EARLY RUSSIAN LAW AND BYZANTINE LAW

Pre-Petrine Russia was long thought to be a lawless state, or at least a state where state-inflicted coercion, violence and brutality played a far more important role than law. Recent scholarship, however, has shown that early Russian law was relatively sophisticated and that it played an important role in ordering society and in protecting the security and property of the tsar's subjects.  

From the volume of legal documents that have survived, one can judge that early Russia was a very legally oriented society. Indeed, a substantial percentage of the extant published documents from pre-Petrine period are legal in nature: thousands of deeds, over a thousand of various types of immunity charters, hundreds of judgment charters and trial reports, and hundreds of

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wills. We also have the texts, in most cases complete, of six major secular codifications: the Rus’ Law, the Novgorod and Pskov Judicial Charters, the 1495 and 1550 Sudebniki, and the Law Code of 1649. We also have the texts of seven important codifications or at least lists of rules for canonical courts or of canonical origin: the Statutes of Iaroslav and Vladimir, the Pilot’s Book (Kormchaia kniga), the Court Law for the People, the Measure of Law (Mertilo pravednoe), the Pravosudie mitropolich’e and the Hundred Chapters (Stoglav). The mere volume of legal documents and codifications would lead one to believe that Old Russia took law very seriously. Indeed the final codification of the law of Old Russia, the Law Code of 1649, was one of the most comprehensive codifications of law anywhere in the world at the time. It regulated virtually every important relationship in the society and polity of Old Russia: land ownership, slavery, serfdom, the duty to muster for military service, crimes violating public order (murder, robbery, theft) and civil procedure.

The present study will show that the sophistication of Russian law was closely related to the fact that law was one of the few areas where Russia inherited, at least in part, one of the defining features of the classical world: Roman law. Unlike the West, Russia inherited very little of the Greco-Roman legacy in literature, philosophy and art. But it did receive through Byzantine law part of the Roman legal tradition. It was largely due to this that Russia did develop a relatively sophisticated legal system. Rus’ and Muscovy always had a readily available model for such a system.

A sophisticated legal system is not an unusual phenomenon in world history (e.g., Rome, Britain, Napoleonic France). There were, however, two characteristics of the Muscovite system that were unique and remarkable. First, for all of its sophistication, the 1649 Law Code did not contain any concept of fundamental rights, and its was in fact one the main instruments for the imposition of serfdom. Second, this relatively sophisticated legal system was created without lawyers or law schools. The present study will also show that, paradoxically, these two aspects of the Muscovite legal system also reflect its Byzantine heritage, or at least, reflect the part of the Byzantine legal system that Rus’ imported.

This study will address these questions by surveying the impact of Byzantine law in several key developments in the evolution of Russian law: the “reception” of Byzantine law, the development of a written legal system, the codification of substantive principles of law and the development of “legal expertise.”