



THE SHEEP UNSAFE

Marc Raeff

Reviewing

STEPHEN F. WILLIAMS, *LIBERAL REFORM IN AN ILLIBERAL REGIME:
THE CREATION OF PRIVATE PROPERTY IN RUSSIA, 1906-1915*
(Hoover Institution Press 2006)

IT MAY COME AS A SURPRISE that a distinguished judge of the United States Court of Appeals would undertake an account and analysis of the last agrarian reform in Tsarist Russia. What should not be a surprise, however, is that the excellent resulting monograph bears the hallmarks of a superior analytical mind and the balanced conclusions of a wise judicial temperament. Judge Williams became interested in the agrarian reforms, which Peter A. Stolypin introduced in the last decade prior to the outbreak of the First World War and of revolution, in order to answer the following two questions: first, on the level of economic and legal analysis, to what extent did the reforms advance a regime of individual private property rights for Russia's economy; and, second, on the level of political philosophy, is an "illiberal" authoritarian system capable of introducing "liberal" reforms (with democratic implications) to the body politic? The relevance of these questions to the world's situation today needs no further comment.

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As a first step we have to go back half a century, to 1861, when the ground was laid for both the agrarian crisis and for Stolypin's attempt at resolving it. The Emancipation Manifesto of 19 February 1861 freed the Russian peasant serfs from bondage, that is from their legal dependence on their masters – individual landlords, the State, and the Imperial family. They obtained their personal freedom, as well as a land settlement; but their new economic condition and legal status entailed a number of restrictive features which paved the way for continuing impoverishment and the resulting agrarian crisis at the turn of the 19th century. Indeed, the Emancipation Act was the outcome of a long and acrimonious debate, and thus full of ambiguities and contradictions. The reformers' aim had been to devise legislation by which, in the words of the Russian proverb, "the wolf is sate, and the sheep safe." The Emancipation rested on two preconditions: the subject of the economic (i.e. land) settlement is the commune (or village community), not the individual peasant, and the peasants are to have a special legal status (limited civil rights and special jurisdiction). In short, the land allocated to the former serfs from their previous owners' estates was the possession of the commune; there was no question of full and secure property rights for the individual. The peasantry continued to have an inferior and discriminatory administrative and judicial status.

Whatever the Emancipation's drawbacks, the half century following it witnessed a dramatic transformation in the social structure and economy of the Russian empire: clearly it was joining the Western model of industrialisation and urbanisation. Yet, in contrast to the West, this did not also bring about a modernisation of Russia's political regime. On the contrary, the liberal velleities that had produced the "Great Reforms" of the reign of Alexander II (1855-1881) ceased, and the plentitude of the central autocratic authority was reinforced under Alexander III (1881-1894) and in the first decade of the reign of Nicholas II. This reactionary development proved to be a major obstacle to the reforms required by the changes in the socio-economic circumstances of the empire.

Not surprisingly, the agrarian question turned out to be the pivotal issue demanding reform. The agrarian crisis was the effect of

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major trends that (deliberately or not) had been built into the terms of the emancipation legislation: First, the absence of secure individual property rights and the inferior legal status of the peasantry that served to undermine individual initiative and responsibility. Second, the communal meeting, as the intermediary authority between the individual peasant and the State, had to approve every new step a peasant might take to change his ways of working the plots allocated to him, which restricted his mobility and decision making. Third, the peasants' low productivity because of the periodic redistribution of land allotments (that discouraged innovation and investment strategies) and their scattered parcellisation (which interfered with individual innovations and improvements while adding onerous travel time to outlying strips). It is true that while the half century preceding the Stolypin reforms saw some relaxation of the fiscal burden and some loosening of the communal rigidities, the rapid growth of the rural population and ongoing low productivity continued to increase the pressures on the peasantry. Little wonder that in the first years of the 20th century there was a rash of rural violence (riots, burning of estates) that grew to stability-threatening proportions at the time of the Russo-Japanese war and massive flare-ups of industrial urban discontent. In October 1905, under the combined impact of military defeat, empire-wide strikes, and rural disorders that paralysed the government, Nicholas II agreed to call an elected legislative assembly (Duma), and Russia entered the period of what Max Weber called "pseudo-constitutionalism" (*Scheinkonstitutionalismus*). Quite obviously, even in the short run, solving the agrarian question was a top priority. Stolypin, appointed prime minister in July 1906, immediately undertook the preparation of legislation to tackle the "reconstruction" (*perestroika*) of the peasantry. The reform acts were issued over the period 1906 to 1911 (when Stolypin was assassinated), not always in the most politically adroit manner; and their implementation extended into the years of the First World War and the onset of revolution. The analysis of the nature and effects of these acts constitutes the core of the book under review.

Judge Williams is not the first to tackle the task of analysing and interpreting Stolypin's reforms, which, by almost universal consent, aimed at a fundamental transformation of the traditional Russian peasantry into a class of land owning, individual "yeomen." As a matter of fact, not only has he meticulously dissected the legislation, he has also paid close and critical attention to the immense historical literature (in Russian as well as in English) dealing with the reforms, their immediate impact, as well as their potential long range effects cut short by the Bolshevik take-over in October 1917. In so doing Judge Williams is not merely summarising, in clear accessible English prose, the existing sources and literature. He also brings to his analysis "... sustained application of the fundamental insights of the modern law-and-economics movement" (p. xi). This entails strong conviction in the beneficial role of full security of individual property rights and the operation of a free market for the development of civil society and the full play of liberal democracy.

Our author's conviction tallies quite closely with those of Stolypin. Indeed, Stolypin firmly believed that Russia's agrarian crisis was due not so much to the peasants' lack of land, as to their extremely low productivity. The latter, he thought, was due to their inability (or unwillingness) to initiate innovations whose benefits could not be ascertained with certainty, and which in any case depended on an unpredictable future. In short, the Russian peasantry's traditional behavior was the consequence of an extremely "low time horizon" (A. Gerschenkron's term) – and this is what had to be changed. The aims of agrarian reform, therefore, were a) to convert the peasant's title to his land allotment into a full individual property right, and b) to permit and encourage the consolidation of his widely dispersed land strips into a single plot (or, if conditions prevented it, into several larger plots), so as to enable long term planning and experimentation with new techniques. Security of individual ownership would foster an active real estate market. Freeing the peasant from strict communal supervision and granting him full legal status would give him mobility – either to resettle in more promising agricultural areas or to move to urban occupations and

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residence. All of which would enhance the peasants' participation in the civil society that was emerging in Russia.

Judge Williams clearly summarises and critically analyses the several legislative enactments passed under Stolypin's leadership. A review is not the place for the retelling of the complicated legislative provisions and of the author's interpretations of the significant clauses. His cautious and balanced approach is best stated in his own words:

I start with the premise that in many situations it is hard to know, with any great certainty, precisely what property relationship is best for a particular resource. My own sense is that property rights held by individuals or voluntary associations (partnerships, corporations or their equivalents) are typically the best way to facilitate productive use of resources, as they give the owners relatively accurate incentives and broad opportunities for innovation and require little administrative complexity. (p. 182).

Quite obviously, "the proof of the pudding is in its eating," and the ultimate success of Stolypin's reforms depended on the manner of their implementation. Careful consideration of all the sources that describe the process of carrying out the several basic stipulations of the reforms, and the statistical evidence we have for the results, is a most difficult task. The crude numbers may be reconstructed in many instances, but much more questionable and difficult are the conclusions to be drawn from them. Moreover, it behooves the historian to assess – to the extent possible – the costs of agency and of transaction. Our author is the first, to my knowledge, to consider this factor; although there may not be compelling evidence that the individual Russian peasant was indeed capable of gauging such costs.

Ever since the 1910s the impact of Stolypin's legislation has been the subject of intense, acrimonious debate and of irreconcilable opinions. Our author critically examines the quantitative statistical evidence, the regional differences, as well the documented but politically tainted conclusions. Yet, the major fact preventing definitive and satisfactory "objective" conclusions is simply the brevity of

the time span events have allotted the implementation of the reforms, a time that was unusually “abnormal” – given the breakout of the First World War, followed by revolution and civil war. Again to quote our author: “It seems overwhelmingly likely that, by 1906, in broad swaths of Russia, private ownership would have prevailed over repartitional open fields in a completely neutral competition. But it is utopian to expect such competition. History creates a starting point, and anyone who would change bears at least the burden of unfamiliar alternatives.” (p. 182). Nor should one forget the “illiberal” administrative and political context (until 1917) which shaped the concrete manner in which the reforms were promoted and executed. To cite Williams again:

But the illiberal context cast a shadow over the reform process. The peasants’ social and economic isolation cut against a sophisticated participation in developing rules for property rights conversion; that isolation and the embryonic nature of the rule of law exposed them to risk of “administrative pressure.” In so far as the transition rules themselves biased peasant choices, this was at least in part the result of the prior absence of clear property rights Finally, the limits on aggregation of tracts and on mortgaging allotment land – seemingly the results of the [tsarist] regime’s continued belief in the need for tutelage of the peasants – denied peasants access to the full benefits of private property. (p. 223).

In a broader sense, Stolypin’s reforms raise the theoretical and philosophical problems of ends and means. If the goal of reform was the development of a class of free individuals, secure in their legal status and property rights, and active, equal players in a free market and a democratic polity, could such an aim be achieved by legislative fiat, enforced by an authoritarian administrative apparatus? Europe, in the late 17th and most of the 18th centuries, had witnessed similar attempts at “modernising reforms” – the “well ordered police state” under “enlightened absolutism.” They achieved some success wherever use could be made of existing autonomous social and administrative institutions on the local level. Wherever such institu-

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tions were weak or non-existent, the “well ordered police state” and the “enlightened monarch” failed. This had precisely been the case of Russia under Catherine II (1762-1796) – at any rate with respect to the peasantry and lower urban classes.

Without alluding to these precedents, Judge Williams raises the similar question of whether reform from the top down can create the preconditions for the emergence of a civil society that rests on the possibility to act from the bottom up? His answer is cautiously – no. He voices the moderately optimistic opinion that, given a long time span, Stolypin’s reforms might have served as a first step for providing some of the preconditions for the peasantry of Russia becoming part of a civil society. His modest optimism, however, may need to be qualified still further by the presence of a cultural tradition (which he implicitly acknowledges) that was distinctly suspicious of both the “acquisitive” *homo oeconomicus* and the free playing field of markets. In the case of today’s Russia (which he raises pp. 252-256) the problem is compounded by the former Soviet system’s destruction of the peasantry as a social class and of the leadership function of the “free professions.”

Judge Williams has made an important, and much needed, contribution to the historiography of pre-revolutionary Russia. By casting his analysis and conclusions in the terms of modern economics and the “discourse” of Anglo-American legal thinking, he has called attention to those factors of Russian reality that might have served to further alternative evolutions. Counterfactual history, if nothing else, better enables us to view past choices and dilemmas. Might an alternative choice have justified Tatiana’s wistful rebuke to Eugene Onegin? We’ll never know, but for the sake of both the present and the future we should ponder whether “happiness was so possible, so near ...”¹



¹ ALEXANDER PUSHKIN, *EUGENE ONEGIN: A NOVEL IN VERSE* 8:47 (1833).