



Deconstruction of Natural Order

The Legacy of the Russian Revolution

edited by Joachim Diec

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RUSSIA

Yesterday, today and tomorrow
Politics – Culture – Economy – Religion

Editors: Joachim Diec, Anna Jach, Michał Kuryłowicz

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Deconstruction of Natural Order

The Legacy of the Russian Revolution

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Contents

Joachim Diec	
Introduction. Natural Order and the Revolution	7
	Chapter 1
Adam Bosiacki	
Shaping the First Totalitarian State.	
The Political and Legal System at the Beginning	
of the Russian Revolution (October 1917–1921)	
and its Implications.	21
	Chapter 2
Lyudmila Ilyicheva	
State, Business and Society in Russia: The Genesis	
and Models of Interaction 1917–2017	39
	Chapter 3
Ivan Fomin	
Contested Post-Soviet Secessions in the Russian	
Political Discourse: The Grammar of Recognition.	49
	Chapter 4
Joachim Diec	
A Revolution That Has Not Happened: The Potential	
of the Russian Nationalist Revival	67

Chapter 5

Joanna Rak

Justifying the Use of Violence: A Gnostic Deconstruction of a Political Universe	107
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Joachim Diec

Conclusions. The Deconstructive Power of the Russian Revolution	131
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Bibliography.....	143
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Index of Names	155
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About the Authors.....	159
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Chapter 1

Shaping the First Totalitarian State

The Political and Legal System at the Beginning of the Russian Revolution (October 1917–1921) and its Implications

This chapter describes the first concepts of law and the political system under the Bolshevik rule¹. Obviously and paradoxically, these concepts have not been studied so far for several reasons.

The first reason is the almost complete absence of materials, sources of knowledge about the law of the studied period. Many Soviet lawyers and political analysts writing in those years continued their work also after the end of the war communism era, yet they often changed their previous stance for a variety of reasons. Hence, their earlier ideas have often remained almost completely unknown.

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¹ To some extent the present text refers to the author's monograph (Bosiacki, 2012).

Another reason is the total change in the legal ideology of the Bolshevik state at the end of the described period. In 1922, a completely new legal system was introduced: the unwritten law was replaced by a new one. First of all, under the New Economic Policy (NEP) the institution of civil law as a whole was reintroduced; in this way the institution of property law, a civil code, was developed. This implied, among other things, the reintroduction of civil rights (to a limited extent). In this sense, the legal system of the RSFSR (Russian Soviet Federal Socialist Republic) after 1922 was a total negation of the earlier legal concepts. This does not mean, however, that the previously developed system, or more precisely a number of conceptions of war communism in Bolshevik Russia, were not transferred into the legislation of the subsequent period. Conversely, the concepts of civil war law were widely introduced not only into the Soviet Union's legal system of the 1920s and the Stalinist period, but also into the legal systems of other communist countries under Soviet influence after World War II. Some of the institutions born in Lenin's country continue to exist within the Polish law until now. There is also no question about the fact that the model of a state, society and law which was specific for the entire Soviet-style communist system was developed in Soviet Russia during the period of war communism. In this sense, the Bolshevik concept of the state and the normative order was the first totalitarian conception of the Soviet system. It was also the first model of a totalitarian state existing in reality in the 20th century.

The present work uses nearly all the legal literature of the Bolshevik state written between the years 1917–1921, which was sometimes scarcely available. The author analyzed periodicals and books published in that period (over 600 titles). He also succeeded in gaining access to the archival materials from the Central State Archive of the Russian Federation (former Central State Archive of the October Revolution) and the collections of the St. Petersburg

Museum of History. Using the documents of the former USSR Ministry of Transport and family archives, the author studied the life and career of one of the most outstanding Soviet experts in civil law, Alexander Grigorevich Goikhbarg (1883–1962), whose ideas were spread not only to the real socialism countries but also, to some extent, to other countries.

Owing to the archival materials, the author was able to obtain unpublished information and data on the Bolshevik science of law, their work on designing the first Soviet constitution (July 1918), the work of the revolutionary tribunals, the People's Commissariat of Justice, the Cheka and, finally, biographical materials of the leading lawyers of the period.

The work was preceded by a kind of prelude consisting in an analysis of Lenin's viewpoint on the law before the October Revolution² in connection with the still surviving number of myths and oversimplified opinions about the Bolshevik leader. We know that Lenin, an educated lawyer, was somehow connected with the profession of a barrister. As a charismatic leader, he was the father and sole leader of the Bolshevik party, an organism resembling a conspiratorial organization rather than a political party and maybe for this reason called by him a party of a new type.

An analysis of Lenin's writings justifies the conclusion that he had never written about law and that he never presented any consistent view on this subject. The Bolshevik leader's practice as an attorney was rather unimpressive (also during his university years). The subject of law does not exist as his point of interest in the subsequent editions of all his works. This is not a coincidence. The term "law" was used relatively seldom in the Soviet Union after the early 1930s and it was replaced by the word *закон* meaning the Act of Law. This was, of course, in tune with the Marxist and Leninist understanding of what law actually is.

² A separate investigation on this subject was published in Bosiacki (1997).

Lenin's attitude towards law, however, was somewhat more in-depth. Being a Marxist, the Bolshevik leader very soon (in 1894, that is, at the age of 24) adopted the thesis that law is the will of the ruling class and is shaped by this class to serve its own interests which are opposite to the interests of the other social classes (Lenin, 1983, pp. 120–121). In this construction, law is always a variable category; it is shaped by the ruler (class rule).

In the quoted article, Lenin (1983) described (in an indirect way, as can be observed above) his attitude toward law as the “critical revision of the Hegelian philosophy of law” consistent with the spirit of Marxism. More interestingly, however, a peculiar “product of the era” was Lenin's linking of the Marxist idea of law with Russian “legal nihilism”³, popular in the country at the turn of the centuries. The synthesis of these ways of thinking led to the conviction that law as a social phenomenon was an instrument of the struggle of classes and, being the expression of the will of the ruling class, it could not limit this will in any way. Lenin had all his life believed that law performed first of all the repressive function and was eagerly identified with the unwritten law.⁴

At least several passages from Lenin's works written in the pre-revolution years can be cited to support this view. For example, an expert in this subject, Andrzej Walicki, quotes the Leninist definition of the “dictatorship of the proletariat” in his description of the Leninist system:

The scientific conception of dictatorship means nothing else but power not limited by anything, unrestricted by any laws, any rules what so ever, any regulations, and relying directly on violence (Walicki, 1995, p. 104).

³ This term generally meant the conviction that written law could not reflect the eternal and universal legal ideas: justice, good, and even beauty. As time passed, this attitude led to the *tradition of criticizing the law*. Comp. e.g. Walicki (1995, pp. 17–114).

⁴ A similar opinion was first presented in Bosiacki (1997, p. 42).

Lenin had (marginally) voiced similar views more than once before the revolution. He kept saying that the regulations of the constitution (Lenin, 1986a, p. 327), “all questions of law-abidingness” (Lenin, 1987a, p. 200) and the existence of law as a general question “independent of the configuration of (class, A. B.) forces” (Lenin, 1986b, p. 114) remained for him just “fictitious” concepts.

Before the revolution, Lenin had described at least several ideas of the future model of government. Researchers particularly quote one passage of Lenin’s (Lenin, 1987b, p. 244) statement written in 1915 and describing the future system in a very clear way:

Let us look at contemporary army. Here is one of the good examples of organization. Organization is good only when it is flexible and, at the same time, is able to dictate uniform intention to millions of people. Today these millions are sitting at their homes in various ends of the country. Mobilization order comes tomorrow, and they gather at the mobilization points. Today they are lying in trenches, sometimes over long months. Tomorrow they are attacking in a different frontline arrangement. Today they make miracles avoiding bullets and shrapnel. Tomorrow they make miracles in open battle (...). This is what we call organization, when millions of people pursuing one goal, guided by unanimous will, change the form of their co-existence and action, change the place and methods of their activities, change tools and weapons according to changing circumstance and needs of battle. This also applies to the struggle of the working class against the bourgeoisie.⁵

Let us note that when understood directly, the above is actually an *expressis verbis* definition of the principle of the militarization of labor, which was ascribed to the name of Leon Trotsky (1879–1940) during the years of war communism. This principle stated that workers were to be treated as soldiers on the labor front line. This implied subjecting workers to regulations for which military

⁵ The underlined words were underlined by Lenin himself.

rigors were typical and involving all the consequences of this fact. For example, leaving a job was equal to desertion and was subject to military revolutionary tribunals (Данишевский, 1920, p. 21; Solzhenitsyn, 1990, p. 287). A similar principle, not expressed *expressis verbis*, was included in the first Bolshevik Labour Code adopted in the middle of 1918.

After the tsar's reign collapsed and before the Bolsheviks took power, they could implement their ideas more easily. They distinguished themselves from the other political parties in Russia AD 1917, in this case, by a specifically unusual political program. Legally published shortly after the February Revolution (but designed much earlier), it provided for the restoration of the death penalty, and "proletarian compulsion starting from shooting to death (as a) method of modeling a communist man from human material of the capitalist era" (*Программа русской социал-демократической рабочей партии*, 1917, p. 10). Apart from this, it did, however, propose a number of measures considered "progressive" by contemporary people: broad powers of local self-government, "the right for self-determination of all nations in the state", or "equal rights of women". The programme of Lenin's faction of the Russian Socialdemocratic Workers Party also included the proposal of "election of judges by the people" and "change of the professional army into levy in mass". The most important postulate was, however, about the agrarian question (*аграрный вопрос*). The RSDWP programme proposed, in this case, the "confiscation" of all private land in the country without any compensation (*Программа русской социал-демократической рабочей партии*, 1917, p. 13).

Apart from this, the Bolsheviks did not make any broader presentation of their postulates concerning the introduction of some new law before they took power. It appears that the only exception here was an article by one of the few lawyers in Lenin's party, Petr Ivanovich Stuchka (1865–1932), published by *Правда* at the end of May 1917. Stuchka proposed building two legal

systems: the common courts and, in addition to them, out-of-court verdicts on enemies of the revolution. The Bolshevik lawyer also claimed that “as soon as the law ceases to conform with the social relations, it will simply turn into a piece of paper.” “You cannot”, he called on the lawmakers, “use the old laws as the basis for the new social development just like those old laws could not create the old social relations” (Стучка, 1917а, pp. 1–2; Стучка, 1964, pp. 225–227).⁶ To reinforce his statement, Stuchka (1964) quoted Marx who proposed to “deprive the old regime forces” of their protection by law.⁷ With this quotation in mind, Stuchka proposed to “start at least from research (*розыск*) in the old and new collections of laws (*уложениях*) looking for paragraphs permitting to bring the deposed tsar and his arrested supporters to trial” (Стучка, 1964).

While compromising with some of the existing concepts, the Bolshevik lawyer proposes issuing a special retroactive decree (*особый декрет с обратной силой*) against such people and leaves no doubt as to the punishment he would choose for them. Punishment which was not preceded by any court procedure was an even better solution for him (Стучка, 1964).

“K. Marx also addressed this problem,” Stuchka wrote. “When a successful revolution takes place, the opponents can be hanged but there must not be any court verdicts on them. They can be eliminated (*убранные*)⁸ like defeated enemies, but they must not be on trial like offenders.” Stuchka (1964) believed that this

⁶ This quotation is also discussed in Blum (Блум, 1965, pp. 190–191).

⁷ Part of this quotation read as follows: “[The laws mentioned above] grew from old [social] relations and they should die (*погибнуть*) together with them... This preservation of the letter of law (*почвы законности*) is intended to preserve such private interests (*частных интересов*) as binding while in fact they are no longer binding”. The underlined words as in the original.

⁸ The Russian word *убрать* can mean „remove” as well as „murder.” It seems that the intention was to convey the second meaning to the reader, especially during the revolution time.

solution could prevent “wasting time on looking for paragraphs and offenses at least for the miserable arrested spies and provokers”. The presented reflections were the first transparent announcement that the Bolsheviks were planning a new extraordinary legal system.

Profound legal transformations were the permanent objectives of the October Revolution. These objectives had the form of four postulates: immediate withdrawal of Russia from the war, that is, declaring ceasefire, the liquidation of what they called large land property (*помещичья собственность на землю*), worker control of production, and the appointment of the Soviet Government. These postulates paved way for the complete cancellation of any property rights in the country and towns.

The *Land Decree* immediately cancelled private property of land with no compensation.⁹ The document included an unprecedented statement saying that “private ownership of land is cancelled for ever” and land is to become the “property of the whole nation”. Land was given out to any people demanding it but not as their property, as Soviet historiography had often suggested. Possessors had to use the land whilst having no title to it. Land could be given to all people who were willing to work on it. This was the leading criterion of allocating land. The *Land Decree* banned employing any hired labor on land and cancelled all transactions involving land (sale, lease, or disposal in any other way). This was what they called the socialization of land (since the 1930s it was referred to as nationalization in the USSR for political reasons) which the Bolsheviks had accepted from the Party of Socialist-Revolutionaries. The implementation of this conception allowed to materialize the peasants’ utopia which had long existed in the minds of Russian peasants. However, at the same time all

⁹ Regulations of the *Decree* are quoted according to: *Собрание узаконений и распоряжений рабочего и крестьянского правительства (СУиРРиКП)*, 1917/1918. *Декреты Советской власти*, Москва 1964, Vol. 1, p. 17. The discussion of the document in the Polish language is given by, e.g. *Encyklopedia Rewolucji Październikowej*, op. cit., p. 82.

of them were stripped of their ownership title for land, something that had never happened in any country (Гойхбар, 1921, p. 3).

From the very beginning of the Bolshevik state, the most dynamically developing branch of the law was criminal law. The Bolshevik leader identified penal regulations with repression against the enemies of the revolution. In the beginning, the Bolsheviks had intended to use the pre-revolution lawyers in the new legal system (especially justices of the peace, who were introduced under the reform of courts in 1864) (Стучка, 1917b, p. 1). This idea was, however, abandoned in connection with strong resistance from some lawyers. As a result, the Bolsheviks decided to reject the entire pre-revolutionary legal system as a one-off move. It was done by the *Decree on Courts* issued by the Council of People's Commissars on November 24, 1917, which is usually referred to by historians as the *Decree on Courts No. 1* (*Собрание узаконений и распоряжений*, 1917/1918, No. 4, item 50).

The decree abolished "all the hitherto existing general court organs (*общие судебные установления*) such as: district courts, court chambers" and "the ruling senate (the decree used lowercase letters here, A. B.) together with all its departments, military navy courts of all levels, as well as the commercial courts; all this was replaced with court organs appointed by way of democratic election".

The decree also abolished "the so far existing institutions of magistrates, prosecutor's supervision, and the institution of sworn and private attorneys".

To replace the abolished court organs, they appointed local courts (*местные суды*) consisting of one permanent judge and two additional people's lay-judges summoned to the court sittings from the list compiled by the local councils of delegates. The decree stated that the local courts were appointed through direct democratic election, and this election was to be carried out by the appointed local councils of worker, soldier, and peasant delegates.

The *Decree on Courts No. 1* ruled out the application of the whole pre-revolutionary law. The application of laws existing before the Bolshevik coup was allowed only in cases when they “were not abolished by the revolution and were not contradictory to the revolutionary conscience (*революционная совесть*) and revolutionary legal awareness (*революционное правосознание*)” (*Собрание узаконений и распоряжений*, No. 1, paragraph 5).

This was legal nihilism as understood by the new authorities, permitting to sentence anyone on principles of total discretion on the grounds of unwritten legal norms. Since the institution of appeal was also abolished (the only cassation was allowed in cases of formal deficiencies), all verdicts were final.

But it would be wrong to think that the local courts established by the *Decree on Courts No. 1* (people’s courts after March 1928) performed the administration of justice in the Bolshevik state. They had the power to judge property cases up to the total worth of 3,000 roubles and to impose penalties of up to 3 years of prison (Soviet terminology: “deprivation of freedom”). All other cases were judged by the “revolutionary tribunals” established to:

fight against the counter-revolutionary forces in order to establish barriers separating them (*miery odgrozheniya*) [the counter-revolutionary forces, A. B.] from the revolution and its attainments, and to solve matters concerning the control of marauding (*maroderstvo*) and sabotage (*khishchnichesvo*) subversion and other fraud by merchants (*torgovtsy*) industrialists, civil servants, and other persons (*Собрание узаконений и распоряжений*, No. 1, paragraph 5).

There was no possibility to appeal against the verdicts issued by the revolutionary tribunals. The appointment of these tribunals was, in this case, the materialization of the above-mentioned proposals made by Stuchka in May 1917. This led to the emergence of legal dualism in the Bolshevik state: the system of ordinary and extraordinary courts judging political cases. After the

reintroduction of the death penalty in February 1918, this penalty became the most frequent punishment used by the tribunals.

In the years of war communism, the Bolshevik state had, at different periods, a whole chain of revolutionary tribunals. There existed ordinary revolutionary tribunals, military revolutionary tribunals, the revolutionary tribunals of print, and the railway revolutionary tribunals famous for being very cruel in their verdicts on perpetrators of railway and transport subversion. Punishments employed by the revolutionary tribunals were not precisely defined in any of the normative acts. There were only norms of a technical character; instructions describing the sequence of phases in the procedures for the juries did not have *ex lege* education in law.

Unwritten law was strongly promoted in Bolshevik Russia during the entirety of the war communism period. For example, the implementation of the people's law (*народное право*) was supported, the law which "should be expressed directly by the judges in which these judges should not be restricted by the bonds of written law" (Смирнов, Портнов, Славин, 1990, p. 36). They also officially rejected the principle of the independence of courts. Stuchka wrote about this rule in the middle of 1918: "the right to elect judges should belong to the councils as organs holding all power and the sole exponent of the outlooks and desires of the worker-peasant democracy" (Стучка, 1918, p. 5).

The councils of delegates were the organs authorized to determine the date of the election and tenure of the judges:

The elected courts, the author went on, can be recalled (*otozvany*) at any time by the given council. In this way the People's Judge is deprived of the previously alleged "independence" and "irremovability" of the bourgeois judge but he obtained a durable (*prochnaya*) autonomy which earns him people's trust (*narodnoe doverie*). No one can exert pressure on his conscience by threatening to transfer him or apply disciplinary responsibility. The people's judge depends only on the people's trust he enjoys. Plans and prospects (to build personal career, benefits) are not the motivation to become a judge. The motivation is

only the social duty and social mission (*obshchestvennoe prizvanie*) (Стучка, 1918, p. 5).

The Bolshevik state used a similar method to justify the absence of any law-abidingness guarantees (the very term law-abidingness was rejected at the beginning). The described concepts, although original in some respects, were employed to justify the purely political nature of reprisal. However, the revolutionary tribunals turned out to be not very efficient in use.

The peak of repression came with the All-Russian Extraordinary Committee for the Fight Against Counterrevolution and Sabotage (Cheka) headed from its inception by F. Dzerzhinski (1877–1926). The Cheka was not established by any normative act. Hence, even the official name of this institution never existed. Sometimes it was named the Extraordinary Committee for the Fight against Counterrevolution, Sabotage, and Profiteering, sometimes this name was expanded by adding “...and Service Offenses”. The Cheka powers comprised preparatory proceedings, sending people to prison and concentration camps, issuing verdicts and executions.

The first chronicler of the described institution, deputy head of the Cheka Martin Ivanovich Laciś (1888–1938), provides the following account of the committee’s powers in a low circulation book published in Moscow in 1920:

Cheka is not an investigation committee or a court. It is not a tribunal either. It is a combat organ operating on the internal front of the civil war, using in its battles the powers (*приемы*) of investigation committees, courts, tribunals, and army troops (*военные силы*). It does not try the enemy but destroys it. It does not pardon the enemy but turns into ashes (*испепеляет*) anyone who holds weapons on the other side of the barricade and who cannot be used (*использован*) by us in any way (Лацис, 1921, p. 8).¹⁰

¹⁰ Some excerpts from Laciś’s statements are quoted by, among other authors, R. Pipes (Pipes, 1994, p. 655), but in an imperfect translation.

Further parts of the book tell us about the penal measures applied by the committee. According to Dzerzhynsky's deputy, the Cheka "terminates without court proceedings on the offence site or isolates from society by sending to concentration camps (*концентрационный лагерь*), sends [the case] to the tribunal whenever the case requires a similar solution and broad publicity" (Лацис, 1921, p. 8).

Reprisal was very widely used until the end of the war communism era. Sometimes this was done also on the grounds of the adopted normative regulations. Among the best-known of these were the *Decree of the Council of People's Commissaries, The socialist fatherland in distress* (February 21, 1918), and the *Decree on Red Terror* dated September 5, 1918, which promoted overt and arbitrary terror. The most famous document, the *Decree on Red Terror*, said for instance, that "under the existing situation, protection of the hinterland with the use of terror is an absolute necessity". The Decree therefore provided for

sending a large number of responsible party comrades to the hinterland, the necessity to protect the Soviet Republic against class enemies by isolating them in concentration camps, shooting all persons who had been in contact (*prikosnovennnye*) with White Guard organizations, conspiracy, and rebels (*Собрание узаконений и распоряжений*, 1917/1918, No. 65, item 710).¹¹

No comprehensive list of penal measures was compiled in Bolshevik Russia until the end of war communism. Criminal law also adopted the principle of analogy, thus rejecting the principle of *nullum crimen, nulla poena sine lege*. But a normative act was issued

¹¹ Reprinted in: *Еженедельник Чрезвычайных Комиссий по борьбе с контрреволюцией и спекуляцией*, 1918, No. 1, p. 11 (where the resolution is signed only by the secretary of the Council of the People's Commissaries and Lenin's personal secretary L. Fotieva) and the *Декреты Советской власти*, 1964, pp. 291–292.

to mention examples of penal measures. Such an act, described as the *Guiding Principles of Russian Penal Legislation*, and published in December 1919, listed the following penal measures:

a) reproach (*внушение*), b) public reproach, c) compelling to action which was not a physical offence (e.g. attending an education course), d) announcing a boycott [of a given person] (*объявление под бойкотом*), e) relegation from a union (*объединения*) for a specific time (*на время*) or forever, f) return or, whenever this was impossible, reparation of the wrongs, g) deposition, h) ban from performing a specific activity or other activities or a specific job or other jobs, i) confiscation of all or part of the property, j) stripping of political rights, k) declaration of being an enemy of the revolution or the people (*объявление врагом революции или народа*), l) forced labour (*принудительные работы*) without transfer to limited freedom establishments, m) imprisonment for a specified or unspecified period (*неопределенный срок*) until a given event (*известное событие*) takes place, n) outlawry (*объявление вне закона*), o) *execution by shooting*, p) *combination of the above-mentioned penal measures* (*Руководящие начала по уголовному праву РСФСР, 1919, ch. VI, paragraph 25*).

Bolshevik lawyers kept trying to establish a new science of law until the end of the civil war in Russia. The leading role in research work after the middle of 1918 was played by the Socialist Academy of Social Sciences (among the members were A. Goikhbarg, M. Reisner, P. Stuchka and others). New branches of law were also developed, such as labor law (*трудовое законодательство*) or agrarian law (*земельное право*). But also in these cases the law was subordinated to political tasks. This applied also to civil law which the authorities had planned to eliminate after some time. So a number of legal acts were issued to limit the institution of property rights and later remove them entirely.

As regards rural property, this goal was achieved by the *Decree of the Council of People's Commissaries on the Socialization of Land* adopted in February 1918 (*Собрание узаконений*

и распоряжений, 1917/1918, No. 25, item 346). The right to rural property was removed by the *Decree on Cancelling Private Property in Towns* (Собрание узаконений и распоряжений, 1918, No. 62, item 674), designed entirely by Lenin. In June 1918, hereditary rights were also abrogated (except for household goods).

As mentioned above, the lawyers close to the new power center tried to promote the ideas of the new science of law during the years of war communism. They sometimes promoted the ideas of social solidarity, the extinction of law, and the need to abandon the written law in a communist society. The most outstanding specialist in civil law of that time, Goikhbarg (1918, pp. 9–10, cited in Гойхбарг, 1919, p. 37), contended that under the communist system

the period of social struggle and war will become just a legend (...) Compulsion as a category of inter-human relations will cease to exist. So will law as an instrument of compulsion in social relations, as the expression of continuous struggle between individuals, groups, and the state. With a deep consolidation [of the principles] of collectivism, not only civil law but law as a whole will cease to exist. The harmonious existence of people will not be built on the foundation of social compulsion and social need, in other words, on the foundation of law, but on the grounds of total social freedom.¹²

A similar theory which Goikhbarg linked with the name of Leon Duguit was described in the USSR as the theory of the law's social functions. The reality of Bolshevik Russia was, however, totally different than that described by Goikhbarg, who was, to some extent, also involved in the terror of the period.

During war communism, the Bolsheviks established a complete and consistent, though unprecedented system of a totalitarian state in Russia. This system was characterized by:

¹² The quoted excerpt is from Goikhbarg's text, also found in Goldman (1983, p. 185).

1. The practical application of Lenin's pre-revolutionary comprehension of law where law was an instrument of reprisal against enemies of the authorities unable to restrict the lawmaker (a combination of Marxism and legal nihilism).
2. The rejection *de iure* of all legal guarantees protecting the rights of the citizens; the rejection of the entire pre-revolutionary legislation and replacing it with never defined, random regulations of the unwritten law.
3. The introduction of legal dualism: the common courts and the extraordinary courts which judged political cases; establishing a wide range of reprisal institutions (four types of revolutionary tribunals) in this administrative repression (the Cheka).
4. The liquidation of property law (real estate) in towns and in the country, on the whole territory of the state.
5. The concentration of all power in the hands of executive organs; replacing the institution of parliamentary act (with the parliament itself preserved in place) by a normative act of the executive authorities (extremely broad conception of the decree); the official negation of the institution of separation of powers.

To sum up, it may be said that during the three and a half years of war communism Russia experienced vast transformations. At the same time, a totally new, unprecedented legal and political system was established. Most probably none (maybe except for the transformations in Cambodia under Pol Pot) of the other totalitarian systems of the 20th century brought about such deep changes into a pre-revolutionary state. Thus, it is no coincidence that many of the concepts related to the Bolshevik state were adopted during the Stalin era. Some of the institutions, in a limited form, also infiltrated into the Nazi legal system (the nihilism of R. Freisler, the dualism of the administration of justice, maybe even the institution of the family code and related upbringing concepts). But many more of the Bolshevik ideas of law and

politics originating in the war communism period entered the legal systems of the USSR and the communist bloc countries. Some of the institutions which were developed under the Bolshevik state continue to exist even in the Polish legal system in the present day. This applies, among other regulations, to the well-known general clauses in the Polish Civil Code such as the principle of social life and the socio-economic role of the law.

Key words: The Russian revolution, totalitarianism, war communism, genocide, political repressions, bolshevism, Lenin, law under totalitarian regime, political system of totalitarianism, civil law in totalitarianism, utopianism.

Kształtowanie się pierwszego państwa totalitarnego: system polityczny i prawny Rewolucji Rosyjskiej (październik 1917–1921) i jej konsekwencje

Artykuł analizuje kształtowanie się bolszewickiego systemu politycznego i prawnego, powstałego w latach komunizmu wojennego 1917–1921 i wcześniej: w programie partii i jej założyciela. Poglądy Lenina, który na temat prawa pisał bardzo niewiele, a w Rosji carskiej traktowany był jako postać marginalna, stanowiły niewątpliwie asumpt do wytworzenia systemu totalitarnego. Natomiast program partii, jeszcze w początku 1917 roku deklarujący literalnie wolności obywatelskie czy przywiązanie do demokracji bezpośredniej, został po rewolucji całkowicie złamany. Lata komunizmu wojennego to bowiem stworzenie bardzo rozbudowanego systemu ludobójstwa oraz bardzo szerokich kompetencyjnie organów represyjnych, ograniczenia praw obywatelskich i najbardziej podstawowych swobód (z prawem własności włącznie), przy deklarowaniu bardzo szerokich wolności, nieobecnych w żadnym innym systemie politycznym. Nietrudno dostrzec, że negatywne dziedzictwo takiego systemu odbiło się na systemach polityczno-prawnych wielu państw, w tym Polski. Bolszewicka rewolucja 1917 roku jest w tym przypadku najgorszym chyba wydarzeniem XX stulecia.

**Формирование первого тоталитарного государства:
политическая и правовая система Русской революции
(октябрь 1917–1921 гг.) и ее последствия**

В статье рассматривается формирование большевистской политической и правовой системы, созданной в годы военного коммунизма 1917–1921 гг., и ранее: в программе партии и ее основателя. Ленин, взгляды которого были решающими в формировании тоталитарной системы, в царской России по вопросам права писал мало и был скорее фигурой маргинальной. Программа партии, еще в начале 1917 года декларирующая гражданские свободы и ценность прямой демократии, после революции была полностью изменена. Годы военного коммунизма – это создание системы геноцида и репрессивных органов с широкими полномочиями, ограничение гражданских прав и основных свобод (включая право собственности) при декларировании очень широких свобод, отсутствующих в любой другой политической системе. Несложно увидеть, что негативное наследие такой системы повлияло на политико-правовые системы многих стран, включая Польшу. Большевистская революция 1917 года, с этой точки зрения, является худшим событием 20-го века.

Deconstruction of Natural Order

The Legacy of the Russian Revolution



The book focuses on selected far-reaching consequences of the Russian Revolution: the transformation of law and legal culture, aberrations in international behavior, opening the way to nationalism as a motive for another revolution and timeless gnostic thinking, which undelay the revolutionary events and has never lost its original productivity in Russia. The authors try to present the legacy of the revolution in the context of the category of natural order. The analysis is based on four problematic issues: the nature of unnaturalness, the problem of equality, which involves the distinction between the people and the elite, the relation between the revolution and the natural order and the understanding of natural order from the pragmatic perspective.



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