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PATTERNS OF PROPERTY DEVOLUTION AMONG UKRAINIAN PEASANTS
IN KIEV AND KHARKIV PROVINCES, 1861-1900

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Property devolution systems provide a microcosm of the internal dynamics of agrarian societies. The passage of material wealth, in the form of either real (land) or moveable (goods, chattels) property, to family members guarantees the perpetuation of established families and, at times, the creation of new ones. Consequently no property is awarded without obligation. Parents, for example, use property as leverage to ensure that their children will support them in their old age. The strategy of providing one son with the bulk of the patrimony through either ultimogeniture or primogeniture is calculated with this goal in mind and fosters the partitioning of families early on in the family life cycle as the other children are forced out into the larger world to accumulate capital largely by their own means. Partible inheritance, or the provisioning of equal shares to all sons, coupled with the exclusion of endowed children from a further share in the inheritance, on the other hand, retards the breakdown of families into smaller units and thus also secures the pension rights of parents.¹

Property devolution also reflects the dominant characteristics of peasant societies which allow that society to function within a community framework. Inheritance of land through the male line alone symbolizes a patriarchal system in which men have the ultimate authority in the community at large. A system which allows women to have substantial property rights, on the other hand, endows women with greater political rights within the village community and state.² Lastly, there is often a strong correlation between inheritance strategies and the availability of land. For example, partible inheritance, at least initially, appears to be predicated on the availability of large tracts of virgin land.

This paper will focus upon the property devolution patterns of the Ukrainian peasantry in the provinces of Kiev and Kharkiv in the post-emancipation period. This subject has been ignored by both modern Western and Soviet historians who have concentrated their attentions on either

different time periods when Ukrainian regions enjoyed a degree of independence, or peasant uprisings in the immediate post-emancipation period and at the turn of the twentieth century as a prelude to revolution. Nineteenth-century Russian legal historians, on the other hand, although very much interested in peasant customary law in their attempts to reform the civil law code of the Russian Empire, failed to make distinctions between ethnically Russian and Ukrainian peasants.³

This paper will explore the various strategies that Ukrainian peasants adopted to ensure the evolution of their families and fulfil family needs in all stages of the family life cycle. Was this a patrilineal society in which property devolved to male heirs alone? If so, what happened when a family did not have direct male heirs? Did that property devolve outside the family to either the community at large or non-kin, or did property devolution systems evolve to deal with this and other exceptional circumstances? If women did participate in the property devolution system, was theirs a modest role which relegated them to an insignificant position within the household economy? Answers to these questions will permit us to place the Ukrainian peasantry within the larger European cultural spectrum and speculate on other characteristics of the Ukrainian peasant family, including its household structure, the study of which must be relegated to another paper.

Legal sources of the post-emancipation period, especially the volost' (district) court records of the 1870s, provide an extremely rich storehouse of information that allows the historian to unravel the complexity of customary inheritance patterns among Ukrainian peasants. As a result of the Emancipation Charter of 19 February 1861 and the subsequent statutes of 1863 and 1866 granted to crown and state peasants, the peasantry of European Russia, including Ukraine, was defined as a separate estate to be governed by its own traditions and customary laws. Courts were

established in every district in order to regularize peasant justice and to supersede informal courts on the village level. However, to institute such a system and to understand the precepts of customary law proved to be two different matters. Customary law had never been studied systematically, and customs varied from village to village. In December 1871, Alexander II established the Commission for Reforming the District Courts with the mandate of examining the workings of the new volost' courts and surveying the regional differences in customary law for the purposes of standardization.⁴ Its massive seven-volume report, published in 1873-74, contains records of district court cases from fifteen provinces of European Russia, including the Ukrainian provinces of Kiev, Kharkiv, Poltava, and Ekaterinoslav, among which those pertaining to Kiev province are by far the most complete.⁵ This data is supplemented by materials gathered, beginning in 1869, by the famous Imperial Russian Geographical Society's ethnographic and statistical expedition to regions of Western European Russia, directed by Pavel Platonovich Chubinskii. Of this commission's seven-volume publication of 1872-74, volume six is a compendium of district court cases from provinces mainly of Right-Bank Ukraine (Kiev, Volynia, and Podillia).⁶ Lastly, in the 1890s the Kharkiv Provincial Statistical Committee undertook the task of methodically investigating the customary practices of peasants in that province. Its two-volume work, published in 1896-98, complements the materials of the Commission for Reforming the District Courts and allows for a comparative study over time of customary law in Kharkiv province.⁷

Volost' court cases illuminate the daily concerns of post-emancipation peasants and provide an important glimpse into the world of property devolution. Ukrainian peasants, like their Russian counterparts, were litigious and used the district courts to settle family quarrels over property divisions. However, there are certain reservations in using court records. Peasants, in order to

justify their claims, which were in themselves sometimes false, often lied and were not above bribing district court judges and their scribes with vodka. Nevertheless, nineteenth-century observers of the countryside had urban bourgeois prejudices and exaggerated the extent of corruption in the volost' courts. Little did they realize that drink was a common symbol of agreement among peasants. All marriage and labour contracts, for example, were sealed with drink. Why should agreements made at court have been any different? Nonetheless, peasant graft must be taken into account when studying the records of the volost' courts.

Secondly, court cases, by their very nature, provide only one side of the coin. The type of case that came before a tribunal was often exceptional and therefore could not be settled amicably among family members. The premature death of a household head or spouse, remarriages, and the lack of direct heirs created problems in inheritance matters, which necessitated external arbitration. Furthermore, district courts were not necessarily courts of first instance. The village assembly (the mir in the Russian community and hromada in the Ukrainian) in the post-emancipation period continued to provide a forum for airing grievances and settling property disputes. Since the majority of village assembly decisions were not recorded, the historian may never know the percentages of cases that came before the village assemblies and district courts respectively. Even estimates of numbers of cases heard by volost' courts are rare in the historical literature.⁸ Lastly, the district courts were guided by provisions of the civil law code of the Russian Empire as well as customary law. It is evident from some of the decisions that the written law influenced customary law.

Given these restrictions and reservations, district court records nevertheless do provide us with general patterns of inheritance systems among Ukrainian peasants. Kiev and Kharkiv provinces were chosen for study because of the availability of primary data and their diverse historical backgrounds

which provide for comparative analysis. A brief discussion of the history of the peasantry of both provinces is necessary to place the general question of inheritance in proper perspective.

Kiev province of Right-Bank Ukraine came under the suzerainty of the Russian autocrat only in the last decade of the eighteenth century as a result of the partitions of Poland. Its Ukrainian peasants had long been reduced to the status of serfs by the Polish and Polonized Ukrainian nobility. Kharkiv province, on the other hand, had been settled late in the historical spectrum. It was only after the 1648 Khmel'nitskyi uprising and defeat of Khmel'nitskyi's armies in Polish-dominated Ukrainian lands that Ukrainian peasants and cossacks fled political, religious, and social oppression for the virgin lands of what later became known as Kharkiv province. They were joined by Russian serfs who gravitated to the frontiers in order to escape Muscovite serfdom. Freedom, however, especially in the north-western regions of Slobids'ka Ukraine (later Kharkiv province), was short-lived. In the eighteenth century Ukrainian and Russian landowners, in their search for a stable labour force to work their newly acquired lands, demanded limitations on the movement of peasants and cossack yeomen and levied corvee obligations on the rural population. Restrictions on movement, the extension of Russian taxation and census-taking to Slobids'ka Ukraine, and peasant indebtedness combined to ensure the gradual enserfment of peasants living on gentry, cossack, and monastic lands. This process culminated in Catherine II's ukaz of 3 May 1783 which bound the peasants of all Little Russia (Poltava and Chernihiv provinces) and Slobids'ka Ukraine to their landowners on the basis of the revision or census of 1782.⁹

In addition to the different historical developments of settlement and serfdom, Kiev and Kharkiv provinces were also distinguished by the composition of their respective peasant populations. According to the Tenth Revision of

1858, state peasants, i.e., peasants and cossack farmers who had settled on lands claimed by the Russian state as its patrimony, former serfs on secularized monastic and ecclesiastical lands, and military inhabitants of low rank, accounted for 45.46 per cent of the population of Kharkiv province and only 11.79 per cent of Kiev province.¹⁰ Like serfs, the state peasants of Kharkiv province paid a soul-tax to the state and were liable for military recruitment. Unlike serfs, however, they had independent economies and paid obrok or a quitrent directly to the state. The state peasants of Right-Bank Ukraine, including Kiev province, on the other hand, did not enjoy the relative independence of their Kharkiv and Russian counterparts, but rather worked on properties which the state had leased to individuals, who were often members of the Polish gentry. The practice of leasing state land was abolished in 1853 as a result of abuses perpetrated by the lessees.¹¹

Despite the greater representation of state peasants in Kharkiv province, land in both Kiev and Kharkiv provinces in the immediate pre-emancipation period was heavily concentrated in the hands of landowners. They held 67.9 per cent and more than 75 per cent of the land in Kharkiv and Kiev provinces respectively. Large latifundia predominated in Kiev while small estates characterized Kharkiv province.¹² In the decades after emancipation privately owned land diminished appreciably in both provinces. Between 1845 and 1877 noble landownership in Kiev province decreased by 50 per cent, and by 1885 it had decreased in Kharkiv province by almost 50 per cent as well.¹³

The Russian repartitional commune, in which land passed from household to household over specified periods of time according to changes in the composition of households, was alien to Kiev and parts of Kharkiv provinces. As a consequence, the general Emancipation decree of 19 February 1861 and the Local Statutes for Left- and Right-Bank Ukraine recognized the indigenous podvornoe system of landholding whereby land had been apportioned to a

household in hereditary tenure, not on the basis of souls (i.e., taxable units within a household), but according to its labour, in part animal labour, capacity.¹⁴ Nevertheless the land ultimately belonged to the commune (hromada) as in the case of the repartitional commune. This meant that when a household had no lineal or lateral heirs, its so-called "escheated" property reverted to the commune.¹⁵ Redemption dues were levied on each individual household rather than on the entire commune. Mutual responsibility of all communal members for taxes and obligations pertained only to those communal lands, such as usad'ba (farmstead) and pasture land, and, in less frequent cases, hayfields, which had not been divided among individual households.¹⁶

Despite the hereditary nature of land, the podvornoe system shared some characteristics with the Russian commune. Land was not consolidated, but rather dispersed among three fields in small strips as a result of decades of subdivision of land among heirs and sale of land. Often these strips were intermingled with land belonging to landowners and other communes. The three-field system and its dependence on fallow also demanded that sowing, harvesting, and pasturing be conducted on a collective basis.

The areas of Kharkiv province in which the repartitional commune prevailed among Ukrainian serfs came under the emancipation provisions of the general Russian statute. Here only the usad'ba or farmstead came into the hereditary possession of the household.¹⁷ The commune had control over the arable and other lands which it periodically repartitioned among its members. Mutual responsibility of all communal members for taxes, dues, and obligations was enforced to prevent defaults in such payments. The repartitional commune also characterized the majority of communities of the southern steppe lands of Kharkiv province, where state peasants predominated.¹⁸

In the post-emancipation period in Kiev and Kharkiv provinces a father or household head had ultimate authority over family property. However, as

we shall see, the custom of equal partibility among males and the village community's need for the maintenance of economically productive households placed limitations on a father's actions. The threat of disinheritance, for example, lost some of its force because of the community's reluctance to have a member without a stake in its agricultural economy. Nonetheless, a father enjoyed certain leeway in ensuring that his family line would continue and that his and his wife's needs in their retirement years would be met. A father's endowment of one son with the patrimonial farmstead during his lifetime was specifically addressed to the latter, while adoption of a son-in-law or non-kin member, in the absence of direct male heirs guaranteed both the former and latter. In the following pages we will explore the Ukrainian peasant practices of property devolution with respect to both pre- and post-mortem fission and the artificial creation of heirs through adoption, before turning attention to the property rights of Ukrainian peasant women.

In both Kiev and Kharkiv provinces after emancipation partible inheritance of real and moveable property with all sons inheriting equal portions predominated. Within this system, however, one son was sometimes entitled to a larger share of property by virtue of his having the responsibility of looking after his elderly parents unto death and providing for his unmarried sisters. In general, the patrimonial residence and other farmstead structures devolved to either the youngest or eldest son, although the youngest was clearly favoured. Normally when elder sons married, they were partitioned from their parents' household and received a portion of the patrimony in order that they might set up independent household economies. The youngest brother remained in his father's household, hoping one day to take over the responsibilities of household head from his retired or deceased father.

After 1861 the incidence of pre-mortem fission, whereby sons were partitioned from the parental home upon marriage, appears impressionistically

to have been far more common among Ukrainian than Russian peasants. In Chubinskii's introduction to his collection of Ukrainian customary law, he cites a popular tale which encouraged children to flee the nest at an early age. According to the story, a crow was flying with his offspring under his wings, when he asked one of them whether he would in turn carry his father when the father was old. Receiving an affirmative answer, he hurled the child to the ground. When he asked the second offspring the question the reply was exactly the same. The crow consequently dropped that child. The third child, when asked, replied differently: "Father," he said, "I will carry only my own children." Having received the answer he had sought, the father crow delivered his third offspring to the proper and safe destination. Chubinskii interpreted this tale to mean that a father's concern for his own children was far more important than a child's concern for his elderly parents.¹⁹ While such stories may indeed have provided a son with the justification he needed to leave his parents' home, the fact remains that parents who were elderly and sometimes infirm relied upon the care of their children. Time and time again we will see this necessity built into the inheritance and property devolution systems. In this respect Ukrainian peasants were no different from their Russian or European counterparts.

A household head's endowment of a son with the patrimonial farmstead and other property during his lifetime was the surest way to guarantee his and his wife's pension rights. For example, in 1869 in Ksaverovskaia district, Vasil'kovskii county, Kiev province, the peasant G. Sh. endowed his son S. with the patrimonial residence and farmstead provided that the son support his father unto death and pay the taxes levied on his father's soul even after death, until the next revision or census removed the father's name from the tax rolls. If the son fulfilled that obligation the other sons lost further rights to the farmstead land. In a case of 2 July 1868 which came before the Grebenskii

district court of the same county, a family's quarrel revealed the fact that years previously a father had partitioned his younger son S. K. upon S. K.'s marriage, endowing him with a portion of allotment land. The elder son M. and his wife had remained in the patrimonial household presumably to help work the household economy, which they would eventually inherit, and care for the parents upon their retirement. On the basis of strict partibility the father had also apportioned that son an equal share of allotment land.²⁰

In order to ensure that partitioned sons did not encroach upon their brother's right to the remaining patrimony, a household head sometimes, as in Krizhskaia district, Starobelskii county, Kharkiv province, required that the partitioned sons provide him with a written agreement. Such an agreement acknowledged the fact that the sons had already received portions of property and contained their promise that they would desist in future from demanding more property from their father or brothers.²¹ Sometimes this precautionary document took the form of a spiritual testament. One such testament reads as follows:

I, the undersigned, Hryhorii Ivanov Mekh, a peasant-sobstvennik of Balakleiskoe community, Balakleiskaia district, in the first peace arbitration division of Cherkasskii county, Kiev province, still in sound mind, am in this testament apportioning, before the Balakleiskoe district administration, its members, [and] the three undersigned witnesses, my remaining property to my younger sons. To Viktor, who is currently serving in the military, I am giving half of my resident home, half the klunia [a cold storage area for milk products], and half of all the principal hayfield and supplemental land allotment. To Il'ia I am giving ...[the same], with the understanding that upon my death they will have the full right to come into complete possession of the above-mentioned property without any interference or trouble from my elder sons; [and they] are to be free to use that property as their inalienable property....

25 April 1872²²

The partitioned sons thus lost the right to a full property share. Presumably they were endowed with property at the time of their departure from their father's household. The following case, involving sons who partitioned of their own

free will, strongly supports the view that partitioning sons were not entitled to a full property share upon their father's death.

On 7 April 1871, in Belozerskaia district, Cherkasskii county, Kiev province, a peasant widow A. Sh. explained that she had four sons and two daughters. Thirteen years ago when her husband was alive, their eldest son N. refused to work on the father's land and set up an independent household economy. Seven years later the second son, following the cue of his older brother, also set up his own household economy. This left the parents with two sons who respected their wishes and maintained their household economy. At the time of her petition to the court, the widow's two daughters were not yet of marriageable age and thus needed to be looked after and provisioned for their future marriages. The mother accordingly asked the court to allow her to apportion her partitioned sons less than an equal share of the patrimony. She was willing to give them a quarter, rather than half, share of the arable and field allotment. The court upheld her request on the grounds that the elder partitioned sons had received their due share of the patrimony when their father was alive.²³

In rare circumstances it was possible for a father or household head to disinherit a son. As far as the village community and district courts were concerned, this depended in part upon the son's behaviour toward his parents, but more importantly upon the son's ability, once disinherited, to carry on as a responsible member of a village community. In a testament drawn up on 25 April 1868, Koz'ma Savis'ko and his wife Evdokiia of the village Lesek, Leskovskaia district, Cherkasskii county, Kiev province, decided to punish their elder son Stefan for insulting them by excluding him from inheritance of the patrimony minus that portion of the farmstead land which the commune had already apportioned him. They bequeathed all of their property, including the remaining farmstead land, the house, and other farmstead buildings, plus a pair of oxen, one cow, two calves, and ten sheep to their

younger son Mitrofan. The district court judges in this case upheld the wishes of the parents.²⁴ Clearly the partitioned son had some means of establishing a household economy, given his allotment of farmstead land.

Community needs, however, militated against the partitioning of a son without any property to his name. Thus we find that in April 1871 in Staromerchenskaia district, Valkovskii county, Kharkiv province, U. Kotelevets attempted unsuccessfully to partition his son and his family without property. Kotelevets had falsely charged his son with refusing to work with him and spending his father's money. Since the father's drunkenness was at the root of the family's trouble, the district court judges decided that the son could neither remain in his father's household nor enter the community as a pauper. Consequently they ordered the father to endow his son with half his property, including the farm buildings and other moveables as well as the farmstead land.²⁵

In addition to the concern for maintaining economically viable households, community norms placed other restrictions upon a father's power to exclude a son from his inheritance share. A household head, for example, could not disinherit a natural son or direct male heir in favour of a secondary heir. Thus the district court of Leshchinovskaia district, Umanski county, Kiev province, barred a father from endowing his daughter and son-in-law with his farmstead land in lieu of his natural son. In another case, dated 25 June 1871, this time before the Taganchevskii district court of Kanevskii county, Kiev province, the judges ruled that a father could not sell any more of his farmstead land because he had four primary heirs to that land. Furthermore, the commune did not have vacant land which it could apportion those heirs as farmstead land. The district court judges ordered the village elder to see that the remaining farmstead area of 1 desiatina, 2,046 square sazhens was divided

between father and sons in five equal portions.²⁶

In the less common event of post-mortem inheritance, whereby sons remained in their father's household until his death, the headship of the family devolved to the eldest son if the brothers decided to remain under one roof. If the brothers chose instead to establish independent household economies,²⁷ either the youngest or eldest received the patrimonial residence and other buildings. This time, however, he had the added responsibility of helping his brothers build new homes. In Lipovetskii and Umanskii counties, Kiev province, this meant that he was expected to provision his brothers with between one-third and one-half of the value, either in cash or kind, of the old buildings on the patrimonial farmstead.²⁸ In both Kiev and Kharkiv provinces the remaining moveable property and arable were then divided equally among all sons, although in Lipovetskii and Umanskii counties it was common for the land to remain in the sons' joint ownership.²⁹

Post-mortem property divisions at times were so complex that they had to be settled by either the village assembly or district court. In the following case of 19 August 1871, in the district and county of Kupiansk, Kharkiv province, the patrimonial property included two residences with orchards, two pairs of oxen, a cow, three calves, seven sheep, three pigs, and other moveable property which had to be divided among three sons. The district court judges, on the basis of equal partibility, ruled that the first son be apportioned an ox, a calf, three sheep, the new house and farmstead, plus a portion of the remaining goods. The third, and presumably youngest, son was awarded an ox, a calf, two sheep, the old hut and farmstead, plus a portion of the remaining goods, while the middle son, who was currently serving in the army, received an ox, a calf, two sheep, and a pig, plus another cow and ox which he could sell in order to build himself a home.³⁰

Sometimes the district court apportioned one son a larger share of the

patrimony to cover the family's debts. For example, in 1871 in Tarasovskaia district, Kupianskii county, Kharkiv province, a family's patrimony included the moveable property of an old home, an unfinished new house, two cows, a two-year-old bull, and one sheep, worth a total of 264 rubles, and the real property of a pussy-willow grove. On top of this the family owed 165 rubles in debts to various persons. Rather than destroy the patrimony by dividing it and the debts in half, the district court judges settled for the just as equitable, but economically more feasible solution of apportioning the elder brother both homes, one cow, and the bull, valued at 225 rubles and two shares of the pussy-willow grove. This left the younger brother with a cow and sheep for a total of 39 rubles and one-third of the grove. The elder brother, with his more substantial property share, bore sole responsibility for clearing the 165 rubles debt. Thus, in the end, strict partibility was observed.³¹

While district court judges generally respected equal partibility, they often apportioned one son a slightly larger share of the patrimony, by virtue of his having inherited the title and responsibilities of household head. On 14 March 1869 the Gorodishchenskii district court judges of Cherkasskii county, Kiev province, for example, awarded the youngest son the patrimonial buildings and other moveable property. The farmstead land and field allotment, on the other hand, were divided equally between him and his older brother.³² In another case of 28 April 1871, this time in Steblevskaia district, Kanevskii county, Kiev province, a district court apportioned the 640 sazhens of a deceased father's farmstead land equally among his three sons, but gave one son an additional two and a half sazhens from his brothers' two portions because he was "the eldest family member." Again, in Dashevskia district, Lipovetskii county, Kiev province, the district court judges on 20 April 1872 awarded one brother a larger portion of farmstead land than his brothers because of his seniority.³³

In the event that a family in both Kharkiv and Kiev provinces did not have direct male heirs, an astute household head adopted a relative or non-kin member. This was calculated to ensure that patrimonial property would be preserved intact for subsequent generations and not devolve to distant relatives or revert to the commune's possession. Furthermore, an adopted son would also provide necessary labour in a household economy and sustain the elderly.

There were various types of adoption, depending upon the circumstances and requirements of individual families. If, for example, a household head had an unmarried daughter, he could adopt a son-in-law who was required to move into his in-law's home or a home on the same farmstead land, thus reversing the norm of patrilocal residence. A young man whose prospects of inheritance in his paternal family were slim, because the family had either little or no land or too many sons who were entitled to an equal share of the patrimony, was a perfect candidate for an adopted son-in-law.³⁴

Once adopted, a son-in-law lost rights to his own father's property³⁵ and sometimes took the surname of his wife's family,³⁶ thus symbolizing the fact that he had the same obligations as a natural son. He was required to contribute his full labouring share to the household economy, to look after his in-laws in their retirement years and, upon their deaths, to bury them in a Christian fashion and arrange for periodic memorial services. If the adopting family had unmarried daughters, the son-in-law had the added responsibility of arranging their marriages and providing them with a dowry from the patrimonial property. More importantly, a son-in-law was expected to continue his father-in-law's family line by providing male heirs. In fact, his sole legitimacy as heir stemmed firstly from his wife and secondly from their children.

If a household head had only one daughter, he usually did not feel

the need to draw up a contract with his prospective son-in-law concerning the latter's property rights since the daughter and her husband were assured of inheriting the patrimony.³⁷ If, however, the household head wanted to ensure that his son-in-law fulfilled his obligations and/or safeguard the son-in-law's property rights from encroachment by other heirs, both lineal or lateral, he drew up a contract with that son-in-law. Such a contract took the form of either a written agreement or a spiritual testament. Frequently such an agreement accompanied the dowry which a father gave to his newly married daughter.

The dowry, depending on the father's material circumstances, sometimes included a significant portion of land. Thus a peasant of Koshevatskaia district, Tarashchanskii county, Kiev province, included half of his farmstead land in his daughter's dowry, over which he gave his son-in-law management rights.³⁸ Hryhorii Vitenko of Belotserkovskaia district, Vasil'kovskii county, Kiev province, also included a portion of farmstead land in his daughter Domnikiiia Hryhor'eva's dowry when she married Aleksander Vrublevskiyi. He, however, added a stipulation that the son-in-law Vrublevskiyi was to build a home on that property at his own expense.³⁹ The 1871 contract between a household head and his son-in-law of Dvurechnaia district, Kupianskii county, Kharkiv province, provided the son-in-law with moveable property only, as he was awarded a four-year-old cow, a pig, a sheep, eight chickens, and five and one-eighths arshiny (an arshin is equivalent to twenty-eight inches) of peasant cloth, plus half the lard and grain. The lack of land in this case may have reflected the poor economic standing of the father-in-law's household economy, because we find that in the very same district of Kharkiv province another man partitioned a son-in-law after eight years of co-residence with an endowment of a quarter desiatina of his farmstead land.⁴⁰

The contract of 15 September 1871 between the peasant Vdovenko and

his mother-in-law Kolomitseva of Konstantinovskaia district, Cherkasskii county, Kiev province, was far more extensive than any of the above. Kolomitseva chose to endow her son-in-law with half the farmstead and all of the allotment land. She, however, added that his possession of that property was conditional on his having fulfilled the following obligations: firstly, he had to work the land and pay the taxes levied on her deceased husband's soul until the next revision or census removed her deceased husband from the taxation rolls. Secondly, the son-in-law was to provide Kolomitseva's daughters, Ksenia and Ustin'ia, with forty rubles for vodka and his blessing (khlebosol'stvo, literally the bread and salt ceremony) when they married.⁴¹

Sometimes quarrels between fathers-in-law and their sons-in-law broke out over management of the household economy or petty matters which resulted in their partitioning after several years. Sons-in-law made claims to their in-laws' property before the district court judges, who upheld the provisions of the contracts between the in-laws. If a contract did not exist, judges awarded sons-in-law between one-quarter and one-half of the patrimony, or at least a portion of the property that the son-in-law and his father-in-law had acquired together. The amount depended on the length of the son-in-law's residence in his father-in-law's home and the characters of the individuals involved.⁴²

Thus, in a case that came before the Taganchevskii district court of Kanevskii county, Kiev province on 28 May 1871, the peasant Svatukha charged his father-in-law Khomenko with defaulting on their contract of 1868 in which Khomenko had promised him half the farmstead and moveable property. Khomenko, having grown tired of his daughter's insolence, unlawfully kicked his daughter and son-in-law Svatukha out of the house without compensation. The district court upheld the provisions of the contract which stipulated that while

Khomenko's two daughters were the true heirs to this property of a house, storage area, two barns, half the farmstead and two portions of hayfield, the son-in-law Svatukha had right of management over that property, as long as he looked after Khomenko's second daughter, the crippled Evdokiia, and possession of the land that the father-in-law had recently acquired.⁴³

In another case, this time presented before the Kabanskii district court of Kupianskii county, Kharkiv province on 19 September 1871, the judges ruled that the father-in-law's action of throwing his son-in-law and his daughter out of his home without compensation was invalid. They ordered the father-in-law to hand over the dowry of one pair of oxen and one cow, which he had given his daughter when she married, to his son-in-law as well as half the property that the son-in-law and his father-in-law had acquired while they lived together. This included six sheep, the klunia (a cold storage area for milk products), a small barn, and half the grain.⁴⁴

In two other cases, both in Stavishchanskaia district, Radomysl'skii county, Kiev province, the district court judges apportioned sons-in-law, who were not getting along with their fathers-in-law, significant portions of the patrimony. In the first case of 20 February 1868, they ordered that all of Petro Matveev Omelianenko's property be divided equally between him and his son-in-law Ivan Feodorov Kuz'menko. When it came to dividing the residence in half, Kuz'menko and his wife were required to leave the house proper and set up house in the komora (unheated storehouse to the side of a peasant hut). In the second case of 1 August 1869 the court ordered Ivan Olekhno to apportion his son-in-law Khariton Kruts and daughter Anna a third of the winter and spring grain and vegetables. In the following year the son-in-law was to be endowed with half the farmstead and field allotment, provided that he met the payments and dues on that land. Since the son-in-law and his wife were still living in the father-in-law's home at the time of the lawsuit, the judges ordered that the

father-in-law allow them to remain there until the following spring when Kruts could build a separate house on his portion of the land. Son-in-law Kruts' exemplary sober behaviour as a village official (sotskii) and his mother-in-law's quarrelsome nature stood him in good stead with the judges.⁴⁵

However, a son-in-law's rights to his in-law's property were not always secure. For example, a widowed adopted son-in-law, who did not have children or a contract with his father-in-law, had, at best, a tenuous claim to his father-in-law's property, particularly if the father-in-law had a natural male heir. In a case heard by the Gornostai-Pol'skii district court of Radomysl'skii county, Kiev province on 18 April 1871, an adopted son-in-law lost his rights to the land allotment he had inherited from his deceased father-in-law to the latter's natural son, because he was a member of neither the father-in-law's commune nor district and he did not have written evidence from his father-in-law concerning his ownership of the land allotment in question. Only that property which he had brought into his father-in-law's home was rightfully his.⁴⁶

Adopting a son-in-law was only one of several ways in which a household head ensured, on the one hand, that he had an extra labourer to compensate for the lack of an adult male heir and, on the other, his pension and burial rights. A household head also could adopt an underaged, sometimes orphaned, boy; or an adult, who, under agreement, was obliged to remain in the guardian's household until the guardian's natural children came of age; or lastly an adult who had the responsibility of looking after his guardian unto death.⁴⁷ In all such cases agreements were drawn up which stipulated the obligations of both parties and listed the property rights of the adopted. Thus we read the following in a contract between the peasant Pavlo Khudobin and his adopted son Fedir Luk'ianov Kravchenko:

We, the undersigned, state peasant Pavlo Khudobin of the khutor Glotov, Pokrovskaia district, Kupianskii county, Kharkiv province, and Fedir Luk'ianov Kravchenko, the temporarily-obligated peasant of the

landowner Shtabs-Kapitan Klepatskii, have agreed to the following conditions: 1) I, Khudobin, am taking him, Kravchenko, in lieu of a son, and upon my death and that of my wife, all of my property will go to him; in the event that K[ravchenko] does not live [with me] fifteen years, he is to receive no compensation, but if the fifteen-year period elapses I am obliged to give him one-third of all my property; and in the event that he feeds me unto death [I am to give him] all my property. 2) I, Kravchenko, agree to live in Kh[udobin]'s home of my own free will and to respect him as a father....

27 April 1864⁴⁸

In Kiev province the responsibilities of a guardian for his adopted son were much the same. An adopted teenage boy who provided necessary labour in the household economy was also entitled to compensation. Normally a guardian endowed his ward with funds and goods, including clothing and animals for his wedding. He also helped the ward to establish his own household economy by assisting him in building a home and, at times, apportioning him a small share of farmstead land.⁴⁹ These rights held even if after the adoption the guardian had children of his own. Thus in a case which came before the Dashevskii district court, Lipovetskii county, Kiev province on 27 March 1869, a household head had reneged on his obligations to his ward G. After twentyseven years of co-residence he chased G. off his land without compensation, despite the fact that he had promised G. in writing half the farmstead. Although the guardian now had children of his own, the district court judges ruled that the guardian compensate his ward for his labours by paying him fifty rubles within two years and apportioning him a share of his garden and a home.⁵⁰

The need for sustenance in one's old age and proper burial were particularly acute for elderly widows who found themselves either bereft of children or neglected by children who may not have had the material circumstances to look after their mother. Sometimes such widows brought an adopted son into their households. At other times they moved into the ward's own household, bringing their property with them. Thus, in 1869 the seventy-year-old widow

Gulyda of Kabanskaia district, Kupianskii county, Kharkiv province, approached her co-villager D. and offered to sell her home to him. D. agreed to give Gulyda sixty rubles for the home, with the understanding that he was to pay thirty rubles down. He consented to use the outstanding thirty rubles provisioning Gulyda with life's necessities, then burying her in a Christian fashion and having memorial services said for her soul. In another such case, this time in the village Lesek, Cherkasskii county, Kiev province, a widow drew up a spiritual testament in which she bequeathed to a co-villager, the peasant Hryhorii Semenov Popovych, her moveable property and half her garden land in return for his taking her into his home, caring for her unto death, and burying her in the proper Christian fashion. The widow bequeathed the remaining half portion of land to her son-in-law Markian Kora, perhaps in an attempt to keep some of her husband's patrimony within the family.⁵¹

Little to date has been said of women's rights to property. Yet we continually find women before the district courts claiming their rights to a portion of their fathers' or husbands' property. On the one hand, this demonstrates the vulnerability of women to encroachment on their rights by males and, on the other, the peasant women's faith in the justice of the district court system. Here, more than in other instances, we find district court judges merging custom with the provisions of the written law.

In order to sort out the complex property rights of women which depended on a variety of circumstances, such as the type of household they lived in (with or without their husbands' parents), their marital status, and whether they had male offspring, it is best to begin with that common variable of property which every married woman owned as her inalienable property—her dowry. In both Kiev and Kharkiv provinces parents endowed marrying daughters with a dowry, which differed in several respects from the Russian dowry. The Ukrainian dowry

(which had various names, including pridane, khudoba, testivshchyna, podarka) included two distinct portions rather than one as in the case of the Russian. The first, the so-called skrynia, a large chest, usually handpainted with a flower design,⁵² contained, like the Russian chest or trunk, the essentials that a bride needed in the way of clothing, cloth, and linens in her new home. The skrynia of the 1890s in Novo-Belianskaia district, Starobel'skii county, Kharkiv province, for example, was either blue, green, or red in colour and, depending on the wealth of the bride's family, contained some or all of the following items: a spinning distaff, a card for combing wool, two down-filled quilts, a wooden plate, two spoons, two to five pieces of linen, four towels, two pieces of sackcloth, four to five tablecloths, one woolen and silk shawl, several kerchiefs, one or two sheepskin coats (tulup), two white coats of homemade cloth, a woman's jacket, one or several full costumes, a corset, and several linen shirts.⁵³

All of the items in the skrynia were amassed while a girl was a maiden with her parents' help and out of her own means. The father sometimes contributed cash, but generally it was the mother's responsibility to see that her daughters were well provided for.⁵⁴ The wages that a bride had earned as a young girl, working as a nurse for a neighbour's children or agricultural labourer during the summer months, and picking and selling mushrooms and berries also went toward the dowry. Many an evening did she spend amidst her circle of female peers sewing and embroidering her trousseau.

In addition to the skrynia the dowry also included more substantial property. In almost all cases a bride's paternal family endowed their daughter with at least one animal. That practice was not as common among Russian peasants. Depending upon their material circumstances, the family gave their daughter one or more sheep and/or a calf or cow. These animals, as in the case of the skrynia's contents, provided a new bride with the

essentials she needed as wife and future mother. The wool from the sheep and milk from the cow were necessary for her maintenance of a family. More importantly, such animals gave a woman a degree of independence from her husband and his family, a symbol that was extremely important when a bride lived with her in-laws. The richer this portion of the dowry, the greater the wife's symbolic independence and the stronger the reminder to her conjugal family of her continuing ties to her paternal family; that is, until she had offspring who became heirs to her property.

Richer peasants in both Kharkiv and Kiev provinces included several animals in the dowry. For example, the peasant bride P. of Kabanskaia district, Kupianskii county, Kharkiv province, received a pair of oxen, a cow, a year-old bull, and two sheep.⁵⁵ It was also not uncommon for grain, particularly in Kiev province, to be part of the dowry.⁵⁶ The endowment, at least among wealthy Ukrainian peasants, of a daughter with more substantial moveable property, such as a home, and/or real property, including a farmstead, orchard, and/or field allotment (the latter pertained to areas in which the podvornoe or hereditary land tenure prevailed), is far more striking a departure from Russian peasant customs.

One can only speculate at this time that the different evolutionary development of the ancient Kievan Rus' laws in the Ukrainian lands, the influences of Germanic law contained in the Polish-Lithuanian Statutes, hereditary tenure of land, and common practice of pre-mortem fission played important roles in endowing Ukrainian women with greater property. A woman with land was not only a lucrative catch in the marriage market, but her property, in addition to the property her husband received upon partition, permitted a newly married couple to set up a household economy independently from the husband's parents.

While the contents of a Ukrainian peasant dowry were substantial, the

question of the control enjoyed over that property by a Ukrainian peasant woman still remains to be addressed. The material for Kiev province is extremely spotty in this respect. We will have to rely almost exclusively on information pertaining to Kharkiv province. According to the Kharkiv Statistical Committee's study of customary law in the 1890s, the management of the skrynia and the second, larger portion of the dowry were different, although both portions were in the end considered the wife's inalienable property. The wife appears to have had full control over the skrynia. The second half of the dowry, particularly the work animals and real property, however, came under the management of the husband. That management was nevertheless conditional upon the wife's approval and, more importantly, her existence. When she died, her husband forfeited that right to either his children, if they were of age (if they were still minors he had merely guardianship rights over that property), or to his wife's parents if there were no offspring.⁵⁷ The findings of the 1890s in Kharkiv do not seem to have departed from the reality of the immediate post-emancipation period when we find that a husband "managed his wife's property" of a pair of oxen, a cow, a bull, two sheep, and a wooden home.⁵⁸

In Kiev province a wife may have had greater independence than her Kharkiv counterpart, as we read about a woman in Balakleiskaia district, Cherkasskii county, who received a meadow in her dowry which she managed without interference from her husband and later bequeathed to her sons in equal portions.⁵⁹ In both Kiev and Kharkiv provinces the skrynia and its contents also devolved to the wife's children or parents if she died without offspring. In some areas of Kiev province a mother's land devolved to her sons in equal portions, while the animals and skrynia contents were apportioned equally among sons and daughters. A mother had full opportunity to depart from this practice by bequeathing to her daughters a portion of the

real property in a spiritual testament. In other areas of Kiev and Kharkiv provinces it appears that daughters inherited all of the skrynia.⁶⁰

Variations concerning the husband's rights to his childless wife's dowry nonetheless did occur. Sometimes the length of marriage was taken into account in determining a husband's share, especially if the husband petitioned the district court. If the marriage lasted more than five and, in some cases, ten years, custom in both Kiev and Kharkiv provinces permitted a husband to keep his wife's property. District court judges of Kharkiv province in other instances apportioned a husband a quarter of the moveable and a seventh of the real property, in accordance with the provisions of the written law.⁶¹

Property accumulated by a husband and wife during their marriage became joint family property, except in some cases in Kharkiv province, where profits which a wife earned from domestic work became hers to store in the skrynia and use for her daughter's dowry or other domestic needs. Such profits were amassed from the sale of items, such as dairy products or woven crafts, which were directly connected to a woman's labours. The wedding gifts of animals, grain, beehives, money, and linens, which neighbours showered upon newlyweds during the darovannia or gift-giving ceremony became the couple's joint property which they managed undivided and inherited when one of them died. Sometimes, if the newlyweds remained with the husband's parents, the bulk of that property went to the general use of the family, with the newlyweds retaining only a small portion for their own use.⁶² Here it is useful to remember that such property never remained in its original state, but continued to circulate as the newlyweds were required to provide their neighbours with similar gifts when they or their offspring married.

What rights, if any, did women as wives and daughters have to patrimonial property? As we have seen, all daughters in both Kiev and Kharkiv provinces had a right to an apportionment of property in the form of a dowry. Thus, if

a father died, his unmarried daughters normally did not inherit a portion of the patrimony, but rather depended upon their brothers to care for them, and arrange and provide for their marriages. Sometimes district court judges, on the basis of the written law, translated that care and responsibility to be equivalent to one-seventh or one-eighth of the moveable property and one-fourteenth of the real property.⁶³ However, if a brother defaulted in his obligations, unmarried sisters were entitled to a share of the patrimony. Thus, for example, in 1868 in Veliko-Korogodskaia district, Radomysl'skii county, Kiev province, the district court judges found a brother at fault for throwing his two sisters, Matriona and Maryna Zubenkovy, out of their father's home. They ordered him to provide his sisters with a home and half the rye they had acquired together. If he could not build a new home within a week, he was to fashion them a home out of his komora.⁶⁴

In the village of Ol'shano, Lipetskaia district, Kharkiv county and province, it was customary for a defaulting brother to leave the patrimonial house and farmstead to his sisters. In a case of 2 July 1872 in Khatovskaia district, Kiev county and province, in which a brother did not properly look after his sister, the district court judges demanded that he not only build her a home on the patrimonial farmstead within a reasonable time, but provide her with a sixth of his garden for the next year, a cow, a pair of sheep, and pig, which in all probability would have made up her dowry had her father been alive.⁶⁵

Fathers, who realized that their daughters might never marry, also had the right to bequeath to or apportion them real property, at least in relation to farmstead land. Within the repartitional communal system women were usually not apportioned field allotments which either devolved to direct and lateral male heirs or, in their absence, reverted to the commune's possession as escheated property. In the podvornoe or hereditary land tenure system

all types of land could devolve to a direct female heir, although her inheritance of arable was predicated upon her remaining in her father's commune.⁶⁶

A single or married daughter in both Kiev and Kharkiv provinces also enjoyed property rights to the patrimony when her father did not have direct male heirs. We have already seen that a father had the option of adopting a son-in-law and endowing his daughter with substantial real and moveable property to circumvent this problem. If, however, a father died without making such provisions, his unmarried and married daughters had equal rights to real and moveable patrimonial property as long as they all belonged to the same commune. Thus in Kiev province and by the 1880s in Kharkiv province, direct female heirs had seniority over lateral heirs in the inheritance system.⁶⁷

The following cases illustrate the rights of daughters from two marriages to both patrimonial and maternal property. In 1869 the Mlievskii district court judges of Cherkasskii county, Kiev province, ruled that the five daughters from the deceased Petro Temchik's first marriage and three daughters from his second marriage were all entitled to property shares. The first set of daughters had a right to equal portions of half their mother's small orchard. As for the remaining half of the orchard, valued at twenty-five rubles, and the father's buildings, worth ninety rubles, the judges apportioned each daughter from both marriages 11 rubles 77 1/2 kopecks. One of the daughters, Aleksandra, was awarded an additional sum of eight rubles to meet her greater needs as a cripple. The widowed second wife received the remaining 12 rubles 79 kopecks. The judges gave all the daughters equal access to the orchard, but awarded half of Petro Temchik's farmstead to the three unmarried daughters from his first marriage and the other half to his second wife, who was to manage that property only while her daughters were underage.⁶⁸

The rights of a widowed wife to her husband's patrimonial share depended

upon varying circumstances: the length of her marriage, whether she had children, and whether she lived with her husband's parents or in a home of her own. If a woman with children lived in her father-in-law's home when her husband died, she had the option of remaining in that home and continuing her duties as a full participant in the family economy, or of leaving that household for her paternal family or another husband. If she chose the first alternative, both she and her father-in-law had the joint responsibilities of marrying off her daughters and providing them with dowries, and apportioning her sons their due share of the patrimonial and maternal property when they came of age. The widow herself was entitled to a so-called widow's portion which was equivalent to either one-seventh, one-eighth, or one-tenth of the moveables, depending upon individual district court judges and the influence that the written law had upon them.⁶⁹ If she chose instead to leave her father-in-law's family for another marriage or return to her parents' home, then the father- or brother-in-law was obliged to return her dowry to her and apportion her children their father's share of the patrimony.

In areas of Kharkiv province a departing childless daughter-in-law was entitled to only her dowry. However, in both Kharkiv and Kiev provinces, some fathers-in-law compensated their childless daughters-in-law for their labour by apportioning them grain and animals, depending on the length of their marriages. Definitions of long and short marriages naturally varied from locality to locality. In Ol'khovetskaia district, Zvenigorodskii county, Kiev province, for example, a childless widow had a right to her husband's entire share of the patrimony if their marriage had lasted more than eight years. If she and her husband had been married five years she received one-third of her husband's share; and if married only two years than a home and a small number of animals. In the same province, in Umanskaia district, Umanskii county, district court judges awarded a childless widowed daughter-in-law a mere seventh

of her husband's portion if their marriage had been of long duration.⁷⁰

In a nuclear family in which a woman had lived with her husband and children, but was later widowed, the wife inherited all of her husband's property which she managed as household head until her children came of age. If her children or stepchildren refused to look after her, she was entitled to a widow's share of one-quarter of the moveable and one-seventh of the real property.⁷¹ If she was childless, she had a right to inherit all of her husband's property, provided that the farmstead structures and household economy had been built without the help of the husband's brothers. In the event, however, that the brothers had helped, then she was entitled to only a seventh portion of the moveable property. Should a childless widow in Lipetskaia district of Kharkiv county and province have chosen to remarry, she had a right to sell all the moveable property, including the farmstead home and structures, that her husband had left her. The farmstead land and allotments of arable devolved to her father- or brothers-in-law.⁷² In Mirovskaia district, Kiev county and province, under the podvornoe or hereditary land tenure system, a childless widow, who wanted to remarry, had a right to her husband's land if her second husband belonged to the same commune; otherwise, she forfeited that property to her husband's closest male kin or the commune.⁷³ In all cases the children of her first marriage retained their rights to their father's property which was placed in trust for them until they came of age.

In conclusion, the property devolution systems of the post-emancipation Ukrainian peasantry in Kiev and Kharkiv provinces exhibited a cultural pattern that was somewhat transitional between Western European and Russian peasant societies. It shared the characteristic of patrilineal equal partibility with its Russian counterpart and the tendency toward pre-mortem fission, establishment of independent nuclear households upon marriage, and greater property rights for women with the European peasantry. Like all peasant societies, the

maintenance of old families and the creation of new guided Ukrainian household heads in the development of strategies of property devolution. The partitioning of sons with property upon their marriages and retention of the patrimonial farmstead and structures for either the youngest or eldest son had the dual purpose of guaranteeing parents their pension rights and aiding partitioning married sons in setting up independent economies within the village community. Sometimes fathers took precautionary legal measures by drawing up contracts or spiritual testaments which listed their sons' property rights and obligations. The partitioned sons were thus precluded from encroaching upon the inheritance rights of the son who remained on the patrimonial farmstead and looked after his retired parents and dependent siblings. The legal documents also made the property rights of the non-partitioned son conditional upon the fulfilment of his obligations to his parents.

The fact that partitioned sons were provided with property to set up independent economies within the village had implications for the economic development of Kiev and Kharkiv provinces. Unlike their Western European counterparts, partitioned Ukrainian sons did not necessarily have to travel to urban centres to amass capital in order that they might one day return to the village and marry a local peasant girl. This built-in safety valve retarded the processes of modernization and urbanization. Even in the late nineteenth century, when land hunger and commercialization of agriculture on large estates began to disrupt the traditional Ukrainian peasant way of life, peasants were able to combine their traditional agricultural pursuits with seasonal migratory labour.

In the absence of direct male heirs, household heads adopted a son-in-law or other heir, thus preserving property within the patrimonial household and assuring in-laws their retirement needs. Spiritual testaments or contracts with adopted sons were common as precautionary measures against their defaulting

in their obligations as direct heirs and family providers.

Lastly, Ukrainian peasant women enjoyed some important property rights. The endowment of young women with substantial property at the time of their marriage gave brides a measure of independence in their new home and some importance within the village community, especially if the dowry included an apportionment of land. A large dowry, like the partitioning of sons with property, encouraged the establishment of independent nuclear households. When a husband died, which was a common occurrence among pre-industrial populations, the dowry and widow's share of the patrimony secured a woman's sustenance and maintenance for the remainder of her life. They also made her an attractive catch in the marriage market.

While partible inheritance among Ukrainian peasants facilitated the absorption of new marital units into existing households, as in the Russian case, it also aided in the formation of nuclear units outside the paternal family. Impressionistically it appears that the Ukrainian peasant family tended toward nuclear and stem structures like its European counterpart, rather than the generally more complex household structures of Russian peasants. If this hypothesis holds up to further empirical testing, it will be interesting to find the roots of that difference. Did the cultural pattern set by Polish serfdom in Kiev province and the relative late development of serfdom and Polish cultural influences in Kharkiv province affect the evolution of the Ukrainian peasant family? Why did the Ukrainian and Russian peasants share partible inheritance strategies? Was this rooted in the political systems and apportionment of land in Eastern Europe or in the tremendous availability of virgin land until relatively late in the historical spectrum in what were essentially frontier societies? Exploration of these fascinating questions, however, will have to be the subject of another paper.

NOTES

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¹Jack Goody, "Inheritance, Property and Women: Some Comparative Considerations," in Family and Inheritance: Rural Society in Western Europe, 1200-1800, ed. by Jack Goody, Joan Thirsk, and E. P. Thompson (Cambridge, 1976), p. 23.

²Ibid., pp. 12-13.

³See, for example, the very influential work of S. V. Pakhman, Obychnoe grazhdanskoe pravo v Rossii: Iuridicheskiia ocherki, 2 vols. (St. Petersburg, 1877-79).

⁴For greater information concerning the Commission, see my "Family, Community, and Land in Rural Russia, 1861-1905," unpublished PhD dissertation (University of Toronto, 1984), pp. 29-32.

⁵See the Trudy Kommisii po preobrazovaniu volostnykh sudov: Slovesnye oprosy kres'tian, pis'mennye otzyvy razlichnykh mest i lits i resheniia: volostnykh sudov, s"ezdov mirovykh posrednikov i gubernskikh po krest'ianskim delam prisutstvii, 7 vols. (St. Petersburg, 1873-74). Hereafter cited as Trudy Kommisii. Volumes four and five contain district court records pertaining to the Ukrainian provinces. The Commission for Reforming the District Courts surveyed courts in all twelve counties (uezdy) of Kiev province. Cases were recorded for 54 (38 per cent) of the total 206 district courts.

⁶See the Trudy etnograficheskoi-statisticheskoi ekspeditsii v zapadno-russkii krai, comp. by P. P. Chubinskii, 7 vols. (St. Petersburg, 1872-74). Hereafter cited as Trudy etnograficheskoi-statisticheskoi ekspeditsii.

⁷V. V. Ivanov, ed., Obychnoe pravo krest'ian Khar'kovskoi gubernii, 2 vols. in 1 (Kharkiv, 1896-98).

⁸The Commission for Reforming the District Courts failed miserably in its task of providing statistical information about the volost' courts. The Kharkiv Provincial Statistical Committee's study provides only the following clue to the number of cases examined by district court judges. Between 1891 and 1893 Pechenezhskii district court of Volchanskii county heard an average 789 cases per annum. Of these 224 or 10.5 per cent were appealed. This means that the court, which met every other week, examined about thirty cases per session. *Ibid.*, vol. 1, part I, p. 178.

⁹For a discussion of the enserfment process of Left-Bank and Slobids'ka Ukraine, see Istoriia ukrainskoi SSR, ed. by A. K. Kasimenko et al., 2 vols. (Kiev, 1953), vol. 1, pp. 311ff; V. A. Diadychenko, "Posilennia pokripachennia i vyzysku selianstva na Livoberezhzhi i Slobozhanshchyni v pershii polovyni XVIII st.," in Istoriia selianstva ukrains'koi RSR, ed. by V. A. Diadychenko et al., 2 vols. (Kiev, 1967), vol. 1, pp. 213ff; and I. M. Sheker, "Ostatochne zakripachennia selian Livoberezhnoi, Slobids'koi ta Pivdennoi Ukrainy v druhii polovyni XVIII st.," in Istoriia selianstva ukrains'koi RSR, vol. 1, pp. 243ff.

¹⁰Jerome Blum, Lord and Peasant in Russia From the Ninth to the Nineteenth Century (Princeton, 1961), p. 477n. The serf populations of Kharkiv and Kiev provinces amounted to 29.77 and 57.66 per cent of their respective total populations. See Krepostnoe naselenie v Rossii, po 10-i narodnoi perepisi, comp. by A. Troinitskii (St. Petersburg, 1861), p. 49.

¹¹V. P. Teplyts'kyi, Reforma 1861 roku i agrarni vidnosyny na Ukraini (60-90-ti roky XIX st.) (Kiev, 1959), p. 124; and Blum, pp. 480-81.

¹²Figures for Kharkiv province apply to 1846 and for Kiev to 1845. See N. N. Leshchenko, "Izmeneniia v agrarnykh otnosheniakh na Ukraine v rezul'tate provedeniia reformy 1861 g.," Ezhegodnik po agrarnoi istorii vostochnoi Evropy 1958 g. (Tallin, 1959): 186-87.

¹³Leshchenko, Klassova borot'ba v ukrains'komu seli v epokhu

domonopolistychnoho kapitalizmu (60-90-ti roky XIX st.) (Kiev, 1970), p. 37; and "Estestvennyia i proizvoditel'nyia sily Khar'kovskoi gubernii i ekonomicheskaiia deiatel'nost' eia naseleniia za 1885 god," Khar'kovskii sbornik 1 (1887): 87.

¹⁴Leshchenko, "Izmeneniia," p. 188; and P. A. Zaionchkovskii, Provedenie v zhizn' krest'ianskoi reformy 1861 g. (Moscow, 1958), p. 240.

¹⁵Polnoe sobranie zakonov Rossiiskoi Imperii, 2nd series, no. 36663, art. 97. Hereafter cited as P.S.Z.. In the Ukrainian village escheated property was referred to as being otmirskoe, bezrodnoumershoe, and otmershoe. See Ivanov, ed., Obychnoe pravo.

¹⁶P.S.Z., no. 36663, arts. 92,99; and Teplyts'kyi, Reforma 1861 roku, pp. 95-97.

¹⁷See my "Customary Law and Property Devolution among Russian Peasants in the 1870s," Canadian Slavonic Papers 26, nos. 2 & 3 (June-September 1984): 222-23.

¹⁸In the immediate pre-emancipation period 65.9 per cent of the lands belonging to state peasants in Kharkiv province were located in the steppe counties. Zack J. Deal, III, Serf and State Peasant Agriculture: Kharkov Province 1842-1861 (New York, 1981), p. 119.

¹⁹Trudy etnograficheskoi-statisticheskoi ekspeditsii, vol. 6, p. 36.

²⁰Trudy Kommissii, vol. 5, p. 50, #9; p. 55, #11.

²¹Ivanov, ed., Obychnoe pravo, vol. 1, part I, p. 97.

²²Trudy Kommissii, p. 241.

²³*Ibid.*, p. 259, #6.

²⁴*Ibid.*, p. 276, #2.

²⁵*Ibid.*, vol. 4, p. 31, #9.

²⁶*Ibid.*, vol. 5, p. 327, #8; p. 166, #39. A desiatina is equivalent to 2.7 acres and a sazhen to 2.134 metres.

²⁷In Pechenzhskaia district, Volchanskii country, Kharkiv province, families, in the second, if not the first year after a father's death, were obliged to divide into individual household economies. Ivanov, pp. 156-57.

²⁸On 17 February 1872 the Dashevskii district court judges of Lipovetskii county, Kiev province, ruled that there was little economic sense in splintering the farmstead home and other buildings between two brothers. They instead ordered that one brother compensate the other with sixty rubles or half the value of the patrimony. Trudy Kommissii, vol. 5, p. 348, #1. See also *Ibid.*, pp. 310, 322, 335.

²⁹*Ibid.*, vols. 4-5.

³⁰*Ibid.*, vol. 4, p. 133, #38.

³¹*Ibid.*, pp. 176-77, #8.

³²Trudy etnograficheskoi-statisticheskoi ekspeditsii, vol. 6, p.254, #10.

³³Trudy Kommissii, vol. 5, p.349, #6.

³⁴P. M. Dashkevych, "Grazhdanskii obychai-primachestva u krest'ian Kievskoi gubernii", Iuridicheskii vestnik (1887), no. 8, cited in E. I. Iakushkin, Obychnoe pravo (Iaroslavl', 1896), vol. 2, p. 201.

³⁵*Idem.*

³⁶Trudy Kommissii, vol. 5, p. 204, #8.

³⁷Dashkevych, op. cit.

³⁸Trudy Kommissii, pp. 74-75, #5.

³⁹Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 308, #113.

⁴⁰Trudy Kommissii, vol. 4, p. 162, #2; pp. 161-62, #1.

⁴¹*Ibid.*, vol. 5, p. 255, #15.

⁴²Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 50; and Dashkevych, op. cit.

⁴³Trudy Kommissii, p. 165, #21.

⁴⁴*Ibid.*, vol. 4, p. 189, #17.

⁴⁵Ibid., vol. 5, pp. 263-64, p.264, #29.

⁴⁶Ibid., p. 121, #6.

⁴⁷Dashkevych, op. cit.

⁴⁸Trudy Kommissii, pp. 159-60, #7.

⁴⁹Dashkevych, cited in Iakushkin, pp. 202-03.

⁵⁰Trudy Kommissii, p. 348, #16.

⁵¹Ibid., vol. 4, p. 185, #5; vol. 5, p. 276, #1.

⁵²Four small wheels were sometimes attached to the chest in order that it could be easily moved about the hut. Khvedir Vovk, "Etnohrafichni osoblyvosti ukrains'koho narodu," in his Studii z ukrains'koi etnografii ta antropologii (Prague, [1926]), p. 109.

⁵³Ivanov, ed., Obychnoe pravo, vol. 1, part I, p. 121.

⁵⁴Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 54.

⁵⁵Trudy Kommissii, vol. 4, p. 199, #36.

⁵⁶Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 308, #112.

⁵⁷Ivanov, vols. 1-2.

⁵⁸Trudy Kommissii, vol. 4, p. 199, #36.

⁵⁹Ibid., vol. 5, pp. 237-38, #3.

⁶⁰Trudy Kommissii, vols. 4-5. For an example of a spiritual testament in which a woman bequeathed a portion of an orchard to her daughters and the remainder to her sons, see Ibid., vol. 5, p. 280, #27.

⁶¹Ivanov, vol. 1, part I, p. 416. The Kabanskii district court judges or scribe of Kupianskii county cited the Svod zakonov Rossiiskoi Imperii, vol. X, part I, art. 1154. Trudy Kommissii, vol. 4, p. 195, #38.

⁶²Ivanov, p. 49.

⁶³Ivanov. According to the Digest of Laws daughters, belonging to other classes than the peasantry, were entitled to a fourteenth share of their father's real property and an eighth of the moveable. See my "Customary Law," p. 226n.

⁶⁴Trudy Kommissii, vol. 5, p. 285, #71.

⁶⁵Ivanov, vol. 1, part II, p. 32; Trudy Kommissii, vol. 5, p. 12, #13.

⁶⁶Ivanov, pp. 38, 43.

⁶⁷Until the 1880s in Kharkiv province, private property devolved to daughters only when there were neither direct nor lateral male heirs. In 1871 in Kabanskaia district, Kupianskii county, for example, a family orchard devolved from father to son to nephew and finally to daughter when there were no longer any male heirs. In the 1880s, however, this hierarchy changed as private land, in the absence of direct male heirs, devolved to daughters before lateral male heirs. *Ibid.*, p. 26. Trudy Kommissii, vol. 4, p. 188-89, #15.

⁶⁸Trudy etnograficheskoi-statisticheskoi ekspeditsii, pp. 255-56, #13.

⁶⁹According to the Digest of Laws wives, belonging to other classes than the peasantry, were entitled to an inheritance share of one-seventh of their husbands' real and one-quarter of the moveable property. See my "Customary Law," p. 226n.

⁷⁰Trudy Kommissii, vol. 5, pp. 299-300, 307.

⁷¹*Ibid.*, vol. 4, p. 176, #6; p. 184, #3; pp. 185-86, #7; p. 191, #24.

⁷²Ivanov, pp. 2, 35.

⁷³Trudy Kommissii, vol. 5, p. 22, #1.

essentials she needed as wife and future mother. The wool from the sheep and milk from the cow were necessary for her maintenance of a family. More importantly, such animals gave a woman a degree of independence from her husband and his family, a symbol that was extremely important when a bride lived with her in-laws. The richer this portion of the dowry, the greater the wife's symbolic independence and the stronger the reminder to her conjugal family of her continuing ties to her paternal family; that is, until she had offspring who became heirs to her property.

Richer peasants in both Kharkiv and Kiev provinces included several animals in the dowry. For example, the peasant bride P. of Kabanskaia district, Kupianskii county, Kharkiv province, received a pair of oxen, a cow, a year-old bull, and two sheep.⁵⁵ It was also not uncommon for grain, particularly in Kiev province, to be part of the dowry.⁵⁶ The endowment, at least among wealthy Ukrainian peasants, of a daughter with more substantial moveable property, such as a home, and/or real property, including a farmstead, orchard, and/or field allotment (the latter pertained to areas in which the podvornoe or hereditary land tenure prevailed), is far more striking a departure from Russian peasant customs.

One can only speculate at this time that the different evolutionary development of the ancient Kievan Rus' laws in the Ukrainian lands, the influences of Germanic law contained in the Polish-Lithuanian Statutes, hereditary tenure of land, and common practice of pre-mortem fission played important roles in endowing Ukrainian women with greater property. A woman with land was not only a lucrative catch in the marriage market, but her property, in addition to the property her husband received upon partition, permitted a newly married couple to set up a household economy independently from the husband's parents.

While the contents of a Ukrainian peasant dowry were substantial, the

question of the control enjoyed over that property by a Ukrainian peasant woman still remains to be addressed. The material for Kiev province is extremely spotty in this respect. We will have to rely almost exclusively on information pertaining to Kharkiv province. According to the Kharkiv Statistical Committee's study of customary law in the 1890s, the management of the skrynia and the second, larger portion of the dowry were different, although both portions were in the end considered the wife's inalienable property. The wife appears to have had full control over the skrynia. The second half of the dowry, particularly the work animals and real property, however, came under the management of the husband. That management was nevertheless conditional upon the wife's approval and, more importantly, her existence. When she died, her husband forfeited that right to either his children, if they were of age (if they were still minors he had merely guardianship rights over that property), or to his wife's parents if there were no offspring.⁵⁷ The findings of the 1890s in Kharkiv do not seem to have departed from the reality of the immediate post-emancipation period when we find that a husband "managed his wife's property" of a pair of oxen, a cow, a bull, two sheep, and a wooden home.⁵⁸

In Kiev province a wife may have had greater independence than her Kharkiv counterpart, as we read about a woman in Balakleiskaia district, Cherkasskii county, who received a meadow in her dowry which she managed without interference from her husband and later bequeathed to her sons in equal portions.⁵⁹ In both Kiev and Kharkiv provinces the skrynia and its contents also devolved to the wife's children or parents if she died without offspring. In some areas of Kiev province a mother's land devolved to her sons in equal portions, while the animals and skrynia contents were apportioned equally among sons and daughters. A mother had full opportunity to depart from this practice by bequeathing to her daughters a portion of the

real property in a spiritual testament. In other areas of Kiev and Kharkiv provinces it appears that daughters inherited all of the skrynia.⁶⁰

Variations concerning the husband's rights to his childless wife's dowry nonetheless did occur. Sometimes the length of marriage was taken into account in determining a husband's share, especially if the husband petitioned the district court. If the marriage lasted more than five and, in some cases, ten years, custom in both Kiev and Kharkiv provinces permitted a husband to keep his wife's property. District court judges of Kharkiv province in other instances apportioned a husband a quarter of the moveable and a seventh of the real property, in accordance with the provisions of the written law.⁶¹

Property accumulated by a husband and wife during their marriage became joint family property, except in some cases in Kharkiv province, where profits which a wife earned from domestic work became hers to store in the skrynia and use for her daughter's dowry or other domestic needs. Such profits were amassed from the sale of items, such as dairy products or woven crafts, which were directly connected to a woman's labours. The wedding gifts of animals, grain, beehives, money, and linens, which neighbours showered upon newlyweds during the darovannia or gift-giving ceremony became the couple's joint property which they managed undivided and inherited when one of them died. Sometimes, if the newlyweds remained with the husband's parents, the bulk of that property went to the general use of the family, with the newlyweds retaining only a small portion for their own use.⁶² Here it is useful to remember that such property never remained in its original state, but continued to circulate as the newlyweds were required to provide their neighbours with similar gifts when they or their offspring married.

What rights, if any, did women as wives and daughters have to patrimonial property? As we have seen, all daughters in both Kiev and Kharkiv provinces had a right to an apportionment of property in the form of a dowry. Thus, if

a father died, his unmarried daughters normally did not inherit a portion of the patrimony, but rather depended upon their brothers to care for them, and arrange and provide for their marriages. Sometimes district court judges, on the basis of the written law, translated that care and responsibility to be equivalent to one-seventh or one-eighth of the moveable property and one-fourteenth of the real property.⁶³ However, if a brother defaulted in his obligations, unmarried sisters were entitled to a share of the patrimony. Thus, for example, in 1868 in Veliko-Korogodskaia district, Radomysl'skii county, Kiev province, the district court judges found a brother at fault for throwing his two sisters, Matrona and Maryna Zubenkovy, out of their father's home. They ordered him to provide his sisters with a home and half the rye they had acquired together. If he could not build a new home within a week, he was to fashion them a home out of his komora.⁶⁴

In the village of Ol'shano, Lipetskaia district, Kharkiv county and province, it was customary for a defaulting brother to leave the patrimonial house and farmstead to his sisters. In a case of 2 July 1872 in Khatovskaia district, Kiev county and province, in which a brother did not properly look after his sister, the district court judges demanded that he not only build her a home on the patrimonial farmstead within a reasonable time, but provide her with a sixth of his garden for the next year, a cow, a pair of sheep, and pig, which in all probability would have made up her dowry had her father been alive.⁶⁵

Fathers, who realized that their daughters might never marry, also had the right to bequeath to or apportion them real property, at least in relation to farmstead land. Within the repartitional communal system women were usually not apportioned field allotments which either devolved to direct and lateral male heirs or, in their absence, reverted to the commune's possession as escheated property. In the podvornoe or hereditary land tenure system

all types of land could devolve to a direct female heir, although her inheritance of arable was predicated upon her remaining in her father's commune.⁶⁶

A single or married daughter in both Kiev and Kharkiv provinces also enjoyed property rights to the patrimony when her father did not have direct male heirs. We have already seen that a father had the option of adopting a son-in-law and endowing his daughter with substantial real and moveable property to circumvent this problem. If, however, a father died without making such provisions, his unmarried and married daughters had equal rights to real and moveable patrimonial property as long as they all belonged to the same commune. Thus in Kiev province and by the 1880s in Kharkiv province, direct female heirs had seniority over lateral heirs in the inheritance system.⁶⁷

The following cases illustrate the rights of daughters from two marriages to both patrimonial and maternal property. In 1869 the Mlievskii district court judges of Cherkasskii county, Kiev province, ruled that the five daughters from the deceased Petro Temchik's first marriage and three daughters from his second marriage were all entitled to property shares. The first set of daughters had a right to equal portions of half their mother's small orchard. As for the remaining half of the orchard, valued at twenty-five rubles, and the father's buildings, worth ninety rubles, the judges apportioned each daughter from both marriages 11 rubles 77 1/2 kopecks. One of the daughters, Aleksandra, was awarded an additional sum of eight rubles to meet her greater needs as a cripple. The widowed second wife received the remaining 12 rubles 79 kopecks. The judges gave all the daughters equal access to the orchard, but awarded half of Petro Temchik's farmstead to the three unmarried daughters from his first marriage and the other half to his second wife, who was to manage that property only while her daughters were underage.⁶⁸

The rights of a widowed wife to her husband's patrimonial share depended

upon varying circumstances: the length of her marriage, whether she had children, and whether she lived with her husband's parents or in a home of her own. If a woman with children lived in her father-in-law's home when her husband died, she had the option of remaining in that home and continuing her duties as a full participant in the family economy, or of leaving that household for her paternal family or another husband. If she chose the first alternative, both she and her father-in-law had the joint responsibilities of marrying off her daughters and providing them with dowries, and apportioning her sons their due share of the patrimonial and maternal property when they came of age. The widow herself was entitled to a so-called widow's portion which was equivalent to either one-seventh, one-eighth, or one-tenth of the moveables, depending upon individual district court judges and the influence that the written law had upon them.⁶⁹ If she chose instead to leave her father-in-law's family for another marriage or return to her parents' home, then the father- or brother-in-law was obliged to return her dowry to her and apportion her children their father's share of the patrimony.

In areas of Kharkiv province a departing childless daughter-in-law was entitled to only her dowry. However, in both Kharkiv and Kiev provinces, some fathers-in-law compensated their childless daughters-in-law for their labour by apportioning them grain and animals, depending on the length of their marriages. Definitions of long and short marriages naturally varied from locality to locality. In Ol'khovetskaia district, Zvenigorodskii county, Kiev province, for example, a childless widow had a right to her husband's entire share of the patrimony if their marriage had lasted more than eight years. If she and her husband had been married five years she received one-third of her husband's share; and if married only two years than a home and a small number of animals. In the same province, in Umanskaia district, Umanskii county, district court judges awarded a childless widowed daughter-in-law a mere seventh

of her husband's portion if their marriage had been of long duration.⁷⁰

In a nuclear family in which a woman had lived with her husband and children, but was later widowed, the wife inherited all of her husband's property which she managed as household head until her children came of age. If her children or stepchildren refused to look after her, she was entitled to a widow's share of one-quarter of the moveable and one-seventh of the real property.⁷¹ If she was childless, she had a right to inherit all of her husband's property, provided that the farmstead structures and household economy had been built without the help of the husband's brothers. In the event, however, that the brothers had helped, then she was entitled to only a seventh portion of the moveable property. Should a childless widow in Lipetskaia district of Kharkiv county and province have chosen to remarry, she had a right to sell all the moveable property, including the farmstead home and structures, that her husband had left her. The farmstead land and allotments of arable devolved to her father- or brothers-in-law.⁷² In Mirovskaia district, Kiev county and province, under the podvornoe or hereditary land tenure system, a childless widow, who wanted to remarry, had a right to her husband's land if her second husband belonged to the same commune; otherwise, she forfeited that property to her husband's closest male kin or the commune.⁷³ In all cases the children of her first marriage retained their rights to their father's property which was placed in trust for them until they came of age.

In conclusion, the property devolution systems of the post-emancipation Ukrainian peasantry in Kiev and Kharkiv provinces exhibited a cultural pattern that was somewhat transitional between Western European and Russian peasant societies. It shared the characteristic of patrilineal equal partibility with its Russian counterpart and the tendency toward pre-mortem fission, establishment of independent nuclear households upon marriage, and greater property rights for women with the European peasantry. Like all peasant societies, the

maintenance of old families and the creation of new guided Ukrainian household heads in the development of strategies of property devolution. The partitioning of sons with property upon their marriages and retention of the patrimonial farmstead and structures for either the youngest or eldest son had the dual purpose of guaranteeing parents their pension rights and aiding partitioning married sons in setting up independent economies within the village community. Sometimes fathers took precautionary legal measures by drawing up contracts or spiritual testaments which listed their sons' property rights and obligations. The partitioned sons were thus precluded from encroaching upon the inheritance rights of the son who remained on the patrimonial farmstead and looked after his retired parents and dependent siblings. The legal documents also made the property rights of the non-partitioned son conditional upon the fulfilment of his obligations to his parents.

The fact that partitioned sons were provided with property to set up independent economies within the village had implications for the economic development of Kiev and Kharkiv provinces. Unlike their Western European counterparts, partitioned Ukrainian sons did not necessarily have to travel to urban centres to amass capital in order that they might one day return to the village and marry a local peasant girl. This built-in safety valve retarded the processes of modernization and urbanization. Even in the late nineteenth century, when land hunger and commercialization of agriculture on large estates began to disrupt the traditional Ukrainian peasant way of life, peasants were able to combine their traditional agricultural pursuits with seasonal migratory labour.

In the absence of direct male heirs, household heads adopted a son-in-law or other heir, thus preserving property within the patrimonial household and assuring in-laws their retirement needs. Spiritual testaments or contracts with adopted sons were common as precautionary measures against their defaulting

in their obligations as direct heirs and family providers.

Lastly, Ukrainian peasant women enjoyed some important property rights. The endowment of young women with substantial property at the time of their marriage gave brides a measure of independence in their new home and some importance within the village community, especially if the dowry included an apportionment of land. A large dowry, like the partitioning of sons with property, encouraged the establishment of independent nuclear households. When a husband died, which was a common occurrence among pre-industrial populations, the dowry and widow's share of the patrimony secured a woman's sustenance and maintenance for the remainder of her life. They also made her an attractive catch in the marriage market.

While partible inheritance among Ukrainian peasants facilitated the absorption of new marital units into existing households, as in the Russian case, it also aided in the formation of nuclear units outside the paternal family. Impressionistically it appears that the Ukrainian peasant family tended toward nuclear and stem structures like its European counterpart, rather than the generally more complex household structures of Russian peasants. If this hypothesis holds up to further empirical testing, it will be interesting to find the roots of that difference. Did the cultural pattern set by Polish serfdom in Kiev province and the relative late development of serfdom and Polish cultural influences in Kharkiv province affect the evolution of the Ukrainian peasant family? Why did the Ukrainian and Russian peasants share partible inheritance strategies? Was this rooted in the political systems and apportionment of land in Eastern Europe or in the tremendous availability of virgin land until relatively late in the historical spectrum in what were essentially frontier societies? Exploration of these fascinating questions, however, will have to be the subject of another paper.

NOTES

Special thanks to my research assistants, Amy Falk and Robin Lerner, without whose help this paper would not have been possible.

¹Jack Goody, "Inheritance, Property and Women: Some Comparative Considerations," in Family and Inheritance: Rural Society in Western Europe, 1200-1800, ed. by Jack Goody, Joan Thirsk, and E. P. Thompson (Cambridge, 1976), p. 23.

²Ibid., pp. 12-13.

³See, for example, the very influential work of S. V. Pakhman, Obychnoe grazhdanskoe pravo v Rossii: Iuridicheskiia ocherki, 2 vols. (St. Petersburg, 1877-79).

⁴For greater information concerning the Commission, see my "Family, Community, and Land in Rural Russia, 1861-1905," unpublished PhD dissertation (University of Toronto, 1984), pp. 29-32.

⁵See the Trudy Kommissii po preobrazovaniiu volostnykh sudov: Slovesnye oprosy kres'tian, pis'mennye otzvyvy razlichnykh mest i lits i reshenia: volostnykh sudov, s"ezdov mirovykh posrednikov i gubernskikh po krest'ianskim delam prisutstvii, 7 vols. (St. Petersburg, 1873-74). Hereafter cited as Trudy Kommissii. Volumes four and five contain district court records pertaining to the Ukrainian provinces. The Commission for Reforming the District Courts surveyed courts in all twelve counties (uezdy) of Kiev province. Cases were recorded for 54 (38 per cent) of the total 206 district courts.

⁶See the Trudy etnograficheskoi-statisticheskoi ekspeditsii v zapadno-russkii krai, comp. by P. P. Chubinskii, 7 vols. (St. Petersburg, 1872-74). Hereafter cited as Trudy etnograficheskoi-statisticheskoi ekspeditsii.

⁷V. V. Ivanov, ed., Obychnoe pravo krest'ian Khar'kovskoi gubernii, 2 vols. in 1 (Kharkiv, 1896-98).

⁸The Commission for Reforming the District Courts failed miserably in its task of providing statistical information about the volost' courts. The Kharkiv Provincial Statistical Committee's study provides only the following clue to the number of cases examined by district court judges. Between 1891 and 1893 Pechenezhskii district court of Volchanskii county heard an average 789 cases per annum. Of these 224 or 10.5 per cent were appealed. This means that the court, which met every other week, examined about thirty cases per session. *Ibid.*, vol. 1, part I, p. 178.

⁹For a discussion of the enserfment process of Left-Bank and Slobids'ka Ukraine, see Istoriia ukrainskoi SSR, ed. by A. K. Kasimenko et al., 2 vols. (Kiev, 1953), vol. 1, pp. 311ff; V. A. Diadychenko, "Posilennia pokripachennia i vyzysku selianstva na Livoberezhzhi i Slobozhanshchyni v pershii polovyni XVIII st.," in Istoriia selianstva ukrains'koi RSR, ed. by V. A. Diadychenko et al., 2 vols. (Kiev, 1967), vol. 1, pp. 213ff; and I. M. Sheker, "Ostatochne zakripachennia selian Livoberezhnoi, Slobids'koi ta Pivdennoi Ukrainy v druhii polovyni XVIII st.," in Istoriia selianstva ukrains'koi RSR, vol. 1, pp. 243ff.

¹⁰Jerome Blum, Lord and Peasant in Russia From the Ninth to the Nineteenth Century (Princeton, 1961), p. 477n. The serf populations of Kharkiv and Kiev provinces amounted to 29.77 and 57.66 per cent of their respective total populations. See Krepostnoe naselenie v Rossii, po 10-i narodnoi perepisi, comp. by A. Troinitskii (St. Petersburg, 1861), p. 49.

¹¹V. P. Teplyts'kyi, Reforma 1861 roku i agrarni vidnosyny na Ukraini (60-90-ti roky XIX st.) (Kiev, 1959), p. 124; and Blum, pp. 480-81.

¹²Figures for Kharkiv province apply to 1846 and for Kiev to 1845. See N. N. Leshchenko, "Izmeneniia v agrarnykh otnosheniakh na Ukraine v rezul'tate provedeniia reformy 1861 g.," Ezhegodnik po agrarnoi istorii vostochnoi Evropy 1958 g. (Tallin, 1959): 186-87.

¹³Leshchenko, Klassova borot'ba v ukrains'komu seli v epokhu

domonopolistychnoho kapitalizmu (60-90-ti roky XIX st.) (Kiev, 1970), p. 37; and "Estestvennyia i proizvoditel'nyia sily Khar'kovskoi gubernii i ekonomicheskaiia deiatel'nost' eia naseleniia za 1885 god," Khar'kovskii sbornik 1 (1887): 87.

¹⁴Leshchenko, "Izmeneniia," p. 188; and P. A. Zaionchkovskii, Provedenie v zhizn' krest'ianskoi reformy 1861 g. (Moscow, 1958), p. 240.

¹⁵Polnoe sobranie zakonov Rossiiskoi Imperii, 2nd series, no. 36663, art. 97. Hereafter cited as P.S.Z.. In the Ukrainian village escheated property was referred to as being otmirskoe, bezrodnoumershoe, and otmershoe. See Ivanov, ed., Obychnoe pravo.

¹⁶P.S.Z., no. 36663, arts. 92,99; and Teplyts'kyi, Reforma 1861 roku, pp. 95-97.

¹⁷See my "Customary Law and Property Devolution among Russian Peasants in the 1870s," Canadian Slavonic Papers 26, nos. 2 & 3 (June-September 1984): 222-23.

¹⁸In the immediate pre-emancipation period 65.9 per cent of the lands belonging to state peasants in Kharkiv province were located in the steppe counties. Zack J. Deal, III, Serf and State Peasant Agriculture: Kharkov Province 1842-1861 (New York, 1981), p. 119.

¹⁹Trudy etnograficheskoi-statisticheskoi ekspeditsii, vol. 6, p. 36.

²⁰Trudy Kommissii, vol. 5, p. 50, #9; p. 55, #11.

²¹Ivanov, ed., Obychnoe pravo, vol. 1, part I, p. 97.

²²Trudy Kommissii, p. 241.

²³Ibid., p. 259, #6.

²⁴Ibid., p. 276, #2.

²⁵Ibid., vol. 4, p. 31, #9.

²⁶Ibid., vol. 5, p. 327, #8; p. 166, #39. A desiatina is equivalent to 2.7 acres and a sazhen to 2.134 metres.

²⁷In Pechenzhskaia district, Volchanskii country, Kharkiv province, families, in the second, if not the first year after a father's death, were obliged to divide into individual household economies. Ivanov, pp. 156-57.

²⁸On 17 February 1872 the Dashevskii district court judges of Lipovetskii county, Kiev province, ruled that there was little economic sense in splintering the farmstead home and other buildings between two brothers. They instead ordered that one brother compensate the other with sixty rubles or half the value of the patrimony. Trudy Kommissii, vol. 5, p. 348, #1. See also *Ibid.*, pp. 310, 322, 335.

²⁹*Ibid.*, vols. 4-5.

³⁰*Ibid.*, vol. 4, p. 133, #38.

³¹*Ibid.*, pp. 176-77, #8.

³²Trudy etnograficheskoi-statisticheskoi ekspeditsii, vol. 6, p.254, #10.

³³Trudy Kommissii, vol. 5, p.349, #6.

³⁴P. M. Dashkevych, "Grazhdanskii obychai-primachestva u krest'ian Kievskoi gubernii", Iuridicheskii vestnik (1887), no. 8, cited in E. I. Iakushkin, Obychnoe pravo (Iaroslavl', 1896), vol. 2, p. 201.

³⁵*Idem.*

³⁶Trudy Kommissii, vol. 5, p. 204, #8.

³⁷Dashkevych, op. cit.

³⁸Trudy Kommissii, pp. 74-75, #5.

³⁹Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 308, #113.

⁴⁰Trudy Kommissii, vol. 4, p. 162, #2; pp. 161-62, #1.

⁴¹*Ibid.*, vol. 5, p. 255, #15.

⁴²Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 50; and Dashkevych, op. cit.

⁴³Trudy Kommissii, p. 165, #21.

⁴⁴*Ibid.*, vol. 4, p. 189, #17.

⁴⁵Ibid., vol. 5, pp. 263-64, p.264, #29.

⁴⁶Ibid., p. 121, #6.

⁴⁷Dashkevych, op. cit.

⁴⁸Trudy Kommissii, pp. 159-60, #7.

⁴⁹Dashkevych, cited in Iakushkin, pp. 202-03.

⁵⁰Trudy Kommissii, p. 348, #16.

⁵¹Ibid., vol. 4, p. 185, #5; vol. 5, p. 276, #1.

⁵²Four small wheels were sometimes attached to the chest in order that it could be easily moved about the hut. Khvedir Vovk, "Etnohrafichni osoblyvosti ukrains'koho narodu," in his Studii z ukrains'koi etnografii ta antropologii (Prague, [1926]), p. 109.

⁵³Ivanov, ed., Obychnoe pravo, vol. 1, part I, p. 121.

⁵⁴Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 54.

⁵⁵Trudy Kommissii, vol. 4, p. 199, #36.

⁵⁶Trudy etnograficheskoi-statisticheskoi ekspeditsii, p. 308, #112.

⁵⁷Ivanov, vols. 1-2.

⁵⁸Trudy Kommissii, vol. 4, p. 199, #36.

⁵⁹Ibid., vol. 5, pp. 237-38, #3.

⁶⁰Trudy Kommissii, vols. 4-5. For an example of a spiritual testament in which a woman bequeathed a portion of an orchard to her daughters and the remainder to her sons, see Ibid., vol. 5, p. 280, #27.

⁶¹Ivanov, vol. 1, part I, p. 416. The Kabanskii district court judges or scribe of Kupianskii county cited the Svod zakonov Rossiiskoi Imperii, vol. X, part I, art. 1154. Trudy Kommissii, vol. 4, p. 195, #38.

⁶²Ivanov, p. 49.

⁶³Ivanov. According to the Digest of Laws daughters, belonging to other classes than the peasantry, were entitled to a fourteenth share of their father's real property and an eighth of the moveable. See my "Customary Law," p. 226n.

⁶⁴Trudy Kommissii, vol. 5, p. 285, #71.

⁶⁵Ivanov, vol. 1, part II, p. 32; Trudy Kommissii, vol. 5, p. 12, #13.

⁶⁶Ivanov, pp. 38, 43.

⁶⁷Until the 1880s in Kharkiv province, private property devolved to daughters only when there were neither direct nor lateral male heirs. In 1871 in Kabanskaia district, Kupianskii county, for example, a family orchard devolved from father to son to nephew and finally to daughter when there were no longer any male heirs. In the 1880s, however, this hierarchy changed as private land, in the absence of direct male heirs, devolved to daughters before lateral male heirs. *Ibid.*, p. 26. Trudy Kommissii, vol. 4, p. 188-89, #15.

⁶⁸Trudy etnograficheskoi-statisticheskoi ekspeditsii, pp. 255-56, #13.

⁶⁹According to the Digest of Laws wives, belonging to other classes than the peasantry, were entitled to an inheritance share of one-seventh of their husbands' real and one-quarter of the moveable property. See my "Customary Law," p. 226n.

⁷⁰Trudy Kommissii, vol. 5, pp. 299-300, 307.

⁷¹*Ibid.*, vol. 4, p. 176, #6; p. 184, #3; pp. 185-86, #7; p. 191, #24.

⁷²Ivanov, pp. 2, 35.

⁷³Trudy Kommissii, vol. 5, p. 22, #1.