

The Code of 1864

On page 46 in *The Death of Ivan Ilyich*, we are told that Ivan Ilyich “was offered a post as an examining magistrate and he accepted it.” After a lengthy description of his new duties and the manner in which he carried them out, Tolstoy concludes this discussion with the statement: “This type of work was new, and he was one of the first men to give practical application to the judicial reforms instituted by the Code of 1864.”

In the mid-nineteenth century, the Russian empire was still a medieval feudal society. The state maintained absolute power, and individual rights were extremely limited. Calls for reform had been increasing for decades. They were intensified by Russia’s stunning defeat by France, England, and the Ottoman Empire in the Crimean War (1853-56), which highlighted the economic and social backwardness of Imperial Russia.

Czar Alexander II, who had assumed power upon the death of his father in 1855, saw that reform was inevitable. He preferred that it come by means of limited and controlled expansion of freedom, instead of by revolution and violent social upheaval. The first and most famous of his major reforms came in 1861 with the emancipation of the serfs. These were millions of rural peasants who were held in bondage to the private landowners on whose property they lived and worked. Reforms were also made in the areas of education, finance, and local government.

Legal reform was brought about by the Code of 1864, which created a total restructuring of the judicial system. Previously, there had been separate, cumbersome legal systems for each of the four estates of society—the nobility, the clergy, those who lived in cities and towns, and the rural peasantry. All of these systems were under the absolute control of the emperor and administered by the official bureaucracy.

Under the Code of 1864, everything was unified into a single system. A bar association was formed. The judiciary became independent of the executive power of the emperor. The principle of the equality of all parties before the law was introduced for the first time. So was trial by jury, with panels of twelve jurors to decide guilt or innocence and three judges to impose sentence. Other reforms included open, public hearings; the right of the accused to be represented by qualified legal counsel; the right of the accused to present evidence favorable to his or her case; and an appeals process. When these reforms were put into practice, there was a sharp increase in the number of not-guilty verdicts in criminal trials.