ORIGIN OF THE FOUNDATIONS OF SOVIET LAW (1917–1920)

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The February 1917 Revolution became one of the turning moments in the history of all the peoples who were united under the Crown of the Russian Empire during the centuries of its existence. The Romanov Dynasty which had ruled for three centuries, constantly adding territories and advancing the boundaries on all sides of the globe, having created the largest Empire in the world, turned out not to be in a position to survive the systemic crisis caused by the defects in preceding developments and the First World War. In early March 1917 first the ruling Emperor, Nicholas II, and then his brother, Mikhail, abdicated. The former Russian Empire embarked upon a path of republican development, democratic transformations, which by virtue of a number of objective and subjective factors, proved to be the road to chaos and war.

Beginning with the abolition of serfdom in 1861, complex and contradictory socio-political processes proceeded in the Russian Empire. The ideology of a «single and indivisible Russia», the preservation of survivals, the half-way nature of reforms, the unpreparedness of the political elite for urgent and systemic matured transformations led to complex and unmanageable processes. The political bankruptcy of the conservative and monarchical forces and irresponsibility of the liberals, together with many years of negative experience of accustoming society to radical and revolutionary methods of political struggle, was combined with the complete discrediting of all the basic State-law institutions.

The 1917 February Revolution, as was acknowledged by Soviet historiography, «... led the broad people's masses in a movement which, moving into the arena of political struggle with enormous energy, confused Tsarist power and effectuated democratic freedoms by amateur means».[1]

The legal system formed primarily during the reform history of the Russian Empire continued to be preserved (cardinal changes were never developed and introduced by anyone) and the practice of law-application showed that the weakening of State institutions led to growing manifestations of legal nihilism and that increasingly the

[1] *Iu. S. Tokarev*, Народное правотворчество накануне Великой Октябрьской социалистической революции (март-октябрь 1917 г.) [Popular Law-Creation on the Eve of the Great October Socialist Revolution (March-October 1917)] (Moscow, 1975), p. 19.

norms of positive law ceased to operate. The change of State system conditioned, first, the transformation of State law. In the past provincial administrations had departed in their prerevolutionary form. Semi-professional social committees replaced them. In Kharkov Province the Committee of Combined Social Organizations was created. It assumed power in the province, and its chairman, O. M. Korytyn, became the provincial commissar of the Provisional Government.[1]

The ordinary police were de facto eliminated for several days: «The police, hated by all working people, were demolished. The revolutionary masses crushed the police agencies and arrested policemen» wrote the well-known historians of the Russian police and Soviet police, R. S. Mulkaev.[2]

The rapidity and activeness of the process of destroying the police system was no accident. The general police were the agency closest to the population not only of a law enforcement (which doubtless had primarily a chastisement nature),[3] but a law-application orientation. As a result, the social result and the administrative-legal and criminal-law relations materially declined.

The crisis of financial law relations conditioned by the First World War led to the collapse of the effectiveness of financial law norms. This concerned virtually all branches of public law, and the constant increase of legal nihilism against the background of socialist propaganda of various shades (including Ukrainian national socialist) also threatened the stability of private-law institutions.

Ukrainian historiography of State and law today is primarily orientated towards investigating national law-making by the first and second Ukrainian People's Republic, and in the interval, the Ukrainian State Hetman, P. P. Skoropadskyi. The Soviet State-law alternative, however, had ripened during the pre-October period. One may with full justification speak (and significant scientific material which may become the subject-matter of special studies indicates this) about the exaggeration and simplified approach to the problem of some contemporary authors who relegate Bolshevism to a non-Ukrainian, exclusively Russian, socio-political phenomenon.

This simplified vision of the leftist radical movement contradicts, in our view, the extra-ethnic popularity which it had during the first half of the twentieth century far beyond the limits of Russian post-Imperial space. Ultimately, the Ukrainian national-democratic movement was in significant measure a socialist one (especially the Party composition of the leading representative organ of the Ukrainian movement — the Ukrainian Central Rada). The comprehensively studied, from various points of view, «progression» of the Central Rada from a social organization to the Ukrainian precursor of parliamentarianism (we do not share the view that this was a Ukrainian national parliament) was accompanied by a weakening of the State apparatus as such, the decline of the authority of the State in society, and growing anarchy.

Disillusion with democratic values, which did not receive proper State-law formalization, intensified in the expanses of the former Russian Empire. Political conflicts of the government continued in the capitals, both Russian and Ukrainian controlled the situation in the localities less and less, and agencies of State power and local self-government, on one hand, did not cope with the tasks placed on them,

[1] *O. N. Iarmysh,* Харківське міське самоврядування на зламі століть: XIX–XX і XX–XXI [Kharkov Local Self-Government at the Turn of the Centuries: XIX–XX and XX–XXI] (Kharkov, 2004), pp. 93–94.
[2] *R. S. Mulkaev,* Организационно-правовые основы становления советской милиции (1917–1920 гг.) [Organizational-Legal Foundations of the Origin of Soviet Police (1917–1920)] (Moscow, 1975), p. 17.
[3] *O. N. Iarmysh,* Каральний апарат самодержавства в Україні (1895–1917) [Chastisement Apparatus of the Autocracy in Ukraine (1895–1917)] (Kharkov, 2001).

especially to ensure legal order, and on the other, themselves often ignored the prescriptions of a law, and their own law-making was contrary thereto.

At the same time, the weakening of the effectiveness of institutes of law and the operation of legal norms in the regulation of social relations should have led, according to dialectical logic and internal content (from the standpoint of phenomenology) to their replacement by other regulators. This was a criminal subculture (in revolutionary times the process of the «perfection» of quasi-norms — «concepts» of the criminal world — gathers pace): «After 17 February the homicides in Belokamennoi increased by ten times, and the detection thereof was reduced to virtually nil».[1] More influential became the growing significance of various corporate norms. Their source was the norm-creation of soviets of workers', peasants' and soldiers' deputies — amateur non-State subjects which arose during the revolution of 1905–1907 and were reborn after the events of February 1917 throughout virtually the entire territory of the former Empire.

In the early days of the existence of the Provisional Government, soviets had a social significance exceptional for non-State agencies and assumed a significant portion of State-law functions. They elected the Bolsheviks headed by V. I. Lenin as the «locomotive» for the seizure of State power with a view to the further construction of socialism.

Soviet historiography exaggerated significantly the role of the soviets in the Bolshevist realization of the slogans of socialist revolution; however, it should be acknowledged that even in the pre-October soviets the foundations were formed of a new, previously unseen, Soviet law different in principle from the classical legal forms. These processes were a phenomenological manifestation of the regulation of social relations through the growing role of corporate norms together with the reduction of State norms proper, and then the statization of the last, comprise an interesting subject-matter for special study. In this case we believe, joining Russian authors, that «Soviet State and law, different in principle from all which had existed to that time, was not born incidentally. The origin thereof became a consequence of the operation of certain historical natural laws ...».[2]

On 25 October 1917, as a result of the revolutionary action of soviets supporting the Bolsheviks, the Provisional Government was overthrown and its place taken by the Council of People's Commissars formed from representatives of the Russian Social-Democratic Workers' Party (Bolshevik) headed by V. I. Lenin and L. D. Trotsky. Not much attention in Ukraine or the majority of territories of the former Russian Empire was devoted to this event, but in the State-legal dimension it had truly revolutionizing significance. In its importance of influence on entire world development, the 1917 Russian Revolution (there are grounds for considering February and October as stages in a single revolution) is perhaps, in our view, comparable with the Great French Revolution of 1789–1793. It also became a fateful phenomenon in the history of the Ukrainian people (if one has in view not only the positive pathos meaning, which is most often imparted to this word).

The course of historical events during the period of liberation struggle from 1917 to 1920 is well-known. December 1917 marked the first arrival of Soviet Power in

[1] *F. I. Razzakov*, Бандиты времен социализма (Хроника российской преступности 1917–1991 гг.) [Bandits of the Time of Socialism (Chronicle of Russian Criminality 1917–1991)] (Moscow, 1997), p. 8.
[2] O. I. Chistiakov (ed.), История отечественного государства и права [History of Fatherland State and Law] (Moscow 1997), II, p. 1.

Ukraine. At that time the Central Rada, not recognizing the Bolshevist Government in Petrograd, undertook «serious» steps for the reduction of the influence of law in force on real social relations. The State, personified by particular organs which at least positioned themselves as legitimate, not only was incapable of ensuring acceptable legal order, but also could not decide with regard to the operation of sources of law and resolve conflicts which arose, so that catastrophic consequences for its existence were inevitable.

Ianevskyi wrote about the actions of the Ukrainian People's Republic which actually, together with the legal imbalance in the policies of the Provisional Government, served as a favorable factor for the affirmation of the Soviet, albeit unique and unprecedented heretofore, legal doctrine: «The growth of total chaos facilitated the decision of the Little Rada of 25 November "On the Law of the Ukrainian People's Republic". It was established that for the time until the creation of the "Russian Federation" and future "delimitation of competence in the sphere of legislation between it and the Central Rada or that all-Ukrainian organ which might replace it", all laws of the Russian Government issued before 27 October were deemed to be in force on the territory of Ukraine, provided that they were not contrary to the Universals of the Central Rada. The absurdity of this decision lay especially in the fact that, given the collapse of the judicial system and the absence of a high judicial instance which might interpret the numerous divergences in legislation, laws were deemed to be in force which had been adopted by those governments — including the monarchy — which the Ukrainian Central Rada itself refused to deem to be legal».[1]

Despite the tentativeness of the last view of the author, legal succession in the systems of law of the Russian Empire, the national State formations on its former lands, and Soviet power is exceptionally complex and interesting — this adequately reflects the methodologically significant moment when Soviet law was formed and confirmed, in particular, on Ukrainian lands. Certain prerequisites had objectively formed for this to happen.

Soviet legal doctrine was not formed in a single moment in final form. The Bolsheviks headed by Lenin were the first in the history of mankind who, in coming to political power, sought to «adapt» true reality to a certain theoretical model and who cardinally restructured both the economic foundation and the political superstructure of society by a volitional purposeful method, having changed its social structure. The «messianic» theory of socialist transformation of society the Russian communists (the Party took this name in March 1918 at the VII Congress of the Russian Social-Democratic Revolutionary Party (Bolshevik)) from the very outset of its existence as a political organization considered to be Marxist doctrine.

Modern historians of philosophy in Ukraine and in the entire world not without reason relegate Marxism (dialectical and historical materialism) to the paradigm of philosophical positivism. The doctrine of Marx and Engels is one of the few large-scale and systematic attempts to build an integral picture of the world by relying on precisely determined fundamental moments. Economic development and production relations were postulated to be such. The theory of the dialectic of interaction of social basis and superstructure erected on the foundation of Hegelian philosophy rather successfully explained many social phenomena. If with regard to preceding

[1] *D. Ianevskyi*, Політичні системи України 1917–1920 років: спроби творення і причини поразки [Political System of Ukraine, 1917–1920: Attempts to Create and Reasons for Failure] (Kyiv, 2003), pp. 147–148.

historical epochs, commencing from a primitive system and ending with feudalism (especially in Eastern civilizations) Marx's conclusions were rather conditional, then with regard to pre-monopoly capitalism they were more than topical. But, despite the fact that Marxist doctrine was positivist, the Leninist (Bolshevik) doctrine of State and law building on it rejected in essence positive law as such. We shall address this below.

In the summer of 1917 Lenin in his work on State and Law[1] developed with gusto the Marxist theory of the dying out of the State as a social institution after the triumph of the socialist revolution. In September 1920 in his textbook presentation at the Congress of the Russian Communist Union of Youth, the Bolshevist leader promised life under communism to the youth inspired by the communist idea within ten to fifteen years. Despite this, the process of the «statization» of all aspects of social life continued in the country. The Russian Federated Socialist Soviet Republic, just as the other republics, including the Ukrainian SSR, survived a period of «war communism» having no analogue in the history of mankind. The awesomeness and simultaneously the tragedy of this period lay in the total deposing of the «bourgeois» foundations of society and the State. Direct goods turnover was introduced, communes were created, and the Bolsheviks in doctrine and practice sought to get rid of relations of ownership, commodity-money relations, and the like.

The entire understanding of law of earlier centuries and millennia as a universal social value and measures of freedom and justice were openly swept aside. The achievements of political and legal thought of the period of bourgeois revolutions with their postulates of classlessness, formal equality, identical requirements of lex and jus for man irrespective of his origin were subjected to scathing criticism. The liquidation of all institutes of bourgeois State and law was spoken of openly. The «principal customer» of forming the new system of law and at the same time the demagogue thereof should have become the dictatorship of the proletariat as the principal instrument for achieving socialist changes in society after the triumph of the proletariat and the poorest peasantry. The Bolsheviks proclaimed themselves to be the expressors of the interests of these social strata (the idea that the proletariat is not capable of developing an own revolutionary ideology, and likewise the doctrine on own victory over world capital was set out in the classic work of Leninist theory, «What Is to be Done?», written by Lenin in 1902).

Even before 1917 the founder of Bolshevism defined the dictatorship of the proletariat as the dominance of the proletariat over the bourgeoisie unrestricted by law and relying on coercion.[2] The Bolshevist doctrine made law a derivative institution to a significantly greater degree than all other doctrines. The economy and politics («a concentrated reflection of the economy») was defined as primary with regard to it: «Under conditions of socialism, a policy based on the scientific cognition of the natural laws of social development is the greatest organizing force. The decisive influence of the policy of the Communist Party on the development of Soviet State and law is explained by this».[3]

[1] *V. I. Lenin*, «Государство и революция» [State and Revolution], in *Lenin*, Полное собрание сочинений [Complete Collected Works], V.
[2] A clear example of the scholastic ideological commentary on these Leninist views is given in *V. M. Chkhikvadze*, «Роль В. И. Ленина в создании советского социалистического права» [The Role of V. I. Lenin in the Creation of Soviet Socialist Law], in Вопросы советского государства и права [Questions of Soviet State and Law] (Moscow, 1957), pp. 3–70.
[3] Ibid., p. 25.

In declaring the creation of a new, Soviet, «proletarian» law, the Bolsheviks in essence deformalized it, removing the sole objective denominator independent of any discretion. Law in essence should be uniform for all society as a «system of coordinates» for behavior, actions, or failure to act of everyone in general and each person in particular. The widely known in the Soviet period Dekret No. 1 «On the Court» provided: «... permitted as an exception the possibility of the use of old laws unless they have been repealed by the Revolution and are contrary to revolutionary conscience and revolutionary legal consciousness».[1] This conditionality of the operation of prerevolutionary (having in view the October 1917 Revolution) normative-legal acts granted to any subject of the application of revolutionary law the maximum space for arbitrariness: the breadth of the interpretation of norms and application of laws was simply not foreseen. With all the declarative democratic nature of Soviet power as the «conduit» of the dictatorship of the proletariat, such a subject had enormous (and in essence, in many instances, unlimited) discretionary powers, much more than, for example, a Governor General in the Russian Empire.

Soviet power was repeatedly established on the territory of modern Ukraine. The questions were somewhat different from the angle of vision towards class and, even more, nationality questions — Bolshevism here did not have (and today this may be considered to be proved) such a thoroughly social base as in the ethnic Russian lands. However, the momentum of the destruction of the old in the former Russian Empire was not restrainable — and therefore in the processes of the incipience of the Ukrainian national State, the nationality factor too often ceded to the social factor»

In 1918–1920 the Communist Party of Ukraine (Bolshevik) was incapable of autonomously coming to power, and moreover for a long time held the steering wheel without material, military, personnel, and organizational support from the Leninist regime. To resolve this problem, extraordinary agencies of power were called upon, the number of which as of the end of 1920 exceeded the «representative» agencies — the executive committees of the soviets.[2]

Although at first Soviet political doctrine was based on ideas of destroying the survivals of bourgeois society, including law, soon it became evident that without the adoption of respective politico-legal acts, the gradual development of the State, even built on the principles of the revolutionary coercion of the dictatorship of the proletariat and the new understanding of «proletarian» law, was impossible. Therefore, every «coming» of Soviet power to the territory of Ukraine was subject to a certain documentary formalization. The I All-Ukrainian Congress of Soviets, held at Kharkov in December 1917 and being in essence the «catalyst» for «international» assistance to Ukraine on the part of the triumphant Soviet Russia, was constituted as the highest agency of power. Between convocations of the congress, its powers should have been exercised by the Central Executive Committee, composed of 61 persons. The Ukrainian Left Cadet, Iu. Medvedev, headed the Central Executive Committee; however, neither he nor his Party associates were admitted to real power by the Ukrainian branch of the Party of Bolsheviks.

[1] *V. M. Chkhikvadze,* «Роль В. И. Ленина в создании советского социалистического права» [The Role of V. I. Lenin in the Creation of Soviet Socialist Law], in Вопросы советского государства и права [Questions of Soviet State and Law] (Moscow, 1957), p. 50.
[2] *D. Ianevskyi,* Політичні системи України 1917–1920 років: спроби творення і причини поразки [Political System of Ukraine, 1917–1920: Attempts at Creation and Reasons for Failure] (Kyiv, 2003), p. 412.

Leninist politico-legal doctrine, based on the theory of the dictatorship of the proletariat, categorically discarded the concept of «bourgeois» democracy, and consequently also the principle of separation of powers. Therefore, the first Government of Soviet Ukraine — the People's Secretariat (this name, just as of the State as a whole — the Ukrainian People's Republic — had the ideological assignment of confusing the Ukrainian peasantry in its support of the authorities and understanding of its legitimacy) was deemed simultaneously to be the highest executive and administrative agency.[1]

The 1918 Peace of Brest-Litovsk became a factor in the renewal of the «Ukrainian» power of the Ukrainian People's Republic actually introduced by the Central Rada throughout the entire territory of Ukraine. The «triumphal arrival of Soviet power», said Lenin, was here suspended for a time. The Ukrainian People's Republic did not always justify the hopes of the German and Austrian (allies) (but, in essence, occupiers). The Ukrainian State of Hetman P. Skoropadskyi quickly came to replace it.

Under the Hetmanate and regime of occupation, underground organizations of Bolsheviks became in many instances cells of uprising and strikes. Chronologically, the uprising of the Directorate against the Hetmanate coincided with the uprising actions of the Soviet revolutionary committees. The Provisional Workers'-Peasants' Government of Ukraine created at Kursk on 28 November 1918 drove out local agencies of power of the Second Ukrainian People's Republic, establishing its own power. On 14 January 1919 Soviet statehood on Ukrainian lands was constituted with a new name — the Ukrainian Socialist Soviet Republic (UkSSR). This was retained until 1937.

Beginning on 29 January 1919, the Government of Soviet Ukraine began to be called the Soviet of People's Commissars of the UkSSR, and the executives of the central departments — people's commissars: «Work was carried out to organize elections to local soviets, hold provincial and uezd congresses of soviets, and prepare for the III All-Ukrainian Congress of Soviets. At this time a gradual transformation is observed of congresses of local soviets into congresses of local administrators. The Bolsheviks regarded these bureaucratized soviets as the most acceptable permanent form of the dictatorship of the proletariat» — as the authors of a history of State and law of Ukraine justly described the events at the end of 1918 and early 1919.[2]

The III All-Ukrainian Congress of Soviets began its work in the then capital of Soviet Ukraine, Kharkov, on 6 March 1919. Four days later the first Constitution of the Ukrainian SSR was adopted. The dominant provision of this document was recognition of the Republic as a dictatorship of the proletariat. Article 1 was definitive: «The Ukrainian Socialist Soviet Republic is an organization of the dictatorship of the working people and exploited masses of the proletariat and poorest peasantry for the victory over their oppressors and exploiters over the centuries by capitalists and landowners».[3]

How much the principles and «standards» of this Constitution differed from the traditional understanding of democracy is shown by an analysis of the electoral system provided for by it. The conclusion of Rumiantsev is eloquent here: «As regards

[1] *P. P. Muzychenko*, Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2006), pp. 261–262.
[2] V. Ia. Tatsyi and A. I. Rohozhyn (eds.), Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2000), II, p. 152.
[3] *Хрестоматія* з історії держави і права України [Anthology of the History of State and Law of Ukraine] (Kyiv, 1997), II, p. 140.

the limitations in electoral law, in its anti-democratic approaches the Constitution of the Ukrainian SSR significantly exceeded the 1918 Constitution of the RSFSR. Unlike the Russian Constitution, which determined the norms of representation at the All-Russian Congresses of Soviets, the Ukrainian Constitution did not establish such norms, but relegated the question of establishing the procedure for elections to the All-Ukrainian Congress of Soviets to the jurisdiction of the All-Ukrainian Central Executive Committee. Therefore, the procedure for elections to each Congress was determined by a specific decree of the All-Ukrainian Central Executive Committee. Thus, electoral law had no guarantees at the constitutional level and was farmed out to the All-Ukrainian Central Executive Committee, which gave to the last the possibility to manipulate norms of representation depending upon the circumstances».[1]

In our view, this is an exceptionally important methodological conclusion. It clearly shows the duality of Soviet State-law standards, when the pragmatism of the maintenance of power exceeded, supposedly, the immutable Marxist-Leninist postulates.

The 1919 Constitution of the Ukrainian SSR consisted of four sections: first — «General Provisions»; second — «Constitution of Soviet Power»; third — «Declaration of the Rights of Working People and Exploited People of Ukraine»; fourth — «On the Arms and Flag of the Ukrainian SSR». This Constitution did not know concepts such as human rights. In the organization and activity of the highest agencies of administration there was no division into limbs of power. Even the Council of People's Commissars had the right to issue laws.[2]

Much attention was devoted to issues of the State system in the Constitution of the Ukrainian SSR. The State was defined as a republic of soviets and their executive committees. With the adoption of the 1919 Constitution, the existence of an independent Soviet Ukraine was legally formalized. But the influence of the RSFSR remains rather significant because the democratic centralism inherent to the mode of operation of the Bolshevist Party, with the stress on the second part of this concept, was carried over to State construction. The concept of local self-government was discarded as bourgeois together with the theory of separation of powers. The celebrated Soviet «Matrioshka» was formed, with the vertical subordination of soviets and their executive committees. The Bolshevist Party of Ukraine cemented this system, which from the first day of its formation (July 1918) was nothing other than a regional organization of the Russian Communist Party (Bolshevik).

The system of court proceedings and court organization were arranged accordingly. Just as the State, the law of Soviet power in the period of «war communism» was full of Cheka members orientated towards revolution expediency and legal consciousness. The main thing was to understand class interests of the proletarian State, class maturity, and consciousness personally of an accuser. In a special Statute confirmed by Dekret of 14 February 1919 it was noted: «When considering cases, a revolutionary tribunal shall not be bound by any limitations relative to the means of discovering the truth» (Article 16). This norm actually sanctioned arbitrariness and non-compliance with elementary human rights. Under these conditions, even the existence of a strong and disciplined political power cementing the entire Soviet

[1] *V. O. Rumiantsev*, Українська державність у 1917–1922 рр.: національно-демократична і радянська альтернативи [Ukrainian Statehood from 1917 to 1922: National Democracy and Soviet Alternatives] (Kharkov, 1998), p. 298 (abstract diss. doctor iurid. nauk).
[2] *Muzychenko*, Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2006), p. 267.

system, which the Communist Party of Ukraine (Bolshevik) was, did not guarantee protection against local «arrogation». In practice, this took the form not only of genuine lawlessness under the mask of «revolutionary legality», but also in frankly criminal manifestations.

Soviet civil law was a rather interesting phenomenon. The aspiration to move from commodity-money relations to product barter (that is, from a market to distribution) led to an unforeseen narrowing of the subject-matter of this branch. The administrative method came to replace the dispositive method of regulation of property relations. Private law was squeezed out by public law. «In the dekrets of Soviet power a central place is occupied by the institution of the right of ownership. Possession and the right to another's thing are virtually not mentioned at all. Legislation knows only two forms of ownership: State and private».[1]

Lenin's phrase from a letter to the People's Commissar of Justice of the RSFSR, D. Kurskii, that the Bolsheviks do not accept private law in the regulation of economic relations, but recognize only public law, became doctrine. Revolutionary legal consciousness was understood to be the principal source of law, and not the classical (Roman) civil law. It was typical that this vision occurred in 1922, that is, after the State officially proclaimed the policy of «War Communism» had been overthrown and the transition to the New Economic Policy with its market mechanisms.

Private trade was prohibited in rationed industrial goods and foodstuffs. Soviet power combatted the crisis in the economy by seeking out enemies and expropriating surplus products from the so-called «non-labor» elements. The food allotment was transformed into a real requisition of food from the peasants. From 1920 it was extended to all foodstuffs. The «bourgeois» inheritance law was repealed by Dekret of the Council of People's Commissars of the Ukrainian SSR on 11 March 1919. The State became the sole heir of a deceased citizen and assumed only the duties to support the non-working descendants thereof.

In February 1919 dekrets were published of the Council of People's Commissars of the Ukrainian SSR «On the Organization of Sections for the Registration of Acts of Civil Status», «On Civil Marriage and Keeping Books of Acts of Civil Status», and «On Divorce». A church marriage was separated from the State and deemed to be the private affair of the spouses. Marriage was dissolved by State agencies upon the application of one of the parties.

The nationalization of lands of landowners provided an impulse towards forming a new land law. Each arrival of Soviet power was accompanied by a renewal of State ownership in land: «The content of the right of State ownership shall consist in the determination of Soviet power of the general rules for the possession and use of land. Civil law agreements concerning land were prohibited. Only the State, which had become the sole owner of land, had the right to determine the fate of land as an object of possession and use. Soviet law, regulating the procedure for land use, continued to further the development of its collective forms».[2]

As regards labor law relations, the operation of the Code of Laws on Labor of the RSFSR of 10 December 1918 extended to Ukraine. This document proclaimed the universal duty to work, the right to labor and payment for it, and the duty to comply

[1] O. I. Chistiakov (ed.), История отечественного государства и права]History of Fatherland State and Law] (Moscow, 1997), II, p. 129.
[2] Tatsyi and Rohozhyn (eds.), Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2000), II, p. 189.

with labor discipline. During the years of «War Communism» there was militarization of labor. Labor duty and labor mobilization were extensively used. Conditions were created at enterprises similar to military units. A Dekret of the Council of People's Commissars of the Ukrainian SSR of 6 April 1920 introduced a single labor share. Until the end of that year payment for labor in kind was widespread.

Considerable attention was devoted to measures for strengthening labor discipline. The concept of labor desertion emerged for the malicious evasion of labor duty.[1]

The most shining principle of feasibility emerged in Soviet criminal law. When rendering a judgment, a court was obliged to take into account the social and class affiliations of both the criminal and the victim. Material norms often were formed chaotically, and agencies of a revolutionary proceeding extensively used objective putability which provided for the possibility of bringing to responsibility without the ascertainment of guilt.

From the outset, individual dekrets of the Council of People's Commissars of the Ukrainian SSR served as sources of criminal law, and from 4 August 1920 the «Guiding Principles Relating to Criminal Law of the RSFSR» were introduced on the territory of Ukraine which contained provisions on criminal law and justice, stages of the commission of a crime, complicity, operation of a criminal law in time and space. Criminal punishment was provided for not only for a completed crime, but for the very intention of its commission.

The system of punishments included: reprimand, public warning, compulsory course of political literacy, declaration of boycott, expulsion from the collective, removal from office, deprivation of political rights, declaration as an enemy of the revolution or laboring people, compulsory tasks, deprivation of freedom, declaration as being an outlaw, and shooting.[2] Thus, administrative sanctions and criminal repression were mixed, and measures of psychological pressure served as criminal punishment.

The criminal law defended especially the interests of the State as the dictatorship of the proletariat, and only then — the working people. Representatives of the so-called exploitative classes were the most impinged in rights.

Criminal procedure norms were established by the Provisional Statute on People's Courts and Revolutionary Tribunals of the Ukrainian SSR of 20 February 1919, by the Statute on the People's Court adopted by the Council of People's Commissars of the Ukrainian SSR on 29 October 1920, and by the Instruction on a Court Proceeding of the People's Commissariat of Justice on 3 June 1919.[3]

The main principles were consolidated in these acts by which a criminal proceeding would be effectuated in the general courts or in revolutionary tribunals. The preliminary investigation of political crimes was to be carried out within 48 hours. The right of the accused to defense in revolutionary tribunals was materially limited. When evaluating evidence and when rendering judgment, the members of the tribunal were guided by own convictions and a revolutionary legal consciousness. Judgments of tribunals were subject to appeal by way of cassation only after the adoption of the Dekret of the Council of People's Commissars of the Ukrainian SSR on 16 April 1919, «On the Formation of the Supreme Court of Cassation».

[1] *Muzychenko*, Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2006), pp. 270–271.
[2] *V. M. Ivanov*, Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2003), p. 231.
[3] Tatsyi and Rohozhyn (eds.), Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2000), II, p. 194.

According to this document, judgments of all tribunals were subject to appeal by way of cassation except for the supreme tribunal attached to the All-Ukrainian Central Executive Committee.

In the general courts, which were called «people's» courts and considered all cases not relegated to the jurisdiction of revolutionary tribunals, whether a preliminary investigation was conducted depended upon the judge. People's assessors had equal rights with judges. All questions arising were decided by a simple majority of votes. Only when considering cases concerning the gravest crimes was the presence of representatives of the accusation and defense obligatory. In other instances the court decided whether to involve them.

The following grounds for vacating judgments in criminal cases were determined by the Statute on the People's Court of 26 October 1920:

material violations of forms of the court proceeding;

material violations or incorrect application of dekrets;

incompleteness of investigation conducted;

obvious unjustness of the judgment.[1]

As we see, the majority of these grounds allowed an extensive interpretation on the part of officials.

Civil disputes were resolved only in courts. A victim who was harmed by a crime or who suffered losses was given the right to file a civil suit through the people's court when a criminal case was considered or upon the completion thereof, by way of a civil proceeding. We share completely the view of the authors of the textbook on the history of Ukrainian law: «During the period of War Communism civil property turnover was virtually absent, and the share of civil cases in courts was relatively slight. Civil cases in courts were considered rarely and came down to insignificant (in the number of suit claims) disputes between individual citizens. As a result of the prohibition of operations with an immoveable and the exclusion from civil turnover of many articles of household use, and also the transition to the planned distribution of products, virtually all of the prerequisites for the application of property sanctions disappeared and the satisfaction of claims of individuals. This explains the comparatively small number of special normative acts on civil proceedings».[2]

Iarmysh O. Origin of the Foundations of Soviet Law (1917–1920)

Abstract. The paper considers the formation of the foundations of Soviet law, which established in the Ukrainian lands in virtue of objectively developed certain prerequisites.

Key words: system of law, Soviet law, civil law, criminal law.

Ярмиш О. Н. Становлення засад радянського права (1917–1920)

Анотація. У статті розглянуто становлення засад радянського права, яке утвердилося на українських землях в силу об'єктивно сформованих певних передумов.

Ключові слова: система права, радянське право, цивільне право, кримінальне право.

Ярмыш А. Н. Становление основ советского права (1917–1920)

Аннотация. В статье рассмотрено становление основ советского права, которое утвердилось на украинских землях в силу объективно сложившихся определенных предпосылок.

Ключевые слова: система права, советское право, гражданское право, уголовное право.

[1] *Muzychenko*, Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2006), pp. 272–273
[2] Tatsyi and Rohozhyn (eds.), Історія держави і права України [History of State and Law of Ukraine] (Kyiv, 2000), II, p. 196.