expanding market size too much.[[71]](#footnote-71) Alternatively, the change can be seen to increase revenue for European states, by intervening to undermine spontaneous order institutions at the expense of economic efficiency.[[72]](#footnote-72) These explanations share a functionalism that has been critiqued in chapter 2. Instead, 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 local self-help, was the key, as we shall see. In explaining this change, the historical and anthropological literature highlighting the crucial role of the Church and its impact on family law needs to be engaged. First I describe Ottoman and Russian forms of collective responsibility, then I explain how English forms were transformed.

### Collective Responsibility, Eastern and Western.

Community responsibility was part of early Islamic custom that prevailed throughout the Arabian Peninsula and was also practiced in the lands under Ottoman control. With a tribal basis, it validated blood ties and ascribed responsibility to the tribe for actions of its members.[[73]](#footnote-73) There was collective responsibility for murder or attempted murder, known as *ḳiṣāṣ*.[[74]](#footnote-74) 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.[[75]](#footnote-75)

Within the Ottoman Empire, the role of state in instigating and extending these oaths was increasingly important. Taxation could also be collectively imposed; though records survive mostly from the seventeenth century, its incidence was long-standing.[[76]](#footnote-76) 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.”[[77]](#footnote-77) Collective responsibility was also used as a method of conflict resolution; however, it was not as effective,[[78]](#footnote-78) 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.”[[79]](#footnote-79)

Very similar practices were widely observed in Russia. 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.[[80]](#footnote-80) 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.[[81]](#footnote-81) The mechanism was here also applied to tax collection. If one actor failed in their duty to pay taxes, the surety, whether individual or collective, would be obligated to fulfill them instead, upon severe penalty.[[82]](#footnote-82) 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.[[83]](#footnote-83)

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, which was done through the frankpledge system. This dated back to Anglo-Saxon times, but was reinvigorated by the laws of Henry I and Edward I.[[84]](#footnote-84) Mutual responsibility to keep the peace bound all, to a local unit of government (the hundred), which was obligated to put up a surety (collateral) in money for good behavior of its members or pay a fine if a murderer was not caught (*murdrum*). Freeholders and especially lords and the nobility could pledge their land; frankpledge thus bound mainly the unfree and the landless from the age of 12, in an association of 10 householders, known as the tithing (or in some regions, there were 12 householders). The system was enforced by the hundred bailiff, who acted as the sheriff’s agent, or the sheriff himself from the mid-twelfth century, both royal agents.[[85]](#footnote-85)

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.”[[86]](#footnote-86)

Ironically, the same condition which in Russia is thought to have contributed to the collective consciousness that sustained absolutism[[87]](#footnote-87)—collective responsibility—in England undergirded the apparently “individualist,” “modern” political and economic form of the corporation.[[88]](#footnote-88) 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).[[89]](#footnote-89) A main impetus in the development of the incorporated borough was the collective responsibility to collect taxation due to the crown, the *firma burgi*.[[90]](#footnote-90)

This obligation/right is very similar to what we observed in both Russia and the Ottoman Empire.[[91]](#footnote-91) The rights to collect and deliver taxes, together with possession of a seal, right to set by-laws, to own land, but also, importantly, to send representatives to parliament, gradually accumulated to provide a corporate legal status, the only administrative body 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*.”[[92]](#footnote-92)

The claim that Islam does not have the concept of corporation, and none has been claimed for Russia either, becomes even more puzzling given this comparison, as the main building block, collective responsibility, was there in both cases. This book has steadfastly rejected the aim of providing a comprehensive explanation of representative emergence, confining itself to the more modest goal of identifying necessary conditions. In this light, one key factor that varies across these cases is ruler capacity. This becomes more apparent when we probe the reasons why the system of collective responsibility that was widespread in England as it was everywhere in premodern Europe was gradually either displaced or transformed.

Frankpledge itself, at least the surety element of it, slowly disappeared by the fourteenth century in England both because it was failing in its task 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 and shown to be predicated on the crown’s powers of penetration.[[93]](#footnote-93) But this does not mean that collective responsibility was itself eliminated; it was applied 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.

Why did the English crown succeed in displacing communal and widely used forms of social control under a centralized hand, which retained central place in Russia? Although the reasons are complex and part of the broader societal transformation of that period, the origins of the system in the structure of kinship is also relevant. Collective responsibility was an integral element of clan and kin groups and its transformation in the English case is part of the process of the gradual weakening of kin bonds. The most prominent explanation of this process comes from the anthropologist Jack Goody, who 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 nuclear families.[[94]](#footnote-94)

Christianity’s impact on kinship, highlighted by Weber, is widely defended as the progenitor of individualism.[[95]](#footnote-95) One need not accept the strongly materialist hypothesis advanced by Goody—that the Church pursued this policy with the intent of increasing its landholdings—which is criticized by historians, to acknowledge the power of the central insight, that there was a reduction in family unit size and the Church was an important factor.[[96]](#footnote-96) The regulation of marriage both by prohibited degrees and the requirement of consent (as opposed to clan elder decision) worked to reduce the power of the clan and to weaken extended family ties based on consanguinity.[[97]](#footnote-97)

Clans ceased to be central in England, in contrast to other British regions, for instance Scotland, from at least the twelfth century. Causality cannot be conclusively established (as it requires determining the strength of kinship ties across cases). 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 than official Church policy, counting back to seven generations instead of four.[[98]](#footnote-98) The higher the degree of prohibition, the more the weakening of the clan, as blood ties receded in salience.

But the role of the state cannot be ignored. Inheritance of land was handled and enforced through secular courts and without strong capacity they could not have ensured that laws rather than local custom prevailed. Royal laws also increasingly allowed the concentration of land and the reduction of heirs. This is seen especially in the legal form of entails, which were restricted to “heirs of the grantee’s body” in a lineal and defined succession.[[99]](#footnote-99) Such measures defined the family unit ever more restrictively. This inverse relation of clan to state strength emerges from the empirical patterns on a European scale: clans were stronger where ruler power was weaker, as for instance in Italy and Flanders.[[100]](#footnote-100)

This variation also suggests that the Church itself cannot be the final explanation (since it was hardly weaker in Italy and Flanders), but at the very least what mattered is how it interacted and was shored up by strong secular authorities. 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, it was the more effective subjection of the population to a supra-local set of institutional restrictions, in this case, Church-derived, that accounts for the differences.

From this perspective, it is not surprising 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.[[101]](#footnote-101) Further, from the Muscovite era, the principle of collective responsibility was gradually extended beyond the family and onto administrative units. As the logic advanced in this book would predict, this shift was especially strong over the servitor class, which was bound by relations of dependence on the tsar, as we have seen.[[102]](#footnote-102)

In short, the analysis of the major components of the argument, as developed from the western European cases—representation, petitions, and collective responsibility—arrives at the same conclusion. What distinguished the West was not so much a different cultural template or even, as we saw in the last chapter albeit briefly, different socio-economic relations,[[103]](#footnote-103) but the more effective organization of similar building blocks at the aggregate level. And this was enabled by a more effective central power.

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1. Poe (1998), Hellie (1998). [↑](#footnote-ref-1)
2. Keep (1970), Kollmann (1987), Kollmann (1999), Kivelson (1997), Kivelson (2002), Kivelson (1996). [↑](#footnote-ref-2)
3. [↑](#footnote-ref-3)
4. Kivelson (2002, 489). [↑](#footnote-ref-4)
5. Kollmann (1987, 1). [↑](#footnote-ref-5)
6. Kollmann (1987, 2). [↑](#footnote-ref-6)
7. Kollmann (1987, 186). [↑](#footnote-ref-7)
8. Kivelson (2002, 489, italics added). [↑](#footnote-ref-8)
9. Chaudhry (1993, 252-5). [↑](#footnote-ref-9)
10. Cahen (1970), Kuran (2005) North*, et al.* (2009, 23). [↑](#footnote-ref-10)
11. Davis (1905). [↑](#footnote-ref-11)
12. North*, et al.* (2009). [↑](#footnote-ref-12)
13. Imber (2006, 236). [↑](#footnote-ref-13)
14. Kuran (2005). [↑](#footnote-ref-14)
15. Weber ([1922] 1978b, 292-8). [↑](#footnote-ref-15)
16. Hoyt (1961, 16). [↑](#footnote-ref-16)
17. Heyneman (2004, 51). [↑](#footnote-ref-17)
18. Ibn Rušd (1996, Book 43), Tyan (1955, 257-9), Jennings (1975), Rubin (2012). [↑](#footnote-ref-18)
19. The Arabic version is *wakil*; the Ottoman transliteration is *vekil*. On English attorneys, see Hudson (2012, 586-8). [↑](#footnote-ref-19)
20. Tyan (1955, 258). [↑](#footnote-ref-20)
21. Gerber (1981, 113). [↑](#footnote-ref-21)
22. Kermeli (2008, 194). [↑](#footnote-ref-22)
23. Rozen (2010, 33-4). [↑](#footnote-ref-23)
24. Rozen (2010, 69-70). [↑](#footnote-ref-24)
25. 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-25)
26. Before the code of 1649, Russian law codes were very slim; Kivelson (2002, 481). [↑](#footnote-ref-26)
27. Four articles reference representation in the Novgorod Judicial Charter, nos 5, 18, 19, and 32; Kaiser (1992). [↑](#footnote-ref-27)
28. 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];” Kaiser (1992). [↑](#footnote-ref-28)
29. Kleimola (1975, 24). [↑](#footnote-ref-29)
30. Kleimola (1975, 25). [↑](#footnote-ref-30)
31. Kollmann (2012, 38, 359, 42, 72, 78, 218, 169). [↑](#footnote-ref-31)
32. Dewey (1971). [↑](#footnote-ref-32)
33. No study of the negotiations of monasteries with the tsars seems to exist in the English language, unlike for the Ottoman Empire; personal communication, Ann Kleimola. [↑](#footnote-ref-33)
34. See footnote 30, chapter 1. [↑](#footnote-ref-34)
35. Greif (2008, 31). [↑](#footnote-ref-35)
36. Faroqhi (1992), Gerber (1994, 127-73), Darling (1996, 246-80), Karaman (2009), Baldwin (2012), Darling (2013, 132, 143-4). [↑](#footnote-ref-36)
37. Darling provides a panoramic view of justice in the Middle East since antiquity and the role of rulers hearing petitions is repeatedly emphasized; Darling (2013, 88-90, 132-3, 139-41, 148-9, 164-71). [↑](#footnote-ref-37)
38. Darling (1996, 287). [↑](#footnote-ref-38)
39. Imber (2013, 224-5). [↑](#footnote-ref-39)
40. Inalcik (1973, 89, 90), Imber (2013, 224), Darling (2013, 143). [↑](#footnote-ref-40)
41. Darling (2013, 143). [↑](#footnote-ref-41)
42. Inalcik (1973, 91). The major study is by Darling (1996). [↑](#footnote-ref-42)
43. Darling (1996, 246-80). [↑](#footnote-ref-43)
44. Vast numbers of petitions survive from the sixteenth and seventeenth centuries also introducing candidates for tax farmers, 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-44)
45. Gerber (1994, 154-5). [↑](#footnote-ref-45)
46. Inalcik (1973, 91-2). [↑](#footnote-ref-46)
47. Faroqhi (1992, 2-3). [↑](#footnote-ref-47)
48. Darling (1996). [↑](#footnote-ref-48)
49. Yi (2004, 198). [↑](#footnote-ref-49)
50. See Imber (2011) for examples from the turn of the seventeenth century. [↑](#footnote-ref-50)
51. Faroqhi (1992), Barkey (1994, 85), Karaman (2009), Darling (1996). [↑](#footnote-ref-51)
52. “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-52)
53. Dewey (1964, 643-4). [↑](#footnote-ref-53)
54. Kleimola (1975, 11), Crummey (1987, 151), Pipes (1974, 69). [↑](#footnote-ref-54)
55. Kleimola (1975, 15, 13). [↑](#footnote-ref-55)
56. Grand Prince was the title of the highest rank until the assumption of that of tsar, in 1547, by Ivan IV (the Terrible). [↑](#footnote-ref-56)
57. Hellie (2006), Kaiser (1980). [↑](#footnote-ref-57)
58. Kivelson (1996, 143-51). [↑](#footnote-ref-58)
59. Kivelson (1996, 219-220). [↑](#footnote-ref-59)
60. Kivelson (1996, 211, 215, 216, 225). [↑](#footnote-ref-60)
61. Kivelson (1996, 199, 211, 225-6). [↑](#footnote-ref-61)
62. Kivelson (1996, 216-227). [↑](#footnote-ref-62)
63. Kivelson (1996, 238-9). [↑](#footnote-ref-63)
64. Kivelson (1996, 243). [↑](#footnote-ref-64)
65. See chapter \*. [↑](#footnote-ref-65)
66. White (1933). [↑](#footnote-ref-66)
67. Les Sûretés Personnelles: Civilisations Archaïques, Antiques et Orientales (1974), Les Sûretés Personnelles: Moyen Âge et Temps Modernes (1971), Herrin (2013, 20-1). [↑](#footnote-ref-67)
68. Dewey and Kleimola (1984, 190-1). [↑](#footnote-ref-68)
69. Benson (1989), North (1991), Besley and Coate (1995), Greif (2002). [↑](#footnote-ref-69)
70. North and Thomas (1973). [↑](#footnote-ref-70)
71. Greif (2002). [↑](#footnote-ref-71)
72. Benson (1989). [↑](#footnote-ref-72)
73. Crone (1986), Mallat (2003, 702-3). [↑](#footnote-ref-73)
74. Schacht (2012). [↑](#footnote-ref-74)
75. Canbakal (2011). Ottoman secondary sources seem to pick up on the theme from the 1600s. [↑](#footnote-ref-75)
76. Subhan (2012). [↑](#footnote-ref-76)
77. Subhan (2012). The practice was also common in Byzantine provinces; Herrin (2013, 20-1). [↑](#footnote-ref-77)
78. Kuran (2011, 105). [↑](#footnote-ref-78)
79. Canbakal (2011, 92). [↑](#footnote-ref-79)
80. Dewey (1970). [↑](#footnote-ref-80)
81. Dewey and Kleimola (1984, 185). [↑](#footnote-ref-81)
82. Dewey (1970, 342-3). The importance of collective responsibility in Russia has been most extensively studied by Horace Dewey and Ann Kleimola; Dewey (1970), Dewey (1988), Dewey and Kleimola (1982), Dewey and Kleimola (1984). [↑](#footnote-ref-82)
83. Shaw (2006, 305-6), Pipes (1974, 98-9). [↑](#footnote-ref-83)
84. Hudson (2012, 169-171, 391-5). [↑](#footnote-ref-84)
85. Hudson (2012, 555, 717). See also Cam (1960, 125, 124-8, 185-7), Morris (1910), Pollock and Maitland (1898, 558-64, 568-7). [↑](#footnote-ref-85)
86. Pollock and Maitland (1898, 688). [↑](#footnote-ref-86)
87. Dewey (1970, 339), Dewey and Kleimola (1982, 335).Dewey and Kleimola (1984). [↑](#footnote-ref-87)
88. Greif (2006), North*, et al.* (2009), Kuran (2005), Kuran (2011). [↑](#footnote-ref-88)
89. Weinbaum (1937). Universities, guilds, fraternities were other important types. Ciepley has innovatively explored the implications of this genealogy for the modern period; Ciepley (2013). [↑](#footnote-ref-89)
90. Madox (1726), Laski (1917). [↑](#footnote-ref-90)
91. “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-91)
92. Pollock and Maitland (1898, 678). [↑](#footnote-ref-92)
93. Morris (1910, 157, 151-167). Aspects of it survived into the nineteenth century; Morris (1910, 158). [↑](#footnote-ref-93)
94. Goody (1983). [↑](#footnote-ref-94)
95. 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-95)
96. Davis (1985), Houlbrooke (1984). [↑](#footnote-ref-96)
97. Hudson (2012, 436-8, 776-82). [↑](#footnote-ref-97)
98. Worby (2010), Hudson (2012, 436, 778). [↑](#footnote-ref-98)
99. Biancalana (2001), Hudson (2012, 652). [↑](#footnote-ref-99)
100. Heers (1974), Heers (2008), d'Avray (2001, 189). [↑](#footnote-ref-100)
101. Dewey and Kleimola (1982, 330). [↑](#footnote-ref-101)
102. Kivelson (1994). [↑](#footnote-ref-102)
103. See the discussion on serfdom. [↑](#footnote-ref-103)