



Volume 2. From Absolutism to Napoleon, 1648-1815

The Legal Status of Subject Villagers in Prussia, as reflected in the General Law Code for the Prussian States (1794)

Before the peasant emancipation [*Bauernbefreiung*] of the early nineteenth century, every village farmer stood in law as a subject [*Untertan*] under a seigneurial lord, usually a landed nobleman entrusted with rural jurisdiction, but often also an administrator (whether bourgeois or noble) of a large-scale royal domain farm. Towns, too, sometimes administered village subjects. The titles by which such villagers held the lands they tilled varied, though in practice most were hereditary. Rents owed to the lordships might be rendered in cash or in kind, as labor services, or as a combination. Contentious issues included villagers' property rights, personal mobility, and labor obligations to their seigneurial overlords, as well as the temptations lordships faced to enclose peasant land in their own seigneurial estates. The General Law Code for the Prussian States (1794) displays the contradictions of viewing subject villagers both as "free citizens of the state" and as seigneurial tenants bound by numerous longstanding seigneurial powers which, in some cases, amounted to personal serfdom (though the code, like customary law before it, put limits on seigneurial caprice).

Part Seven. On the Peasantry [Village Farmers]

First Section. On the Peasantry in General.

Who Is a Peasant:

1. Members of the peasant class ["estate"] are all inhabitants of the open countryside who are directly engaged in cultivation of the soil and other agriculture, insofar as they are not excluded from this class through noble birth, office-holding, or special rights.
2. Whoever belongs to the peasant class may not, without the state's permission, ply a bourgeois [urban] occupation, or commit his children to such occupations. [. . .]
3. Such types of handicrafts or industry, apart from cultivation of the soil and other agriculture, as may be pursued in the countryside without special permission are specified in the following section. [These included milling, blacksmithing, small-scale tailoring and linen-weaving, and limited tavern- and innkeeping.] [. . .]

General Rights and Duties of the Peasantry.

8. Every rural dweller is obliged to efficiently cultivate his landholding and help meet the needs of the communal livelihood. [. . .]

14. The number of peasant landholdings in the countryside may not be diminished, either through enclosure of their farmsteads and lands [into noble or state demesne land] or their amalgamation into larger units. [. . .]

Second Section. On Village Communes.

Rights and Duties of Village Communes.

18. The possessors of peasant landholdings in a village or its arable fields compose together the village commune.

19. Village communes possess the rights of public corporate bodies. [. . .]

20. Only the locally settled farmers, as members of the communes, take part in their deliberations. [. . .]

Rights of Individual Members

28. All members of the village communes are entitled to use of common lands for grazing, wood-gathering, etc., insofar as laws or contracts do not expressly prohibit it.

29. They share in communal usages and resources in just the same measure as they bear communal burdens [e.g., taxation].

30. On communal pastures each village dweller may drive as many livestock as are required for the proper cultivation of his holding.

31. Where among the farmers and other villagers, or among different classes of farmers, special arrangements concerning common benefits and burdens are regulated by contracts or old-established customs, these shall remain in force.

32. If the common lands are divided among villagers, it must be done in proportion to each beneficiary's prior share of usages. [. . .]

Third Section. On Subject Country-Dwellers and Their Relation to Their Lordships

Introduction.

87. The relationship of the country-dwelling subjects of noble estates to their estate-owning lordships shall be properly designated in Provincial Law Books, whereby previously existing provincial laws and the old-established arrangements resting on them shall figure only as basis or starting-point. [. . .]

General Obligation of the Estate-Owning Lordships.

122. Every lordship is obliged to keep its subjects, in case of need, employed in work.

123. It must create the opportunity, so far as it is able, for those among its subjects who are not yet settled to earn their livings.

124. If it is unable to do this, it must allow them, on their request, to seek their bread outside the lordship's boundaries, and provide them with necessary authorization.

125. The lordship is especially obliged to care for good and Christian education of its subjects' children. [. . .]

General Obligations of the Subjects.

133. Subjects owe their lordships loyalty, respect, and obedience.

134. They are obliged to render them labor services and dues as more precisely stipulated below. [. . .]

Fourth Section. On Subjects' Personal Duties and Rights

Subjects' Personal Freedom

147. Apart from their relationship to the estate to which they are attached, subjects are considered, in their private business dealings and negotiated arrangements, free citizens of the state. [. . .]

Tangible Rights of the Lordship over Them

150. They may not quit the estate they are attached to without their landlords' permission.

151. But they may not be -- apart from the estate they belong to -- sold, exchanged or otherwise transferred against their will to another landlord. [. . .]

Marriage

161. Subjects are obliged to seek their lordships' consent to their intended marriage.

162. The lordship may not, however, refuse consent without lawful grounds. [. . .]

Manorial Service of Subjects' Children

185. Children of all subjects who wish to enter outside service must first offer themselves as servants or laborers to their lordship. [. . .]

Disciplinary Rights of the Lordship

227. The lordship may hold lazy, disorderly, or insubordinate servants to their duty by moderate physical punishment, and may extend this right to estate-lessees and estate officials.

228. The lordship possesses the same authority in relation to servants whom their subject farmers send to perform manorial service, if they are lazy, disorderly, or insubordinate.

229. In the course of such disciplinary punishment the servants' health must not be endangered, much less their life. [. . .]

232. The lordship can also hold farm-possessing subjects and their wives to their duty with imprisonment or punitive labor if these, in the course of manorial labor services not under legal challenge, are guilty of insubordination, persistent laziness, deliberate neglect or other similar infraction. [. . .]

Fifth Section. On Rights and Duties of Subjects Concerning Their Property.

Basic Principle.

240. Subjects, like other citizens of the state, may acquire and possess freely-held property. [. . .]

Subjects' Rights to Their Landholdings.

1) When They Possess These as Their Own Property.

246. As a rule, unless provincial laws and practices do not make the opposite clear, subjects settled on landholdings are to be regarded as owners of their homesteads and lands, and to be judged accordingly.

a) In Legal Arrangements Among the Living

247. But they may not, without lordship's consent, sell or otherwise alienate these, nor trade them, nor diminish them through detachment of separate plots of land.

248. Nor may they, without such consent, impose labor services or other continuing burdens on their properties.

249. The lordship's permission is also required to mortgage or pawn the holdings.

250. The lordship may not refuse such permission in cases involving less than half the value of the holding as officially estimated in the public Mortgage Register. [. . .]

Sixth Section. On Subjects' Labor Services

The Allowable Purposes of Services.

308. The services the subjects are obliged to render the lordship are dedicated specifically to exploitation and use of the lordship's own landholdings. [. . .]

311. As a rule, subjects bound to labor services are responsible for all forms of transport and manual work that are necessary to agricultural production on the landlordly estate.

312. Contrariwise, it may not be demanded of them that they perform other work in the course of their labor services intended for manufacture or other activities not customary in the countryside.

313. Yet, where at the time of this Law Code's publication subjects have been obliged to perform such services, whether under existing contracts or old-established, time-honored arrangements, they shall continue to be binding.

Most Precise Definition of Labor Services Possible.

314. All types of manorial service shall in future be precisely specified, so far as possible, as to time, place, measure, and weight.

315. In determining the extent of legally unlimited services, both the needs of the landlordly estate whose cultivation the subjects undertake as well as their own needs are to be taken into account. [. . .]

319. In designation and distribution of labor services, necessary time must remain for the subjects to cultivate their own holdings and secure the necessities of their own livelihoods.

Source: *Allgemeines Landrecht für die Preußischen Staaten von 1794*. [General Law Code for the Prussian States from 1794]. Text edition. Edited by Hans Hattenhauer. Frankfurt am Main/Berlin: Metzner, 1970, pp. 433-44.

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