



NATIONAL RESEARCH UNIVERSITY  
HIGHER SCHOOL OF ECONOMICS

*Tatiana Borisova*

**THE LEGITIMACY OF THE BOLSHEVIK  
ORDER, 1917-1918:  
LANGUAGE USAGE IN  
REVOLUTIONARY RUSSIAN LAW**

BASIC RESEARCH PROGRAM

WORKING PAPERS

SERIES: LAW  
WP BRP 05/LAW/2012

This Working Paper is an output of a research project implemented  
at the National Research University Higher School of Economics (HSE). Any opinions or claims contained  
in this Working Paper do not necessarily reflect the views of HSE.

*Tatiana Yu. Borisova*<sup>1</sup>

## **THE LEGITIMACY OF THE BOLSHEVIK ORDER, 1917-1918: LANGUAGE USAGE IN REVOLUTIONARY RUSSIAN LAW**<sup>2</sup>

The article describes and analyzes the legislative politics of revolutionary regimes in Russia in 1917-1918. The author aims to demonstrate the political meaning of the form of early Soviet legislation and its legitimizing effect. The revolutionary legislators often used specific language in the new laws as a vehicle of legitimacy, i.e. to make the people comply. The two main types of legal language used by the Bolsheviks can be interpreted from the perspective of different types of legitimacy. The revolutionary strategy used propagandistic legislation, written in the language of lay people, which urged them to act according to the new law. It can be seen as a request for acts of the people to legitimize the soviets. On the contrary, the traditional strategy employed old bureaucratic means of writing and distributing legislation to the local soviets. The language used by this strategy was closed to the understanding of a lay audience and implied traditions of obeying the law written in familiar legal language, which in turn implied rational/legal legitimacy. The second strategy had already become dominant after the first months of the Bolshevik revolution. This observation demonstrates that from the very beginning of their rule, Soviet leaders approached legislative policy from a technocratic point of view, which determined the further development of Soviet legal theory and practice.

JEL Classification: N93.

Keywords: legal history, revolution, legislation, legality, legitimacy, Russia, Soviet law, language of law, legal profession.

---

<sup>1</sup> PhD, Ass. Prof., Sociology Department, National Research University Higher School of Economic

<sup>2</sup> Two smaller articles, which I have written using some of the sources but from a different perspective, has been published as T. Borisova I. "Revoliutsionnoe zakonodatel'stvo v 1917—1918 gg.: Vybor iazyka", 108 *Novoe Literaturnoe Obozrenie* (2011), 110-116 available at <http://magazines.russ.ru/nlo/2011/108/bo10.html>; 2. "“Sovet pri Narodnom Komissare prosit trebovat”": Zhenskii sub'ekt v revoliutsionnom zakonodatel'stve", 112 *Novoe Literaturnoe Obozrenie* (2011) available at <http://magazines.russ.ru/nlo/2011/112/bo13.html>.

The author is obliged to Curtis Budden for his kind assistance in translating an earlier version of the text and Imanni Wilkes Burg for thoughtful proofreading of the final version. The author is grateful to Mikhail Antonov, Vera Dubina, Heikki Mattila, Garris Rogonian, William B. Simons, Elena Timoshina, and David Feldman for their comments on an earlier draft of this manuscript. The author thanks participants in the conference "Villains and victims: Justice, violence and retribution in late imperial and early Soviet Russia" at Nottingham University, UK, 6 - 7 April 2010 for their stimulating comments on an earlier draft of the paper and the National Research University Higher School of Economics for providing travel support for the conference. Any errors or omissions are solely those of the author.

Is legitimacy of revolutionary order an oxymoron? Marxist-Leninist theory postulated that revolution would demolish institutions of state power as well as other structures of the exploitative classes. However, this declaration of *The Manifesto of the Communist Party* (1848) was further developed in less radical way in 1870s in the criticism which Marx and Engels made on *The Gotha Program* (1868); each work underlined the functional need for the state as a means of suppressing the proletariat's rivals. In contrast to (revolutionary) violent force, state power would certainly need what political philosophers of today call 'political legitimacy'. The basic aspects of legitimacy theory were elaborated by Weber: obedience to authority implies voluntary compliance, and this compliance makes the domination legitimate.<sup>3</sup>

The following proposition underlies my argument: the theory of the dictatorship of the proletariat could not work in Russia in 1917 without the support of other classes compliance to its dictates because of the remarkably low quality and quantity of the predominately rural Russian proletariat. My research on decrees and other archival documents in the legislative politics of late 1917 through 1918 demonstrates that, at the very top level of authority (the soviet government and ministries), revolutionaries heavily relied on both tsarist legislative practices and legislation. My argument is that the revolutionary leaders' constant efforts to retain formalism in legislative practices during that period served, *inter alia*, as a means of establishing the new order as legitimate and (quasi)legal. This phenomenon, which had a major impact on Soviet legal and political culture, dates back to the very first days of Soviet rule.

In his classification of pure types of legitimacy, Weber considered *rational / legal* legitimacy as being the most modern, a result of the evolution of two previous types: *traditional* legitimacy and *charismatic* legitimacy. I will try to demonstrate that, in the case of revolutionary Russia, the usage of legal language, along with other legislative practices of the tsarist régime, indirectly implied the *tradition* of domination as a source of legitimacy for the Soviet order. This paper will try to explain how tsarist traditions and customs of administration could help to instill the legitimacy of a revolutionary order.

There is a well-developed field of historical literature that touches upon the tendency of Soviets both in the center and in the regions to continue some tsarist administrative practices.<sup>4</sup>

---

<sup>3</sup> Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (University of California Press, Berkeley, 1978), 212.

<sup>4</sup> M.P. Iroshnikov, *Sozdanie sovetskogo tsentralizovannogo gosudarstvennogo apparata. Sovet narodnykh komissarov i narodnye komissariaty* (Leningrad, 1967), T.H. Rigby, *Lenin's government: Sovnarkom 1917-1922* (Oxford University press, London, 1979); E.N. Gorodetskii, *Rozhdenie Sovetskogo gosudarstva (1917-1918)* (Moscow, 1984); Anna-Liisa Heusala, *The Transitions of Local Administration Culture in Russia* (Kikimora Publications, Helsinki, 2005); Peter Holquist "Information is the alpha and omega of

Recent scholarship by Peter Holquist provides an important attempt to understand this continuation phenomenon as a development of Russian institutional culture. Holquist bases his research on Alfred Rieber's concept of the technocratic ethos of late imperial bureaucracy<sup>5</sup> that served, as Holquist demonstrates, as "a crucial bridge for many specialists to service with the Soviet state".<sup>6</sup> However, dealing with the legislative politics of the Bolshevik revolution, the existing research is concentrated mainly on the *substance*, not on the *form*,<sup>7</sup> of the new regime's legal acts. My aim is, on the contrary, to study the *form* and the additional political meaning which it contained.

Methodologically, I will rely on the accomplishments of the in-depth comparative study of legal linguistics by Heikki Mattila, which clearly demonstrates that the authority of antiquity and old forms is grounded in the law.<sup>8</sup> To analyze the language of the legislation, I will utilize the approaches of Austin's speech act theory (John J. Austin) along with the positioning theory of language usage developed by sociologists.<sup>9</sup> Both theories focus on the usage of discursive practices to constitute speakers and hearers in certain ways and to negotiate their new positions.

This paper will be structured in the following order. First, I will start with the Provisional Government's approach to the problem of the legitimacy of its power. Thereafter, I will briefly focus on the legitimacy of revolutionary power in the view of Lenin's theoretical writings and legislation during the October revolution. The last section will be an analysis of the language used by central authorities in their acts in relation to the Soviets. My research question is: how were relations of power and domination/subservience expressed in the language of early Soviet legislation?

---

our work": Bolshevik surveillance in its pan-European context" 69(3) *Journal of Modern History* (1997), 415-450; James Heinzen, "Alien Personnel in the Soviet Revolutionary State: The People's Commissariat of Agriculture under Proletarian Dictatorship, 1918-1929," 56(1) *Slavic Review* (Spring, 1997), 73-100.

<sup>5</sup> Alfred Rieber, "Bureaucratic Politics in Imperial Russia," 2(4) *Social Science History* (Summer 1978), 399 – 413; and *id.*, "Patronage and Professionalism: The Witte System," in B. V. Anan'ich, (ed.), *Problemy vsemirnoi istorii: Sbornik statei v chest A. A. Fursenko* (St. Petersburg, 2000), 286 – 98.

<sup>6</sup> Peter Holquist "In Accord with State Interests and the People's Wishes": The Technocratic Ideology of Imperial Russia's Resettlement Administration," 69 (1) *Slavic Review* (Spring 2010), 151-79, at 152.

<sup>7</sup> Most researchers take this stance, although there is some interesting research on the form of the Russian Revolution. See, for example, Orlando Figes, Boris Kolonitskii, *Interpreting the Russian Revolution: The Language and Symbols of 1917*, (Yale University Press, New Haven, 1999). On transformation of language see: Michael S. Gorham, *Speaking in Soviet Tongues: Language Culture and the Politics of Voice in Revolutionary Russia*, (Northern Illinois University Press, DeKalb, Illinois, 2003).

<sup>8</sup> Heikki E.S. Mattila, *Comparative Legal Linguistics* (Ashgate, Aldershot, 2006), 81-88. For more on the historical and theoretical aspects of symbolism and formalism of legal language, see also Ferdinand Feldbrugge (ed.) *The Law's Beginnings* (Martinus Nijhoff Publishers, Leiden, 2003).

<sup>9</sup> Bronwyn Davies, Rom Harre "Positioning: The discursive production of selves", 20 *Journal for the Theory of Social Behavior* (1990), 43-63. Available at <http://www.massey.ac.nz/~alock/position/position.htm>

“Es erben sich Gesetz und Rechte  
Wie eine ew'ge Krankheit fort.”  
(Laws and rights are hereditary,  
like an eternal sickness.)  
Goethe, *Faust*

## Legitimacy of Power after the February Revolution

On 2 March 1917, the February Revolution put an end to monarchical power in Russia. In anticipation of the Constituent Assembly, which was supposed to determine the future political structure of the state, the Provisional Government published laws on political and civil freedoms and began preparations for reforms, beginning with the courts. These measures were intended to modernize backward social institutions and to help bring about the changes proclaimed by the revolution; they were meant to turn yesterday's subjects into citizens capable of making independent, responsible political decisions for the country. In their administrative practices, ministers of the Provisional Government relied on structures of state authority from tsarist times. They seemed efficient for introducing revolutionary changes, despite the (often sharp) contrast of the latter with the customs of the former political and legal culture. To give an example, from the middle of April 1917, the terms “Russian subjects” (*russkie poddanie*) and “lower ranks of the army and navy” (*nizshie chiny armii i flota*) were changed in official documents to “Russian citizens” (*grazhdane*) and “soldiers and sailors” (*soldaty i matrosy*).<sup>10</sup> The change was mandated by a special memo for the Interior Ministry issued by the Legal Conference (*Iuridicheskoe soveshchanie*), the administrative organ in charge of developing agenda of reforms for the Provisional Government.

And this is where we encounter one of the main problems facing the Provisional Government: the continuity of governing practices from the previous state structure. Given that the Government itself was not elected or approved by a representative body, the fact that the old state apparatus (including the military) quickly gave their support to the new government (administrative continuity) was perceived by the majority of society as a sufficient sign of "legitimacy in action" for the new leaders. But this raises the question: what was the source of the *ancien régime*'s legitimacy of state power? When Nicholas II abdicated on 1 March 1917, the symbolic basis of authority consisted of two components: *spiritually*, it was the blessing of the Orthodox Church, while *materially* the mechanism for exercising sovereign power was the state bureaucracy. But they were

---

<sup>10</sup> See letter of the chairman of the Legal Conference to the Interior Ministry of 14 April 1917, Russian State Historical Archive (*Rossiiskii gosudarstvennyi istoricheskii arkhiv*, hereinafter “RGIA”), fond 1288, opis' 5 (1917), delo 38, l. 1.”*Tsikuliarno*”.

closely connected. Under Orthodoxy, the monarch, who was anointed by God ruled and delegated his power to state officials. Moreover, as part of the state structure, governed by the Synod, the church bound the people by both law<sup>11</sup> and ritual<sup>12</sup> to submit to the sovereign power.

But Russian Orthodoxy could not be used as a spiritual basis of obedience after the February revolution. In developing the revolutionary ideas of equality, the Provisional Government issued two acts that separated state and religion: “On abolishing religious and national restrictions” (*Ob otmene religioznykh i natsionalnykh ogranichenii*), dated 20 March 1917, and the Freedom of conscience act (*O svobode sovesti*), dated 2 August 1917.<sup>13</sup> However, before this, the Synod, as a part of the state bureaucracy that had been transferred under the power of the Provisional Government, rushed to publish its own resolutions following the abdication of the monarch. By the end of March 1917, the rites of the Russian Orthodox Church, where tsarist power had been mentioned before, had already been corrected. Just as in the case of legal regulations on “soldiers and sailors”, the approach here was textual: instead of mentioning the emperor, they now mentioned the “blessed [*blagovernoe*] Provisional Government”.<sup>14</sup>

The very same method of replacing undesirable words was used for the church’s blessing of the new authorities, even though these authorities did not directly order this act. This case clearly demonstrates the strength of institutional inertia, where previous structures, especially those deeply rooted in everyday practices, seemed virtually indestructible.

One of the most influential members of the Provisional Government, Pavel Miliukov, wrote in his memoirs that this institutional continuity was not a goal but, rather, a temporary means used by the “temporary” authorities.<sup>15</sup> Under the circumstances of a severe crisis, and weighed down by Russia’s involvement in World War I since 1914, the Provisional Government turned to the former mechanisms which had been used to legitimize and exercise power.<sup>16</sup> Innovations were introduced, of course, with respect to certain formal procedures: for example, the Provisional Government decided, in reference to prior legislation, to change the words “imperial majesty” (*imperatorskoe*

---

<sup>11</sup> “The Russian monarch is a sovereign monarch. Not only fear and conscience, but God himself, commands obedience to his authority.” Art.4, Fundamental State Laws of the Russian Empire of 1906. *Svod zakonov Rossiiskoi imperii*. Vol. 1. P. 1. (St-Petersburg, 1906).

<sup>12</sup> Richard Wortman, *Scenarios of Power: Myth and Ceremony in Russian Monarchy*, Vol. 1 (Princeton University Press, Princeton, 1995), 2.

<sup>13</sup> *Sbornik ukazov i postanovlenii vremennogo pravitel'stva*. Vyp. 1. (Petrograd, 1917).

<sup>14</sup> See M.A. Babkin, *Dukhovenstvo Russkoi pravoslavnoi tserkvy i sverzhenie monarkhii (nachalo XX v. – konets 1917 g.)*, (Izdatel'stvo Gosudarstvennoi publichnoi istoricheskoi biblioteki Rossii, Moscow, 2007); and *id.* (ed.), *Rossiiskoe dukhovenstvo i sverzhenie monarkhii v 1917 gody. (Materialy i arkhivnye dokumenty po istorii Russkoi pravoslavnoi tserkvy)* (Indrik, Moscow, 2006).

<sup>15</sup> P.N. Miliukov, *Vospominaniia* (Politizdat, Moscow, 1991), 295.

<sup>16</sup> See V.I. Startsev, *Vnutrennaia politika Vremennogo pravitel'stva pervogo sostava* (Moscow, 1967), 95.

*velichestvo*) and “supreme power” (*vysochaishaia vlast’*) to read “the Provisional Government”.<sup>17</sup> In doing so, the new authorities were trying to do the impossible: to project as legal the same governing practices of the previous regime, the legality of which had been nullified by the revolution.

## October 1917: The Problem of Legitimacy—Rhetoric vs Formalism

Quiet, orators!  
You  
have the floor,  
Comrade mauser!  
Too long we've lived by the laws  
Adam and Eve left.  
Run down old History's horse!  
Left!

Vladimir Mayakovsky, *Left March*

If the February Revolution was spontaneous, with power ending up in the hands of a body that was admittedly provisional, the October coup was aimed precisely at seizing power for the purpose of radical revolutionary reorganization. Unlike the Provisional Government, which had tried to maintain order, the Bolsheviks proclaimed the previous order to be antiquated and proclaimed the start of a new revolutionary era. Therefore, the problem of legitimacy was posed in a completely different manner. Bolshevik revolutionary teleology did not need any competitors in the form of religious faiths, even in exchange for legitimacy. A genuine revolution is a decisive break that, rather than contradicting, simply destroys any reminders of the legitimacy of another order.<sup>18</sup> Therefore, the legal and religious legitimacy of the earlier rule was swept away.

In his work “State and Revolution” (*Gosudarstvo i revoliutsiia*), Lenin underlined that the task of revolution is to break the state itself, not to improve its institutions, as the Provisional Government and the Soviets that had co-operated with it had tried to do.<sup>19</sup> Written in summer 1917, the ideas of Lenin's book were implemented in the first decrees of the Soviet authorities—“On Peace” and “On Land”. Adopted during the night of 25-26 October 1917 at the Second All-Russian Congress of Soviets, which was convened the day of the uprising, these decrees constituted the

---

<sup>17</sup> See the record of the Provisional Government session of 13 May 1917 in the journal of the Provisional Government, State Archive of the Russian Federation (hereinafter “GARF”), fond 1779, opis’ 2, Delo 1, Part 2, p. 52.

<sup>18</sup> For more on the negativity of the revolution, see A. Magun, *Otritsatel’naia revoliutsiia: k dekonstruktsii politicheskogo sub’ekta* (Izdatel’stvo Evropeiskogo universiteta v S-Peterburge, St. Petersburg, 2008).

<sup>19</sup> V. I. Lenin, *Gosudarstvo i revoliutsiia: uchenie marksizma o gosudarstve i zadachi proletariat v revoliutsii* (first published, 1918), in his *Polnoe sobranie sochinenii*, 5th edition (Izdatel’stvo politicheskoi literatury, Moscow, 1974), Vol. 33, 1-120, at 30.

decisive breakdown of the former state and the beginning of a new era. By backing out of agreements with their allies in the decree “On Peace”, the Bolsheviks broke with the international community. In rejecting private property in the decree “On Land”, they disavowed the basis of the national socioeconomic structure.

Already at the very beginning of Soviet power, the source of its legitimacy was declared as the people itself and their organs— the soviets. This order was first established in practice at the Second All-Russian Congress. Thereafter, it was postulated in the first article of the “Declaration of rights of the working and exploited people” enacted on 3 January 1918:

Russia is hereby proclaimed a Republic of Soviets of Workers’, Soldiers’ and Peasants’ Deputies. All power, centrally and locally, is vested in these Soviets.<sup>20</sup>

Later on, the Declaration was included as the first chapter in the 1918 RFSR Constitution with some very important amendments: there was no mention of the Constituent Assembly.<sup>21</sup> The Bolsheviks had proposed that the Assembly adopt the Declaration in order to promulgate the supremacy of the soviets as the main source of power. Otherwise, the long-awaited Constituent Assembly would be able to compete with the soviets in their role to present the will of the people. At the same time, the revolutionary government had declared that the Assembly was “counter-revolutionary”. And to strip the Assembly of its legitimacy, the soviets were proclaimed to be the only institution that could truly represent the people’s will. On 5 January 1918, the day of the dissolution of the Assembly, the All-Russia Central Executive Committee sent a special telegram to the soviets. It stated:

“The soviets must counter the slogan ‘All power to the Constituent Assembly’ with the slogan ‘All power to the Soviets’, the consolidation of the Soviet republic. The first slogan unites all enemies of the workers-peasants of the October Revolution [...]”<sup>22</sup>

In the turbulent times of revolutionary changes, the denial of legitimacy was symbolically embodied in the refusal of the Assembly’s guards to further defend the building where the meeting was being held, which led to sailor Zselezniak’s famous quote: “The guard is tired” (*karaul ustal*). The legendary history of the October revolution depicts this phrase as the anecdotal end to useless

---

<sup>20</sup> *Dekrety sovetskoi vlasti* (hereafter *DSV*) (Gosudarstvennoe izdatel'stvo politicheskoi literatury, Moscow, 1957). Vol.1, In English: V. I. Lenin, *Collected Works*, 4th English Edition (Progress Publishers, Moscow, 1964) , Vol. 26, 423-25, at 423.

<sup>21</sup> *Konstitutsiia (Osnovnoi zakon) RSFSR (1918)* (hereinafter *RSFSR Constitution, 1918*), *DSV*, Vol. II, 550-564.

<sup>22</sup> Telegram from the All-Russia Central Executive Committee of 5 January 1918, “O sozyve Tret'ego Vserossiiskogo s"ezda Sovetov...”, *DSV*, Vol.1, 284.



speeches by the now-illegitimate delegates.<sup>23</sup>

At this moment in time, the niceties of legitimacy were less important than gaining and exercising the physical power to block the activity of the Bolsheviks' (potential) enemies in the Assembly. As a means of revolutionary politics, Bolshevik leaders also worked hard to formalize this element of force (*sila*) as a part of Soviet state power. The Declaration and other major decrees of the first months of Soviet rule sought to establish the basic principles of the new rule and thus can be considered as a part of this formalization/legalization of revolutionary power.<sup>24</sup>

However, when I refer to these legislative acts as a means of formalization, I am also fully aware of their declarative nature and propagandistic meaning. Lenin himself acknowledged that decrees served as “a form of propaganda”, and that, without them, the Bolsheviks “would not be able to occupy leading positions”.<sup>25</sup> The same idea is to be found in the article of N. Osinskii, the first head of the Highest Council of the Peoples' Economy (Vysshego Soveta Narodnogo Khoziaistva) RSFSR, in which he admitted that his criticism of declarative decrees was mistaken. In the middle of 1918, he wrote that he fully recognized their political importance:

“Declarative legislation in the form of decrees is extremely important during the critical moments of the revolution [...] At the moment of a massive assault on capital, it is necessary to declare a goal, in the form of a decree, toward which the masses should strive.”<sup>26</sup>

According to a resolution of the Military Revolutionary Committee of 28 October 1917, thousands of copies of the decrees of the new authorities were to be printed and posted in the streets.<sup>27</sup> This flow of decrees, partly propagandistic, was aimed at formalizing and legalizing the new regime. Can this general tendency be considered as a step towards Weberian rational/legal/bureaucratic legitimacy of power? I think that, to a certain extent, the answer to this question should be in the affirmative; since, from the very first days after the October coup, together with major declarations, revolutionary leaders also took important measures to create clear formal practices for exercising the power that they had seized.

---

<sup>23</sup> See: O.F. Solov'ev, *Velikii Oktiabr' i ego protivniki* (Moscow, 1968), 97-98, I. E. Amurskii, *Matros Zselezniakov* (Moskovskii rabochii, Moscow, 1968).

<sup>24</sup> In using the term “legalization” here, I have in mind the process of making a phenomenon official; especially during revolutionary transitions, this is to be distinguished from legitimacy acquired by compliance. The difference between the two phenomena was described in Carl Schmitt, *Legalität und Legitimität* (Duncker & Humblot, München – Leipzig, 1932).

<sup>25</sup> Cited in M.P. Iroshnikov, *Sozdanie sovetskogo tsentralizovannogo gosudarstvennogo apparata. Sovet narodnykh komissarov i narodnye komissariaty* (Leningrad, 1967), 120.

<sup>26</sup> V. Obolenskii (N. Osinskii), “Iz pervykh dnei Vysshego Soveta Narodnogo Khoziaistva”, (11) *Narodnoe khoziaistvo* (1918), 14.

<sup>27</sup> See the Instruction of the Military Department of the Executive Committee of the Soviets of Workers' and Soldiers' Deputies to the Commissar for the Printing of Izvestiia of 28 October 1917, GARF, Fond R-130, Opis' 1, Delo 111, p. 1.

On the fifth day of the revolution, 30 October 1917—the Council of People’s Commissars already had published a decree “On the procedure for the affirmation and publication of laws”.<sup>28</sup> The importance of this document was indicated by its rhetorical conclusion “in the name of the republic”, which was included only in legislative acts of fundamental political importance. I will present its three main points with some commentaries.

1. A legislative act entered into force on the day of its publication in the official *The Gazette of the Provisional Government of Workers and Peasants (Gazeta Vremennogo Rabocheho i Krest’ianskogo pravitel’sstva)*, which succeeded the previous government publication *The Bulletin of the Provisional Government (Vestnik Vremennogo Pravitel’sstva)*, which itself was a modification of the tsarist *The Government Bulletin (Pravitel’stvennyi Vestnik)*.

2. The previous practice of publishing laws by the Ruling Senate was abolished. From 1863—from the time of the reforms of Aleksandr II—up until this point, the publication of laws and the preliminary assessment of their legality had been the task of the Ruling Senate in the form of a bulletin called *The Collection of Legislation and Resolutions of the Government, Published by the Ruling Senate (Sobranie zakonov i rasporyazhenii pravitel’sstva, izdavaemoe pri Pravitel’stviushchem senate)*. The text of a legislative act published in this bulletin was considered official. This procedure was left in place by the Provisional Government.<sup>29</sup> Following the October Revolution, the General Assembly of the Senate issued a resolution on 23 November “against the insurrection against the legal authority of the Provisional Government”;<sup>30</sup> the Senate was shut down the next day.

3. In place of publication by the Senate, the decree stipulated a new procedure: “The Department of Legislative Proposals, under the Soviet of People’s Commissars, shall periodically publish *The Collection of Legislation and Resolutions of the Government*, which has the force of law”. The collection (hereafter *The Collection of Legislation*) was issued on 1 December 1917. The above-mentioned decree on the publication of laws was printed in issue No. 12. Throughout this entire time, the legislative acts of the new regime entered into force in accordance with the decree, *i.e.*, by being published in the Gazette. In the middle of November, another decree was published confirming the entry of laws into force through

---

<sup>28</sup> “Dekret SNK ‘O poriadke utverzheniia i opublikovaniia zakonov’”, (2) *Gazeta Vremennogo Rabocheho i Krest’ianskogo pravitel’sstva*, 30 October 1917.

<sup>29</sup> For more, see T. Borisova, “Zakon ‘v godinu tiazhkikh ispytaniu’: Sobranie zakonov i rasporyazhenii pravitel’sstva v 1917-1918 gg.”, 123(5) *Istoricheskie zapiski*, (2006)6 129-165.

<sup>30</sup> “Opredelenie Pravitel’stviushchego Senata 23 noiabria 1917 g.”, RGIA, Fond 1341, Opis’ 548, Delo 105, 140.

publication in the Gazette. In the atmosphere of the early days of the revolution, when decrees were being published at a feverous pace, the authorities were trying to introduce order above all.

This 1917 decree had been drafted with great attention to the details of procedure, which formed a remarkable contrast to the well-known early major decrees of the Soviet government. Unlike those early decrees, emphasizing the revolutionary break with previous institutions and practices, here was a different intention: to continue the practice of officially publishing legislation. This practice from the old order of legitimizing acts of the authorities in the form of a special bulletin (*The Collection of Legislation and Resolutions of the Government*), as described in points two and three of the Decree above, was emphasized by repeating the very name of the bulletin. It retained its prerevolutionary foundation—*Sobranie zakononii i rasporiazhenii pravitel'stva* (Collection of Legislation and Resolutions of the Government)—throughout the first twenty years of the Soviet regime. Subsequent modifications were insignificant.<sup>31</sup>

Since the *old* name of the legislative bulletin stayed in use for twenty years in the Soviet state, it is clear that it was retained not because of a shortage of time or imagination; the conclusion cannot be avoided that the revolutionary leaders had retained it intentionally.<sup>32</sup> It was old both from the point of view of the fact that it was part of the tsarist structure and also from the point of view of the anachronistic word *uzakonenie*, which by the second half of the 19<sup>th</sup> century was no longer found in legal discourse. This adherence to the old name can be explained by the fact that for those who had seized power in October, the very name of the bulletin was used as a source of power or, in Weber's classification, rational/legal/bureaucratic legitimacy.

The soundness of such an interpretation in the historical context of revolutionary Russia is supported by the following fact. Throughout 1918, the government in Siberia, under one of the Bolsheviks' most powerful antagonists Aleksandr Kolchak, published its own bulletin called *Sobranie zakononii i rasporiazhenii, izdavaemoe pri Pravitel'stvuiushchem Senate* (Collection of Legislation and Resolutions Published Under the Ruling Senate). It is no wonder that there was no Senate in the governing bureaucracy of Kolchak. However, I think that the Whites' usage of the old

---

<sup>31</sup> From October 1917 to 1920, it was called *Sobranie zakononii i rasporiazhenii rabochego i krest'ianskogo pravitel'stva* (Collection of Legislation and Resolutions of the Government of Workers and Peasants); from 1920 to 1924, it was called *Sobranie zakononii i rasporiazhenii rabochego i krest'ianskogo pravitel'stva RSFSR* (Collection of Legislation and Resolutions of the Government of Workers and Peasants of the RSFSR); from 1924 to 1938, it was called *Sobranie zakononii i rasporiazhenii rabochego i krest'ianskogo pravitel'stva SSSR* (Collection of Legislation and Resolutions of the Government of Workers and Peasants of the USSR); only after 1938, was its name radically changed: *Vedomosti Verkhovnogo Soveta SSSR* (Gazette of the Supreme Soviet of the USSR).

<sup>32</sup> I shall leave aside the issue of whether this was also in any way a function of the disorganized nature of the Soviet state.

name for their own legislative bulletin had the very same purpose: to underline the legitimacy of their authority and to lend it the appearance of order.

## **Language of revolutionary legislators**

My analysis of the content of the Collection of Legislation and Resolutions of late 1917-1918 demonstrates that there was a choice of models in writing legislative acts. The materials contained in the *Collection of Legislation* of this period can, for the sake of argument, be put into three groups:

1. Documents of the revolutionary tradition that were basically agitprop in nature and did not have a specific regulatory function, *e.g.*, appeals (*obrashcheniia*) and proclamations of various commissars and of the Soviet of People's Commissars (a phenomenon that I have already described in this work as "pamphlets [*listovki*]"). Throughout 1918, acts of the first group gradually decreased in number.
2. Legal acts created in accordance with the canon of the previous tradition of law-making, written in the same bureaucratic language. This canon is international, with a particular syntax (complex syntactical constructions), a particular vocabulary (conservative and filled with special terminology), and a system of broad formulations. By March 1918, the legal acts of the second group were seen more and more frequently in the pages of the *Collection*. March 1918 is a remarkable period in the history of the revolutionary government, as the capital itself along with all the Soviet organs of central power moved from Petrograd to Moscow.
3. Legal acts that used both revolutionary features and elements of the old bureaucratic language. During 1918, acts of the third type gradually lost their revolutionary character and took on more and more characteristics of the old bureaucratic language: furthermore, new political-legal phenomena were becoming part of the official, standardized language. The result was further bureaucratization of the language of the law.

I will consider in detail one act from the quickly disappearing third group. A study of the co-existence of the old and new in the context of one legal act seems to be advantageous from the methodological point of view of. On the one hand, it provides insight into the essence of the old and new regimes. On the other hand, attempting to understand the reason for choosing either the old or new form with respect to a particular legal act with its own specific aim could possibly provide new explanations for the phenomenon of retaining prerevolutionary legal language during Soviet times.

I will examine a legal act from the Commissariat for State Welfare (social security).<sup>33</sup> First, I will provide the text and a detailed analysis of it. Then, I will compare it with a “typical” legal act published by the same commissariat. Finally, relying on archival documents, I will briefly dwell on the reality of the law-making process in this commissariat. In the end, an analysis of specific legal acts and the circumstances in which they were created will allow me to answer the main question of this study: Was the issue of legitimacy at stake when revolutionary legislators retained forms of the power conventionalism?

“On the collection of a tax on public shows and entertainment

To all citizens of Great Russia and patrons of theaters, cinemas, circuses, and other places of entertainment.

A tax payable to the Ministry of State Welfare has been introduced on entertainment (theaters, cinemas, circuses, and other places of entertainment) throughout all of Great Rus’.

This tax constitutes the wealth of the people and is intended exclusively for the needs of supporting the disabled, the elderly, children, orphans, widows, the handicapped, etc. and until the transition of power to the Soviet government has been completed regularly.

Since power was transferred into the hands of workers and peasants, and also with respect to the sabotage of those people who were entrusted with monitoring the proper collection of this tax by attaching stamps, this tax is presently being collected only in exceptional cases.

Having noted this phenomenon, *i.e.*, the failure of right holders to attach stamps in order to profit at the expense of citizens, the Soviet under the people’s commissar for the Ministry of State Welfare appeals [to everyone] to strictly ensure that every ticket received at the ticket counter has the appropriate stamp attached in accordance with the price printed on the ticket.

If there is no stamp on a ticket, the Soviet under the people’s commissar requests that you demand the cashier affix the required stamp.

Otherwise, report this immediately to the district Soviet of Workers and Soldiers’ Deputies, and also include your report in the complaints book at the ticket counter.

The right holders of places of entertainment are required to have a laced complaints book and to keep it at the ticket counter, as well as to keep in a visible place the address where the district Soviet of Workers and Soldiers’ Deputies is located.

Upon the request of visitors, the complaints book is to be handed over immediately.

---

<sup>33</sup> *Sobranie zakonov i rasporyazhenii rabocheho i krest’ianskogo pravitel’sva* (hereafter *SURP*) (1918), No. 14, 9 January 1918, item 205. The Russian text is attached in the appendix in the end of the paper.

Thus, every citizen will be doing a great deed for all of the poor, homeless, and forsaken citizens, and will also be helping in the extremely difficult and arduous time of the Great Democratic Workers' Russia and its People's Government.

People's Commissar for State Welfare, A. Kollontai"

Unlike propagandistic decrees and declarations such as the Decrees "On Peace" and "On Land", this is a legal act of a wholly different nature. It has at its foundation a specific pragmatic goal: to rectify the collection of a tax that during prerevolutionary times went into the budget of the Ministry of Social Security. In the context of the revolutionary affirmation of the new people's government, the collection of taxes required a delicate approach, especially under the conditions of a serious economic crisis. This was even more the case when the revolutionary regime was trying to adjust the prerevolutionary order.

This regulation is undoubtedly of great value as a historical document. Unlike the fundamental decrees of the Bolshevik government (Soviet of People's Commissars), which presented more a picture of the regime from the top down— of the *sender* of the legal message—in Kollontai's regulation, the *recipients* take center stage: it is from the bottom up. It paints a vivid picture of the day-to-day establishment of the Soviet regime; the fact that it has a limited aim does not lessen its regulatory nature. However, the style of the regulation differs from the traditional legal one, which always embodies the state's peremptory power.<sup>34</sup> Therefore, legal acts usually do not contain justifications, appeals, or exhortations. The usual situation presupposes a certain maturity of the mechanisms of government, the stability of moral restraints, and state force. But Kollontai's regulation was drafted under the extraordinary conditions of the consolidation of Soviet power, and it sought to achieve broad political aims beyond the tax itself, which as I will try to demonstrate were also reflected in the language of the act itself. Another peculiar style of Alexandra Kollontai's legal language is gender.<sup>35</sup> Since the reign of empress Catherine the Great between 1762 and 1796, women did not legislate in Russia, naturally, extraordinary legislator - the first women government minister in Europe - could probably search for extraordinary means of writing. For the sake of argument I leave this aspect aside here<sup>36</sup> and concentrate on legitimacy.

---

<sup>34</sup> Mattila, *op.cit.* note 7, 45.

<sup>35</sup> I thank Marianna Muravyeva who kindly drew my attention to the gender issue here and Page Herrlinger who urged me to develop this theme. Tatiana Barandova assisted me with a reading advice on the topic.

<sup>36</sup> I developed the gender perspective in Tatiana Borisova "'Sovet pri Narodnom Komissare prosit trebovat'": zhenskii sub'ekt v revoliutsionnom zakonodatel'stve", 111 *Novoe Literaturnoe Obozrenie* (2011) *forthcoming*.

To show how the language of Kollontai's regulation served the political aims of the regime, I will use methods of interpreting legal regulations from a linguistic point of view (communication theory and discourse analysis).<sup>37</sup> Let us start with the regulation's display of the "sender"—the sender is, of course, the legislator—and the recipient. In this case, we see that, in the introduction, the sender considers it necessary to specify the recipient: "To all citizens of Great Russia"; thereafter, this is narrowed down to "patrons of theaters, cinemas, circuses, and other places of entertainment".

In borrowing the appeal (*obraschenie*) as a rhetorical technique of the agitprop genre, the sender initially uses the constructive function of discourse, creating an image of the audience in accordance with the regime's political aims.<sup>38</sup> As a part of the structure of a legal regulation, an appeal was unacceptable from the point of view of the language of prerevolutionary law. Being an extremely rhetorical formulation, appeals were used in decrees only in the most critical political situations at the end of 1917 and the beginning of 1918 in the struggle with both the internal and external threat to the Bolshevik government.

What we notice straightaway is that, unlike the majority of other appeals published in the Soviet Collection of legislation in late 1917-1918, the sender's target is the largest audience possible—"To all citizens of Great Russia"—which is then narrowed down to "patrons of theaters, cinemas, circuses, and other places of entertainment". For the sake of comparison, let us look at a few more revolutionary examples of late 1917: "To all working Muslims of Russia and the East", "To working Cossacks."<sup>39</sup> In cases of an appeal "to the entire nation", for example, about the counterrevolutionary uprising of Kaledin and Dutov, the recipient is either not named at all or is generalized by the appeal, which is designed only for socialist "comrades".<sup>40</sup> The aim of such appeals is to present the Bolshevik view of a situation and to inform potential supporters, *i.e.*, comrades.

The message of Kollontai's decree is not emphatically political, and therefore a politically coded appeal is not used at the beginning of the text. Its purpose is to make people pay a tax voluntarily and to play a part in monitoring the collection of the tax, *i.e.*, to do their civic duty. This interpretation of the situation can be seen in the last phrase: "Thus, every citizen will be doing a

---

<sup>37</sup> For a description of the various approaches, see Mattila, *op.cit.* note 30, 31-39.

<sup>38</sup> For more, see Norman Fairclough, *Discourse and Social Change* (Polity Press, 1992); and *id.*, *Language and Power* (Longman, 2001, 2nd edition), 73.

<sup>39</sup> *SURP* (1918) No. 6, Appendix 2.

<sup>40</sup> *SURP* (1918) No. 4, item 53.

great deed [...]”. It should be noted that the decree does not specify any penalties; instead, it appeals to the public spirit of citizens.

The sender is acting in the name of the “Soviet under the people’s commissar for the Ministry of State Welfare”:

“Having noted this phenomenon, *i.e.*, the failure of right holders to attach stamps in order to profit at the expense of citizens, the Soviet under the people’s commissar for the Ministry of State Welfare appeals [to those responsible] to strictly ensure that every ticket received at the ticket counter has the appropriate stamp attached in accordance with the price printed on the ticket.”

The institution legislator is presented as some sort of a collective subject. This was an innovation of the revolution, beginning with the February Revolution. In my own findings, such a representation is rarely found in the legal acts of the “old regime” after the beginning of the 20th century. The actions of the institutions of power were almost always personified as the actions of an individual, the tsar (“the supreme imperial tsar is pleased to command”, “seeing it as necessary, we command”) or ministers (“the minister found it necessary”, “finding it necessary, I propose”).<sup>41</sup> Following the transition of power in March 1917 to a collective body, the Provisional Government, the most common expression for the actions of the authorities was “The Provisional Government has decreed” (*Vremennoe pravitel’stvo postanovilo*).

Despite the fact that the text itself is written in the name of the Soviet under the people’s commissar, the document is signed by Kollontai. This “splitting” of the legislator is a reflection of the collegial form of government that was popular during the establishment of the Soviet regime as a more democratic form than the preceding undivided authority. As can be seen from both published and archival materials related to Kollontai’s administrative activities as the People’s Commissar for State Welfare, she was an active supporter of collegiality. This could be seen, in particular, in the fact that in medical institutions under the Commissariat for State Welfare, she replaced the positions of directors and their assistants with doctors’ soviets.<sup>42</sup> Thus, the existence of two senders in the text is a manifestation of the actual division of power in the commissariat. Thus, the text at least partially reflects the balance of power in the decision-making process, or how the process was presented, which was not seen in prerevolutionary legal acts.

---

<sup>41</sup> These examples were selected from among those often used in the *Sobranie Uzakonenii i Rasporiazhenii pravitel’stva* of 1913.

<sup>42</sup> Compare the Order “O gosudarstvennoi sanatorii ‘Khalila’ v Finliandii”, *SURP* (1918), No.15, item 206, and those signed by Kollontai, for example, Decree No. 801 of 20 January 1918, State Archive of Russian Sociopolitical History (hereinafter “GARSPI”), Fond 134, Opis’ 1, Delo 126, 3.



The verbs used to express the relationship between the sender and the recipient are of particular interest. From a practical point of view, the text contains a legal message and is a regulation. The law genre assumes a “vertical” hierarchy between the sender (the legislator) and the recipient (the agent). This relationship is recorded in the lexicon and grammar, in the language of the law, which since ancient times has served to express the relationship of the permanent supremacy of the holder of power over its subjects. This dominative nature of legal language is particularly relevant for the realm of administration via legislative means, and is less articulated in civil law.<sup>43</sup>

The role of the legislator in this text is not so simple, which can be seen in the changes of tone. In the beginning, the law is presented as an appeal: “the Council [...] appeals [to those responsible] to strictly ensure”. Also in relation to “citizens”, the authorities are acting, if not on an equal basis, then at least on the common ground of a revolutionary appeal.

In the next sentence, the sender “bows” even further toward the recipient and formulates her statement as a “request”: “The Soviet [...] requests that you demand”. The double meaning and the awkwardness of the role of requestor in the context of a legal regulation is expressed in the modal incongruity of the two verbs that have been placed next to one another: *prosit*’ and *trebovat*’ (“request” and “demand”).

In the next sentence, the sender abruptly changes this awkward position and uses the language of an “order”: “Otherwise, report this immediately [...]”. The effect of authority is strengthened by the absence of a modal verb (e.g., you ought to report (*sleduet zaiavit*’)) and by the grammatical structure of the sentence, namely the use of the imperative. Thus, the sentence sounds like an order or a resolution, which contrasts greatly with the earlier role of the sender.

The variety of forms of linguistic actions used by the sender (appeal, request, order) have a common aim: to make the recipient carry out specific actions without the threat of punishment. We can already partially explain this: the change of tone from request to order, along with other rhetorical constructs (to be discussed later), fulfills one task, namely not to leave the recipient feeling indifferent. If, however, one were to approach this question from the historical context, this one regulation can tell us much more about the policies of the Bolsheviks than it would seem at first glance.

---

<sup>43</sup> I thank Mikhail Antonov, who kindly drew my attention to this aspect of difference in style due to the realm of legal regulation.

*First*, the open nature of Kollontai's regulation speaks to the fact that it is aimed not at governing bodies and administrators but at the widest audience possible. This aim is underlined by the fact that it is a broad appeal. The text contains an explanation for this: the resolution is addressed to *all* because the specialized agencies and administrators who had earlier been responsible for monitoring the collection of the tax are not working:

“Since power was transferred into the hands of workers and peasants, and also with respect to the sabotage of those people, who were entrusted with monitoring the proper collection of this tax by attaching stamps, this tax is presently being collected only in exceptional cases.”

*Second*, and no less important, the tone changes depending on who the recipient of the message is. Despite the openness of the recipient, the sender of the legal message, the legislator, separates the audience into layers. The citizens here are by no means the entire population; instead, “those people who were entrusted with monitoring the proper collection of this tax” and “right holders of places of entertainment” have been singled out. The latter are precisely the target of the sender's order “to have a laced complaints book and to keep it at the ticket counter”. In general, only a few remnants/ characteristics of the old tsarist official discourse are used in the text in relation *only* to “saboteurs” and “right holders of places of entertainment”. To describe these actors, the sender has used nominative constructions (verbal nouns) and a particular lexicon, underlined here:

“also with respect to the sabotage of those people who were entrusted with monitoring the proper collection of this tax by attaching stamps, this tax is presently being collected only in exceptional cases *i.e.*, the failure of right holders to attach stamps for the purpose of profiting at the expense of citizens [...]

The right holders of places of entertainment are required to have a laced complaints book and to keep it at the ticket counter.” (emphasis added)

It seems that the sender is using bureaucratic discourse for different, albeit related, purposes. *First*, this is undoubtedly a strategy of distancing: the choice of language fulfills the aim of “othering”. The language juxtaposes the right holders of places of entertainment with citizens, which is especially clear in relation to the right holders of places of entertainment: “the failure of right holders to attach stamps for the purpose of profiting at the expense of citizens”. The fact that the sender speaks with the peremptory language of power only in relation to the former administrators

and right holders fulfills the classic principle of the politics of a new regime, which would later be embodied in many legislative acts, including the 1918 RSFSR Constitution.<sup>44</sup>

*Second*, this difference in language—superior/formal/bureaucratic for the right holders of places of entertainment and former administrators, and equal/informal and even persuading all other citizens can be seen from the perspective of power legitimacy. The legislator orders the right holders of places of entertainment to have the address of the local soviets readily available for the citizens and, on the other hand, urges people to apply to the soviets, which would master this situation. The tone of the legislator helps the citizens to comply with *their own power* and its main organs: the soviets. The legislator actually invited the population to act as if they already had internalized the authority of the soviets to solve the problem of the tax collection, and even assist them in it; and in this way, to legitimize the soviets. This “invitation” was grounded in the basic human value of compassion toward those who need help; it was not an impersonal order to pay taxes and inform authorities of any case of misbehavior.

To complete this analysis, I would like to stress once again the constructive function of the regulation. The connections among the sentences, in the text in terms of their sense, are based on a system of definitions. This is already quite clear in the first sentences (emphasis mine):

*“A tax payable to the Ministry of State Welfare has been introduced on entertainment (theaters, cinemas, circuses, and other places of entertainment) [ ...]*

*This tax constitutes the wealth of the people and is intended exclusively for the needs of supporting the disabled, the elderly, children, orphans, widows, the handicapped, etc. and until the transition of power to the Soviet government has been completed regularly.*

*Since power was transferred into the hands of workers and peasants [ ...].”*

The legislator’s strategy is as follows: first, the subject matter is named, and she then gives it her own definition. Thus, “a tax on entertainment” is in the next sentence called a tax on “the wealth of the people”, and the Soviet government becomes the “hands of workers and peasants”. At the end of the text, it is presented as the “People’s Government”.

As John J. Austin’s twentieth-century Speech Acts Theory suggests, a legislative act is a performative: actions carry out the letter of the law. Written during the revolutionary period,

---

<sup>44</sup> For more, see Sheila Fitzpatrick, “Ascribing Class: The Construction of Social Identity in Soviet Russia”, in Sheila Fitzpatrick (ed.) *Stalinism: New Directions*, (Routledge, London and New York, 2000); and id. “The Bolsheviks’ Dilemma: The Class Issue in Party Politics and Culture” in *The Cultural Front: Power and Culture in Revolutionary Russia* (Cornell University Press, Ithaca, N.Y., 1992), 16-36.

Kollontai's regulation uses linguistic and rhetorical means more than legal means to create a new political framework of reality. The regulation's recipient was the widest audience possible, who, through a sense of compassion, was supposed to adopt this new Soviet picture of the world and, moreover, to take part in its creation.

The Bolsheviks often used this double performative of revolutionary legislation, not simply the performative of the act permitted (required) by the law, but the performative of constructing a new reality. Kollontai's regulation was designed in part to construct a reality where citizens are *morally* stimulated to assist legitimate (by law—Declaration of Working and Exploited People, 1918 RSFSR Constitution) soviets to establish their authority.

If, in Kollontai's regulation, it was suggested that the widest possible circle of recipients “read” the surrounding reality in the framework of a new ideology and act in support of its legitimacy, then other laws of the new regime were primarily intended not for citizens but, rather, for the soviets and implied relations of vertical submission. An analysis of *The Collection of Legislation* in the first months of the Soviet regime leads one to the conclusion that the language used in legislative acts, was becoming a more specialized technocratic instrument. The regulations of the new People's Commissariat of Finance were the first that could be distinguished by a specific traditionalism having roots in the tsarist regime. As the basis for their decrees demanding obligatory payment of taxes they even referred to prerevolutionary legislation, citing the Tsarist and Provisional Government's *Collection of Laws*; they were devoid of any kind of rhetoric, though they did threaten severe punishment: imprisonment.<sup>45</sup>

### **Formalism as an instrument**

Kollontai's regulation was an exception from the new order, the new blueprint mentioned above. The rule had become that legislative acts originating in the People's Commissariat differed little from the style used in prerevolutionary regulations, in both the form and the substance of their regulatory message. Here is an example:

“On the establishment of departments for the allocation of pensions to injured soldiers within Soviets of Workers', Soldiers', and Peasants' Deputies<sup>46</sup>

In view of the closure of all regional and district military offices, in accordance with the decision of the college of the People's Commissariat for Internal Affairs, and the transfer of all

---

<sup>45</sup> *DSV*, Vol. 1, 142-143.

<sup>46</sup> *SURP* No. 28 14 March 1918, item 375.

matters dealt with by these offices to the local soviets, it has now been suggested that departments for the allocation of pensions from the state treasury to injured soldiers be created within the local soviets according to the regulations established by the decree of the Soviet of People's Commissars of 16 December 1917 (Collection of Legislation and Resolutions of the Government of Workers and Peasants, No. 9, item 143). Local pension departments should coordinate with the existing Central Department for the Allocation of Pensions to Injured Soldiers of the People's Commissariat for State Welfare.

Signed by Deputy of the People's Commissariat for State Welfare I. Egorov"

Some three months had elapsed between the issuance of Kollontai's regulation (at the end of 1917) and this one (in March 1918). During that time, Soviet institutions had begun to function more routinely. This change could also be seen in the legal language. As we can see in the quote above, the sender used special linguistic instruments developed over centuries-long existence of the culture and practices of law-writing. These are international practices, with a particular syntax (complex syntactical constructions), a particular vocabulary (conservative and filled with special terminology), and a system of broad formulations.<sup>47</sup> In this text, the sender has demonstrated its ability to (re)institute this tradition and its appreciation of the value of this genre. The text contains a reference to the existing legislation of the new regime, and the regulation in question has been published in order to develop that further.

Let us try to answer the obvious question of why the first and second texts are so different. Knowledge of the historical context might suggest the simplest explanation. Studies of the period of the establishment of the Soviet state highlight the role of old specialists in the building of new institutions.<sup>48</sup> Former officials did indeed help in fine-tuning the work of the People's Commissariat for State Welfare. This is discussed in Kollontai's memoirs<sup>49</sup> and in the Commissariat's archived documents and records.<sup>50</sup>

By comparing these sources, the following picture emerges of the organization of the Soviet regime in the social sphere and at the level of the central leadership. Kollontai was able, as she wrote, "to run state Welfare" with the help of a union of young ministry staff formed in 1917. The

---

<sup>47</sup> K.A. Loginova, "Delovaia rech' i ee stilisticheskie izmeneniia v sovetskuiu epokhu", in *Razvitie funktsional'nykh stilei sovremennogo russkogo iazyka* (Moscow, 1968); A.S. Pigolkin (ed.), *Iazyk zakona* (Moscow, 1990); I. Sukhinina, "Zhanr i iazyk postanovlenii Konstitutsionnogo suda RF", (10) *Rossiiskaia iustitsiia* (2001); Vijay Bhatia, *Analysing Genre: Language Use in Professional Settings* (London and New York, Longman, 1998); John Gibbons (ed.), *Language and the Law* (Longman, 2001).

<sup>48</sup> E.N. Gorodetskii, *Rozhdenie Sovetskogo gosudarstva (1917-1918)* (Moscow, 1984); Iroshnikov, *op. cit.* note 22.

<sup>49</sup> Drafts of Kollontai's memoirs stored in the State Archive of Contemporary Political History were used. Several of Kollontai's redactions of her memoirs provide more detailed information than the version that was published.

<sup>50</sup> Otnosheniia Glavnoi kantseliarii Narkomata gosudarstvennogo prizreniia vo vse otdely narkomata – tsikuliarno, GARF, Fond A-413, Opis' 2, Delo 5, 1, 2, 3.

union's founder and "soul" was "our party" operative Ivan Grigor'evich Egorov.<sup>51</sup> Following "the transfer of power into the hands of workers and peasants", power in state institutions was concentrated in the professional unions of workers, which were self-regulating quasi-trade unions. This is indicated by the following fact: many of the requests to work in the People's Commissariat were formulated as applications (*zaiavleniia*) to the Commissariat's Workers' Committee.<sup>52</sup>

The beginning of Soviet State Welfare can be traced to when the chairman of the ministry's Union of Young Workers, Ivan Egorov (a Bolshevik factory worker), invited Aleksandra Kollontai, who had recently been appointed to the post of People's Commissar, to the union's meeting of delegates.<sup>53</sup> In order to get the ministry under control, Kollontai appointed Egorov as her deputy. The most active members of the union headed the units within the Commissariat. And they are the very ones who formed the Soviet under the People's Commissar for State Welfare, which played the role of legislator in Kollontai's regulation cited earlier. The work of the soviet was organized by several officials within the Ministry of State Welfare, who "declared that they were prepared to work with the Bolsheviks".<sup>54</sup> They became part of the Main Secretariat of the People's Commissariat. The Secretariat repeatedly reminded staff that the workday began at 10 a.m., as well as about the established succession for documents within the Commissariat and about the rules for formulating outgoing documents.<sup>55</sup>

The new regime tried to use the experience of the former administration from the point of view of "technical guidance". This idea was expressed by People's Commissar of Justice Petr Stuchka.<sup>56</sup> The Bolshevik factory worker Egorov took the principle of "technical guidance" to its extreme: most likely, he simply signed the text drafted for him in the Main Secretariat. The text says as much: "Signed by Deputy of the People's Commissariat for State Welfare I. Egorov".

This later administrative regulation targeted fewer recipients than Kollontai's earlier regulation. The sender addresses "Soviets of Workers', Soldiers', and Peasants' Deputies" and "local soviets". His aims do not include propaganda on behalf of the new regime or calling on citizens to carry out particular actions concerning the payment of pensions. Moreover, the soviets are presented in the regulation as consciously subordinate institutions that were to create a new

---

<sup>51</sup> A.M. Kollontai, "Pervye dni narkomsobesa; Ishchem rabotnikov", GARSPI, Fond 134, Opis' 1, Delo 226, pp. 96-97.

<sup>52</sup> "Prosheniia o priniatii na sluzhbu v Narodnyi Komissariat Iustitsii", GARF, Fond A-353, Opis' 1, Delo 7, pp. 35, 36, 74.

<sup>53</sup> Kollontai, *op. cit.* note 50, 102. One might get the impression from reading the text of the pension decree that Egorov was an older bureaucrat. However, as we have indicated, he was from the working class.

<sup>54</sup> *Ibid.*, p. 59.

<sup>55</sup> A.M. Kollontai *Op. cit.* note 50.

<sup>56</sup> P.I. Stuchka, "Proletarskaia revoliutsiia i sud", (1) *Proletarskaia revoliutsiia i pravo* (1918), 4.

administrative structure that, upon appealing to the relevant department of the People's Commissariat, would receive the following instructions:

“Local pension departments should co-ordinate with the existing Central Department for the Allocation of Pensions to Injured Soldiers of the People's Commissariat for State Welfare.”

Unlike Kollontai's regulation, here the channels of communication were extremely limited, as is the final recipient of the message: a future bureaucratic structure that will be permitted to receive special knowledge about the needs of disabled veterans and their families. Citizens have been excluded from among active actors, the very people into whose hands (according to Kollontai's tax regulation) power had been transferred following the October Revolution.

A comparison of the different discourse practices used in Kollontai's and Egorov's regulations allows us to reach an important conclusion. The use of traditional forms of legal acts from the previous regime had a constructive effect. Not every worker, soldier, or peasant from the “local soviets” addressed by this regulation could understand and implement Egorov's message. Only those with knowledge of the technical terminology of governing could fulfill this resolution and properly account for it. In essence, therefore, the message indirectly constructed a recipient at the local level and also constructed relations of strict subordination through a bureaucratic hierarchy, and those relations were preserved in the linguistic forms used.

## **Conclusions**

Despite the paramount position of revolutionary terror as the basis of Soviet power, legislation played a key role in establishing Bolshevik rule. At first glance, this observation contradicts Bolshevik ideology, which is known for its skeptical approach to the law as a bourgeois value that was supposed to wither away and die along with the state. However, the specific traits of early Soviet law dispel this contradiction.

The rhetorical nature of Soviet legislation was reflected, above all, in the major legislative acts, where they were presented as a product of the revolutionary will. In the first months of the Soviet Union, laws of this type were already weighed down by the massive number of sub-legislative administrative regulations. The present study shows that, despite the actual revolutionary character of the Bolshevik regime, the country's new leadership took possession of the prerevolutionary practices of governing with startling speed. Other scholars have also noted that Soviet law borrowed specific features of the prerevolutionary period's legal language; however, this

phenomenon is usually attributed to a later period, the 1930s of Stalin's rule.<sup>57</sup> An analysis of the 1917 and 1918 Soviet *Collection of Legislation* allows us to conclude that the old language of the law was used by the Bolshevik regime from the very beginning.

Bolshevik legislation, in the early period of the regime, was a means of disseminating propaganda: at the same time, it was also a means of legalizing the new rule. To make new laws legitimate, *i.e.* to make the people comply, legislators often used the particular vehicle of language. Different types of language can be interpreted from the perspective of legitimacy, and legitimacy can be generated in at least two possible ways:

(1) By urging people to act in cooperation with the Soviets on the basis of basic, shared human values (e.g. in Kollontai's regulation). The paradox of this approach was that since the soviets already had been legalized as the main organs of power, this invitation to the people could be seen as confusing: it seemed to be a request for legitimizing the soviets through acts of the people (although they already had been legalized by Soviet legislation).

(2) By ordering the soviets (e.g. in Egorov's act) to fulfill legislative acts of the central authorities, the Soviet of People's Commissars and the people's commissariats, in implementing new legislation. Here, the mechanism was different: the people were commanded to obey, and it was through this obedience that the authorities created the illusion that they were in control of the situation. This was embodied in part by the "new" bureaucratic language of Soviet legislative acts: the later acts no longer needed to invite people to follow state policies, but instead assumed that qualified administrators were in control. It was easier for people to adhere to known traditions of obeying the law written in technical legal language that was closed to the understanding of a lay audience; using this legal language was also easier for the administrators.

The rapid replacement of the first strategy by the second mirrors the process of the transformation of central power in late 1917/1918. The formal features of legislation as a specific function for exercising power (for example, in the form of the publication of legislation in *The Collection of Legislation* or the specific language of decrees) was seen as an administrative technique that ought to be seized alongside telephone lines, railway stations, and telegraphs. It is possible that the symbolic power of the customary form of the law also played a role by helping legitimize the new regime. This is precisely the reason why the Bolsheviks' enemies published an

---

<sup>57</sup> Pigolkin, *Op. cit.* note 45, 9.



alternative collection of legislation with the same name, borrowed from the tsarist regime (*Sobranie zakononii i rasporiazhenii pravitel'stva*).

It is most likely, however, that the Soviet leaders approached governance from a technocratic point of view and that, in their own legislative policy, they tried to minimize the cost of implementing the required response, *i.e.*, lower transaction costs. At the same time, language in a way could serve to empower local soviets, since the decrees that were published beginning in the first half of 1918 in *The Collection of Legislation* were not intended for the lay people or their lay deputies in local soviets, but instead were for qualified administrators. By bringing administrators from the former regime into both central and local Soviet institutions, the Bolsheviks were trying to immediately fulfill the will of the party leadership. At the same time, they retained the tradition of excluding citizens from meaningful participation in matters of governance. This gap between the soviets' proclaimed power as declared in Articles 1 and 10 of the 1918 Constitution and their actual subverted position was fixed in Article 65, which listed the first and most important duty of the soviets: "(a) Carry out all orders of the respective higher organs of the soviet power".<sup>58</sup>

This tendency was clearly reflected in a decline of the accessibility of Soviet legislation. In 1917-1918, there was a certain pluralism in the publication of legislation, as decrees were published in the central newspapers of the victorious soviets (*Armiia i flot, Izvestiia*); in the Bolshevik party paper, *Pravda*; and in *The Collection of Legislation (Sobranie zakononii)*, official bulletin of legislation. The last was a continuation of the tsarist bulletin tradition, both in form and in practices of editing and publishing. However, as a means of consolidating Soviet power, *The Collection of Legislation* regained its status at the beginning of the 1920s as the only official bulletin for legislation intended for administrative needs and not for a wide circle of people. Unlike the newspapers mentioned above, the laws in the *Collection* began to be published earlier and they were more complete; but they were much less accessible than the other sources had been.<sup>59</sup>

---

<sup>58</sup> RSFSR Constitution, 1918, *Op. cit.* note 18.

<sup>59</sup> A.N. Kolesnikov, *Khronologicheskoe sobranie kak forma inkorporatsii zakonodatel'stva*, Dissertatsiia na soiskanie uchenoi stepeni kandidata iuridicheskikh nauk, (Moscow, 1967), Unpublished manuscript, 25.

**Appendix 1. “On the collection of a tax on public shows and entertainment” *SURP* (1918), No. 14, 9 January 1918, item 205.**

Ст. 205. О взимании налога с публичных зрелищ и увеселений.

Ко всем гражданам Великой России и посетителям театров, кинематографов, цирков и прочих увеселительных заведений.

По всей Великой Руси введён налог с увеселений (театров, кинематографов, цирков и прочих увеселительных заведений) в пользу министерства государственного призрения.

Налог этот составляет народное достояние и предназначен исключительно на нужды содержания калек, стариков, детей, сирот, вдов, инвалидов и т.п. и до перехода власти Советскому правительству поступал нормально.

Со времени перехода власти в руки рабочих и крестьян, а также в связи с саботажем тех лиц, коим было вверено следить за правильностью взимания налога посредством наклеивания марок, налог этот в настоящее время взимается только в исключительных случаях.

Совет при Народном Комиссаре по Министерству государственного призрения, обративший внимание на это явление, то есть на уклонение содержателей от наклеивания марок с целью наживы за счёт граждан, призывает строго следить за тем, чтобы каждый билет, полученный у кассы, был обязательно оклеен маркой соответственного достоинства, согласно напечатанной на билете цене.

Если же на билете не будет марки, Совет при Народном Комиссаре просит требовать от кассира обязательно наклеить марку.

В противном случае немедленно заявить в районный совет р. и с. депутатов, а также вносить своё заявление в книгу жалоб в кассе.

Содержателям увеселительных заведений вменяется иметь книгу жалоб прошнурованной и хранить таковую в кассе, а также иметь на видном месте адрес, где помещается районный совет рабочих и солдатских депутатов.

По требованию посетителей книгу жалоб выдавать немедленно.

Этим каждый гражданин сделает великое дело для всего беднейшего и беспризорного, брошенного на произвол судьбы населения, а также поможет в исключительно трудное и тяжёлое время Великой Демократической трудовой России и её Народному правительству.

Народный Комиссар по государственному призрению А. Коллонтай

**Appendix 2. “On the establishment of departments for the allocation of pensions to injured soldiers within Soviets of Workers’, Soldiers’, and Peasants Deputies” SURP No. 28 14 March 1918, item 375.**

Ст.375. Об учреждении при Советах рабочих солдатских и крестьянских депутатов Отделов по назначению пенсий военно-увечным.

В виду упразднения всех губернских и уездных воинских присутствий, согласно решения коллегии Народного комиссариата по внутренним делам, и передачи всех дел этих присутствий местным Советам, предлагается теперь же учредить при местных Советах Отделы по назначению пенсий от казны военно-увечным соответственно нормам, учреждённым декретом Совета Народных Комиссаров от 16 декабря 1917г. (Собрание Указаний и распоряжений Рабочего и Крестьянского Правительства №9 ст. 143). Местным пенсионным отделам следует сноситься с действующим уже Центральным Отделом Народного Комиссариата Государственного Призрения по назначению пенсий военно-увечным.

Подписал: Зам. Народного Комиссара Государственного Призрения И. Егоров

Tatiana Yu. Borisova

National Research University Higher School of Economics (Saint-Petersburg, Russia)

E-mail: [borisova@hse.spb.ru](mailto:borisova@hse.spb.ru), [tatianaborissova@hotmail.com](mailto:tatianaborissova@hotmail.com)

**Any opinions of claims contained in this Working Paper do not necessarily reflect the views of HSE.**