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Formation of the Doctrine of Soviet Law (1917–1930)

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5.1.1. Theoretical and Historical Legal Sciences

GENERAL DESCRIPTION OF THE THESIS

Problem Statement and Relevance. The Soviet state, which emerged as a result of the October Revolution, took on the ambitious task of radical modernizations of the society, based on Marxist teachings. The transformations carried out under the auspices of building a socialist and then communist society also affected the legal sphere.

Marxist ideas about law in many aspects contradicted the views constitutive of the Western legal tradition. At the same time, if we place the doctrine of Soviet law in a historical and cultural context, it becomes noticeable that Marxism and Bolshevism, despite their radicalism and criticism, remained western movements of intellectual thought. As a result, many theoretical and practical proposals of legal scholars are mistakenly perceived as communist. In the history of legal doctrines, this issue has not yet been sufficiently studied.

Today in Russia the main scientific works of the early USSR period, biographies of legal scholars, and the content of scientific discussions of that time are quite well known. However, when it comes to the scientific theories themselves, most often our knowledge about them is limited to individual theses, about which their purely historical significance is stated.

However, in early Soviet works on the theory and philosophy of law, it is not the conclusions that are important - they almost always rested on the impossibility of criticizing Bolshevism. On the contrary, the path that the scientist took to explain his picture of the world is important. Behind the loud slogans lies many interesting details that are little known to the modern lawyer. The range and sequence of arguments in these old works say much more than any widely circulated quotation.

The analysis of the largely original and unorthodox views of Soviet lawyers fits into the current neo-Marxist trend ¹towards the “decanonization” of Marx’s

¹It can be traced, starting with the works “History and Class Consciousness” by G. Lukács (1923) and “Marxism and Philosophy” by K. Korsch (1923), and right up to the present day. In October 2023, in Montreal, with the participation of the Department of History of the University of Montreal, the “Shades of Red” conference was held, the purpose of

works and the “application of Marxism to Marxism itself”². In addition, some conclusions can be drawn on the problem of creating a “new man” that is of interest to academic circles today³.

Finally, the doctrine of Soviet law is also a matter of our historical memory. The challenges facing modern Russia to understand its place in the world from the standpoint of the continuity and originality of the historical path traveled should be solved taking into account the fact that Soviet history and Soviet ideas about the structure of society are still not fully reflected in science and society. This prevents us from moving forward and creates the ground for hidden and overt conflicts. Although historical memory is dynamic by nature (criticism is replaced by the apology, and deconstruction by restoration), the scientific base is capable of, if not stopping this pendulum, then at least streamlining its movement and removing some contradictions. Clarification of the Soviet intellectual heritage today is a powerful argument in the debate about a special civilizational path. After all, it is in this heritage that the originality of thinking is manifested in the most complete and systematized form. At the same time, the ratio of original and borrowed concepts shows how truly special this path is.

Degree of scientific development of the problem (Literature Review)

Works that set the theoretical and historical context. We understand the law as a historically and geographically determined phenomenon; it is described in the “Western Tradition of Law” by G. Berman and the collective monograph “Formation and Transformation of Western Legal Culture”⁴. Marxism and related

which was to talk about little-known and insufficiently recognized Marxist works. URL: [http://www.differentshadesofred.com/topics_presentation.html].

² *Zemlyanoy S.N.* Neo-Marxism // New philosophical encyclopedia. [*Zemljanoj S.N.* Neomarksizm // Novaja filosofskaja jenciklopedija.] URL: [https://iphlib.ru/library/collection/newphilenc/document/HASH9f5fbce27eb2b8a7b05e9f].

³ *Kotkin S.* Magnetic Mountain: Stalinism as a Civilization. University of California Press. 1995. The issues of building a “new man” through the efforts of the state are also covered in detail in some non-Marxist works: *Scott J.* Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed. M.: University Book, 2005. 576 p. *Hoffman D.L.* Nurturing the masses. The modern state and Soviet socialism. 1914-1939 / trans. by A. Tereshchenko. – M.: New literary review, 2018.

⁴The Formation and Transmission of Western Legal Culture. 150 Books that Made the Law in the Age of Printing. Ed.: Dauchy S., Martyn G., Musson A., et al. Springer.2016.

philosophical movements are described in the course of political philosophy of modern times by A.V. Magun⁵.

The extent of state intervention in Soviet Russia and abroad is reconstructed in D. Hoffman's study, "Cultivating the Masses: Modern State Practices and Soviet Socialism"⁶. The topics of confrontation between society and the state, as well as technocratic rule, which are described in the works of P. Holquist, were closely related to government intervention⁷.

Information about the problems of Soviet construction from the point of view of society and the state was drawn by the dissertation author from the classic work of Yu. Kukushkin and O. Chistyakov "Essay on the History of the Soviet Constitution"⁸, as well as monographs by O. Chistyakov "Problems of Democracy and Federalism in the First Soviet Constitution"⁹. The specifics of Soviet and post-Soviet republicanism are described by A. Medushevsky in chapter 10 of the collective monograph "Res Publica: Russian Republicanism from the Middle Ages to the End of the 20th Century"¹⁰.

The dissertation researches of the last decade, which examine Soviet lawmaking¹¹, the conflict between the proclaimed and implemented programs of

⁵ *Magun A.V.* Unity and loneliness. The course of the political philosophy of modern times. M.: "New Literary Review". 2011. [*Magun A.V.* Edinstvo i odinochestvo. Kurs politicheskoj filosofii Novogo vremeni. M.: «Novoe literaturnoe obozrenie». 2011.]

⁶ *Hoffman D.L.* Nurturing the masses...

⁷ *Holquist, P.* "In Accord with State Interests and the People's Wishes": The Technocratic Ideology of Imperial Russia's Resettlement Administration // *Slavic Review*. 2010. P. 151-179; *Holquist Peter.* Society against the state, society uniting the state: Educated society and state power in Russia in 1914–1921. // *Nestor. Journal of history and culture of Russia and Eastern Europe*. St. Petersburg: "Nestor-History", 2007. pp. 248-264.

⁸ *Chistyakov O.I. Kukushkin Yu.S.* Essay on the history of the Soviet Constitution. M.: Politizdat, 1987. [*Chistyakov O.I. Kukushkin Ju.S.* Oчерk istorii sovetskoj Konstitucii. M.: Politizdat, 1987].

⁹ *Chistyakov O.I.* Problems of democracy and federalism in the first Soviet Constitution. M.: Publishing house Mosk. Univ., 1977. [*Chistyakov O.I.* Problemy demokratii i federalizma v pervoj Sovetskoj Konstitucii. M.: Izd-vo Mosk. Un-ta, 1977].

¹⁰ *Medushevsky A.N.* Soviet and post-Soviet republicanism / *Res Publica: Russian republicanism from the Middle Ages to the end of the 20th century*. Collective monograph/ed. K.A. Solovyova. – M.: New Literary Review, 2021. P. 659–711. [*Medushevskij A.N.* Sovetskij i postsovetskij respublikanizm / *Res Publica: Russkij respublikanizm ot Srednevekov'ja do konca XX veka*. Kollektivnaja monografija / pod red. K.A. Solov'eva. – M.: Novoe literaturnoe obozrenie, 2021. S. 659–711].

¹¹ *Maksimova O.D.* Lawmaking in the Soviet state in 1917–1936. Diss. ... doc. legal n. M., 2015. 484 pp.; [*Maksimova O.D.* Zakonotvorchestvo v sovetskom gosudarstve v 1917–1936 godah. Diss. ... dokt. jurid. n. M., 2015. 484 s.].

Soviet construction¹², the connection between progress and tradition in the Russian state and law¹³, as well as the relationship between state and party organizations in the USSR, became the source of information about the history of Soviet law for the dissertation author¹⁴.

Works on the doctrine of Soviet law. “Philosophy of Law” by V.S. Nersesyants remains the only comprehensive study of early Soviet theories of law remains “Philosophy of Law” by V.S. Nersesyants¹⁵. In in the Russian cultural space. In this study the author evaluates the internal and external logical consistency of each teaching of Soviet legal thought and compares each theory with his libertarian theory of law. We have followed the algorithm of his analysis, and partially followed his path in selecting sources and sharing certain arguments of his work: about the negative understanding of freedom in Soviet doctrine, the replacement of law with labor under socialism, and about the impossibility of a Marxist analysis of the state for E.B. Pashukanis. However, outside the framework of libertarian optics, the key conclusion of his work about the anti-legal nature of the doctrine of Soviet law is not confirmed. We take the position that there was a search for a compromise and an attempt to deconstruct some of the “old truths” of law, but not its complete negation.

¹² *Moreeva S.N.* Soviet socialist state: idea and political-institutional implementation: abstract of thesis. ... candidate of legal sciences: 12.00.01. M., 2012. [*Moreeva S.N.* Sovetskoe socialisticheskoe gosudarstvo: ideja i politiko-institucional'noe voploshhenie : avtoreferat dis. ... kandidata juridicheskikh nauk : 12.00.01. M., 2012].

¹³ *Anisimov I.I.* Synthesis of communist ideology and traditions of Russian statehood in the political and legal ideas of A.Ya. Vyshinsky: abstract of thesis. ... candidate of legal sciences: 12.00.01. Kursk, 2012. [*Anisimov I.I.* Sintez kommunisticheskoy ideologii i tradicij rossijskoj gosudarstvennosti v politiko-pravovyh idejah A.Ja. Vyshinskogo: avtoreferat dis. ... kandidata juridicheskikh nauk : 12.00.01. Kursk, 2012].

¹⁴ *Tokmin S.A.* Party acts in the system of sources of Soviet law: abstract of thesis. ... candidate of legal sciences: 12.00.01. Omsk, 2016. [*Tokmin S.A.* Partijnye akty v sisteme istochnikov sovetskogo prava : avtoreferat dis. ... kandidata juridicheskikh nauk : 12.00.01. Omsk, 2016].

¹⁵ *Nersesyants V.S.* Philosophy of law. Textbook for universities. M.: Infra-M – Norma, 1997. [*Nersesjanc V.S.* Filosofija prava. Uchebnik dlja vuzov. M.: Infra-M – Norma, 1997].

The view of Soviet law as a combination of the principles of formalism and realism can be traced in the works of M.V. Antonov¹⁶. Perception of Soviet law of the 1920s–1930s became the subject of dissertation research by A.G. Khochoyan¹⁷.

An overview of the doctrines of Soviet law during the NEP period is also given in the recently published article by A.V. Skorobogatov¹⁸ in the historical and legal yearbook for 2022 – the first systematic work of the Association of Historians of Law (Moscow). We support the author's view that the understanding of law of this period was only partly Marxist, but we do not agree that the empirical principle subordinated the theory. An article by A.V. Zvonarev and A.V. Lvova in the same yearbook describes the dynamics of the development of the sources of Soviet law in the 1930s.¹⁹

The collective historical work “Lawyers and Revolution: “Pro et Contra”²⁰, published under the editorship of S.M. Shahray and K.P. Krakovsky, turned out to be extremely useful in constructing a strategy for working on a dissertation, as well as the work of O. Yu. Shilohvost “Alexander Goykhbarg. The bitter fate of the Red Tribonian”²¹. These works became a source of information about the life of P.I. Stuchka, M.A. Reisner, and A.G. Goikhbarg and allowed us to trace the dynamics of their views and mutual influence within the framework of the approach of

¹⁶ Antonov, M. (2016). Chapter 17 Russian Legal Philosophy in the 20th Century. In: Pattaro, E., Roversi, C. (eds) A Treatise of Legal Philosophy and General Jurisprudence. Springer, Dordrecht.. URL: [https://doi.org/10.1007/978-94-007-1479-3_17]; Antonov M., Vovk D. Soviet, and Post-Soviet Law: Failed Transition from Socialist Legality to Rule of Law // Ideology and Politics Journal. 2021. Vol. 18. No. 2. P. 4-9.

¹⁷ Khochoyan, A. G. Main directions of legal understanding in Soviet legal science of the 20s - 30s. 20th century : abstract of thesis. ... candidate of legal sciences: 12.00.01 / Khochoyan Ara Hamletovich; [Place of protection: Sarat. state acad. rights]. Saratov, 2009. [*Hochojan, A. G. Osnovnye napravlenija pravoponimaniya v sovetskoj juridicheskoj nauke 20-h - 30-h gg. 20 v. : avtoreferat dis. ... kandidata juridicheskikh nauk : 12.00.01 / Hochojan Ara Gamletovich; [Mesto zashhity: Sarat. gos. akad. prava]. Saratov, 2009].*

¹⁸ Skorobogatov A.V. Development of Soviet legal understanding during the period of the new economic policy / Historical and Legal Yearbook - 2022 / Ed. count YES. Pashentsev, A.A. Dorskaya, M.V. Zaloilo et al. M.: Infotropik Media, 2023. pp. 52–76. [*Skorobogatov A.V. Razvitie sovetskogo pravoponimaniya v period novoj jekonomicheskoy politiki / Istoriko-pravovoj ezhegodnik – 2022 / Red. kol. D.A. Pashencev, A.A. Dorskaja, M.V. Zaloilo i dr. M.: Infotropik Media, 2023. S. 52–76.*]

¹⁹ Zvonarev A.V., Lvov A.V. Dynamics of sources of Soviet law in the 1930s: theory and practice / Historical and Legal Yearbook - 2022... P. 186–202. [*Zvonarev A.V., L'vov A.V. Dinamika istochnikov sovetskogo prava v 1930-e gody: teorija i praktika / Istoriko-pravovoj ezhegodnik – 2022... S. 186–202.*]

²⁰ Lawyers and revolution: Pro et Contra /auth. And comp. CM. Shahray, K.P. Krakowsky. M.: Kuchkovo pole, 2017. [Juristy i revoljucija: Pro et Contra / avt. I sost. S.M. Shahraj, K.P. Krakovskij. M.: Kuchkovo pole, 2017].

²¹ Shilohvost O.Yu. Alexander Goikhbarg. The bitter fate of the Red Tribonian. M.: Statute, 2020. [*Shilohvost O.Ju. Aleksandr Gojkhbarg. Gor'kaja sud'ba Krasnogo Triboniana. M.: Statut, 2020.*].

intellectual history. The source of information about the dynamics of Soviet theoretical discussion in line with the approach of the history of ideas was the article by E. Bodenheimer “Impasse of Soviet Legal Philosophy”²², as well as the collective monograph “Revolution in Law: Contributions to the Legal Development of Soviet Legal Theory, 1917-38”²³.

Prominent Russian legal historians made significant contribution to the study of the phenomenon of Soviet law. A series of articles by V.A. Tomsinov about Vyshinsky was devoted to the formation of the theoretical foundations of Soviet jurisprudence. The formation of sources of law of the Soviet period, and their role in party and state building was explored by S.V. Kodan²⁴. V.M. Syrykh rethinks the legal theory of the Soviet period in the context of the formation of Soviet legislation, court, and justice during the NEP period²⁵. It is also impossible not to point out the work he prepared together with S.A. Bogolyubov, D.A. Pashentsev, and several other authors who published a monograph on Russian lawmaking in the 1920s, analyzing the influence of the policies of the Soviet state on large-scale codification and the legislative process²⁶. The text of the work also considers some ideas related to the interpretation of the doctrine of law and legal tradition, expressed in the study of D.Yu. Poldnikov, as well as ideas about Marxism, expressed in the article by I.V. Levakin²⁷.

²² Bodenheimer E. Impasse of Soviet Legal Philosophy. Cornell L. Rev. 1952. Vol. 38. Art. 2.

²³ Revolution in Law: Contributions to the Legal Development of Soviet Legal Theory, 1917-38 / Beirne P. (ed.). New York: Routledge, 1990.

²⁴ Kodan S.V. “The Council of People's Commissars and the Central Committee of the All-Union Communist Party of Bolsheviks decide...” Joint legal acts of the Communist Party and the Soviet state in the system of sources of Soviet law // Genesis: historical studies, 2016. No. 1. Pp. 39–53. [Kodan S.V. «Sovet Narodnyh Komissarov i Central'nyj Komitet VKP (b) postanovljajut...» Sovmestnye normativno-pravovye akty kommunisticheskoy partii i sovetskogo gosudarstva v sisteme istochnikov sovetskogo prava // Genesis: istoricheskie issledovanija, 2016. №-1. S. 39-53].

²⁵ Syrykh V.M. History of court and justice in Russia. Volume 7. Judicial system and legal proceedings during the NEP periods. M.: Norma, 2021. [Syrykh V.M. Istorija suda i pravosudija v Rossii. Tom 7. Sudoustrojstvo i sudoproizvodstvo periodov NJePa. M.: Norma, 2021].

²⁶ Russian lawmaking in the 1920s: Monograph. M.: Yurlitinform, 2019 / under the general editorship: S. A. Bogolyubov, D. A. Pashentsev, V. A. Seleznev [Rossijskoe zakonotvorchestvo 1920-h gg.: Monografija. M.: Jurlitinform, 2019 / pod obshhej redakciej: S. A. Bogoljubov, D. A. Pashencev, V. A. Seleznev].

²⁷ Poldnikov D.Yu. Comparative history of foreign law. M.: Norma: INFRA-M., 2024. T. 2. Modern legal tradition; Leftists n I.V. On Marxism, the October Revolution of 1917 and jurisprudence (some thoughts in connection with the article by V.L. Tolstykh) // Bulletin of Tomsk State University. Right. 2019. No. 31. pp. 19-32. [Poldnikov D.Ju. Sravnitel'naja istorija zarubezhnogo prava. M.: Norma: INFRA-M., 2024. T. 2. Sovremennaja pravovaja tradicija; Levakin I.V. O marksizme, Oktjabr'skoj revoljucii 1917 g. i pravovedenii (nekotorye razmyshlenija v svjazi so stat'ej V.L. Tolstyh) // Vestnik Tomskogo gosudarstvennogo universiteta. Pravo. 2019. № 31. S. 19-32.].

Even though certain aspects of the formation of Soviet law and its doctrine have been studied in the existing literature, a systematic modern theoretical study of the doctrine of Soviet law is currently missing. This dissertation seeks to fill this gap.

The purpose of the study is to reconstruct the process of formation of the doctrine of Soviet law, which was reflected in the works, professional, and social activities of Russian lawyers in the period from October 1917 to 1930; determine the relevance of their ideas for the development of legal science and improvement of the state legal system of modern Russia.

To achieve this, the following **tasks were solved within the framework of the study**:

1) the factors that predetermined the transformation of views on law and the state in the period after October 1917 and the formation of a new legal doctrine are identified;

2) the socio-economic, historical, cultural, and intellectual context within which the formation of the doctrine of Soviet law took place was identified;

3) the most relevant and significant works of Soviet legal scholars for the study of the theoretical content of Soviet law, were identified and studied: the works of E.B. Pashukanis, P.I. Stuchka, M.A. Reisner, D.I. Kursky, I.P. Razumovsky and A.G. Goykhbar;

4) a comparison was made about the approaches to the definitions of the categories of state, law, justice, property, etc., which made it possible to determine and describe the originality of each theory, as well as the course of its evolution and transformation into the doctrine of Soviet law;

5) the general features of the doctrine of Soviet law are formulated, and the logic of its origin and evolution is explained;

6) the achievements of Soviet jurisprudence in 1917-1930 are characterized. and the significance of that stage of doctrinal development of problems of Soviet law and state is revealed.

The object of the research is the doctrine of the state and the evolution of the state-legal system of Soviet Russia in 1917–1930.

The subject of the research is the doctrine of Soviet law, which was formed in the period from October 1917 to 1930 as an expanded philosophical and legal theory, which includes theoretical guidelines on several problems of the current and future structure of Soviet society on a legal basis.

Political and legal ideas were formalized and reflected mainly in theoretical works, public speeches, discussions on the pages of academic publications, and in the socio-political press by the most prominent authors such as D.I. Kursky, E.B. Pashukanis, M.A. Reisner, P.I. Stuchka, I.P. Razumovsky and A.G. Goykhbarg. Of course, the number of legal scholars working at that time was much larger²⁸. However, not every one of them had their detailed system of views, studied the theory and philosophy of law, or proposed an original solution to the theoretical and philosophical legal problems that were relevant at that time. In choosing the personalities for study, we also took into account the fact that it was these lawyers who were most actively quoted by their colleagues, and they were the ones who most actively participated in the discussion on the general theory of law and in the formation of the concept of the development of Soviet legislation.

Chronological framework of the research. The study covers the period from October 1917 to July 1930. The first chronological boundary of this study was the October Revolution of 1917, which became the impetus for Russian lawyers to revise existing ideas about law and state and to create the doctrine of Soviet law. 1917 was a perfect “moment of truth” for legal scholars. So, even the “old” Bolshevik P.I. Stuchka, the future People's Commissar of Justice of the RSFSR, who influenced the formation of the doctrine of Soviet justice, recalled that he found the “only revolutionary article” of the pre-Soviet period, and even that was addressed to

²⁸In the field of philosophy of law, the works of N.I. Buharin I.S. Voitinsky, N.V. Krylenko, D.A. Magerovsky, Yu.P. Mazurenko, A.I. Parfenova, I.P. Podvolotsky, I.V. Slavin also deserve attention. See also: *Skorobogatov A.V. Development of Soviet legal understanding during the period of the new economic policy... P. 52–76.*

the Provisional Government with an appeal not to be ashamed of its status and to act more decisively ²⁹.

The choice of 1930 as the upper chronological frame of the study deserves more attention. For legal science at this time, the period of relative intellectual freedom of the NEP period ended, and academic science set a course for unification around the political decisions of the party. And although the first Stalinist five-year plan began already in 1928, until the mid-1930s its influence on the scientific sphere was not significant. For example, in February 1929 P.I. Stuchka also justified the action of some principles of civil law incompatible with the “Great Leap Forward” by the fact that “we have confirmation from both the XIV and XV Congress and the plenum of the Central Committee that the NEP remains with us for a long time”³⁰.

And, on the contrary, in 1930 several notable events took place at once. In July 1930, the XVI Congress of the All-Union Communist Party (Bolsheviks) took place, setting a course for the complete nationalization of the social sciences. An editorial written in its wake in the journal “Soviet State and the Revolution of Law” began with a decisive call for scientists to rally around the political decisions of the party ³¹. Not long before this, the leading scientific legal institution of the USSR, the Institute of Soviet Law, was liquidated. In the same year, the Society of Marxist Statists was created in the successor institution, the Institute of Soviet Construction and Law, designed to overcome all “deviations” in science and develop the “only correct” legal understanding.

In 1931, a new stage began in Soviet legal science - politicized criticism, “self-criticism” and the fight against dissent, which lasted until July 1938.

Sources of dissertation research are divided into the following groups:

²⁹ *Stuchka P.I.* 13 years of struggle for the revolutionary Marxist theory of law. Collection of articles 1917–1930. M., Gosjurizdat, 1931. P. 4. [*Stuchka P.I.* 13 let bor'by za revoljucionno-marksistskuju teoriju prava. Sbornik statej 1917–1930. M., Gosjurizdat, 1931. S. 4].

³⁰ *Stuchka P.I.* About the practice of using Gr. Code. // Weekly of Soviet Justice. 1929. No. 9–10. P. 224. [*Stuchka P.I.* O praktike primenjenja Gr. Kod. // Ezhenedel'nik sovetskoj justicii. 1929. № 9–10. S. 224.].

³¹ XVI Congress and our tasks at the new stage // Soviet state and revolution of law. 1930. No. 7. pp. 9–12. [XVI s'ezd i nashi zadachi na novom jetape // Sovetskoe gosudarstvo i revoljucija prava. 1930. № 7. S. 9–12].

1) monographs and collections of articles by legal scholars of the 1920s on the general theory of law. This group of sources receives the greatest attention since they reveal the philosophical and legal system of each author in the most detailed form. Almost each of them has its own philosophical and legal *magnum opus*: for E.B. Pashukanis it is a 1924 monograph “General Theory of Law and Marxism”³²; for M.A. Reisner – work 1925 “Law. Our Law. Foreign Law. Common law”³³; for P.I. Stuchka – a collection of articles for 1917–1930 published in 1931. “13 years of struggle for the revolutionary Marxist theory of law”³⁴; for I.P. Razumovsky – monograph of 1925 “Problems of the Marxist theory of law”³⁵, and for A.G. Goykhbarg – monograph of 1923 “Fundamentals of private property law”³⁶.

2) articles and texts of speeches by Soviet legal scholars at public events. From these materials, we gleaned the authors' vision of individual historical and theoretical issues. For example, an article by E.B. Pashukanis 1929 “Economics and Legal Regulation”³⁷ serves as an example of how abstract philosophical categories are used to analyze specific legal and economic phenomena (in this case, the economic policies of European countries during the First World War). The report of P.I. Stuchka at the Congress of prosecutors, judicial and investigative workers³⁸ reflects his vision on those issues on which he did not formulate a scientific position (the fairness of civil law under socialism, the prospects of the NEP under collectivization, etc.).

³² Pashukanis E.B. General theory of law and Marxism / Selected works on the general theory of law and state. M.: “Science”, 1980. [Pashukanis E.B. Obshhaja teorija prava i marksizm / Izbrannye proizvedeniya po obshhej teorii prava i gosudarstva. M.: «Nauka», 1980].

³³ Reisner M.A. Law. Our Law. Foreign Law. Common law. L., 1925. [Rejsner M.A. Pravo. Nashe pravo. Chuzhoe pravo. Obshee pravo. L., 1925].

³⁴ Stuchka P.I. 13 years of struggle for the revolutionary Marxist theory of law. Collection of articles 1917–1930. M., State Publishing House, 1931.

³⁵ Razumovsky I. Problems of the Marxist theory of law. M. 1925. [Razumovskij I. Problemy marksistkoj teorii prava. M. 1925].

³⁶ Goykhbarg A.G. Fundamentals of private property law (essays). M.: Krasnaya Nov publishing house, 1924. [Gojhbarg A.G. Osnovy chastnogo imushhestvennogo prava (ocherki). M.: izd-vo «Krasnaja nov'», 1924].

³⁷ Pashukanis E.B. Economics and legal regulation // Revolution of Law. 1929. No. 4. P. 12–32.

No. 5. pp. 20–37. [Pashukanis E.B. Ekonomika i pravovoe regulirovanie // Revoljucija prava. 1929. № 4. S. 12–32. № 5. S. 20–37].

³⁸ Stuchka P.I. On the practice of applying the Civil Code // Soviet Justice Weekly. 1929. No. 9–10. PP. 222–227.

3) materials of private origin – correspondence and memoirs of Soviet jurists (P.I. Stuchka and M.A. Reisner), reflecting their thoughts on pressing issues for them and reactions to certain events in political, legal, and academic life.

4) regulatory legal acts. This group of sources helped to trace the connection between the theoretical views of Soviet jurists and their implementation in practice. For example, the Guidelines (*Rukovodyaschie nachala*) on Criminal Law of the RSFSR of 1919 harmoniously reflected the theoretical views of P.I. Stuchka, and the Civil Code of the RSFSR of 1922 contained ideas expressed by A.G. Goykhbarg. The sources of this group also make it possible to describe the activities of scientific institutions in which legal scholars worked (for example, documents of the Communist Academy and the Institute of Soviet Law).

Research Methodology and Methods. Research methodology relies on general techniques for interpreting legal theories: formal logic, rhetoric, legal, historical-legal, and historical-philosophical methods. In the study and interpretation of the philosophical and legal constructions of Soviet legal theorists, we relied on a set of methods set out in the work of Professor R. Siltala “Law, truth and Reason: A Treatise on Legal Argumentation”³⁹. These include:

a) checking the similarity between the logical structures of legal theory and life phenomena (isomorphic theory of law). In this way the statements of Soviet legal theorists are compared with the historical practice of the revolution, war communism, and the New Economic Policy;

b) checking coherence (the method is outlined by R. Dworkin), that is the consistency of all facts significant for the philosophy of law with each other. This made it possible to evaluate the internal structure of each legal theory and compare such structures with each other;

c) approaches of “new rhetoric” (proposed by H. Perelman), which evaluate the relevance, validity, and persuasiveness of certain scientific statements for an abstract universal audience. Appeal to the laws of rhetoric is required since scientific

³⁹ Siltala, R. *Law, Truth and Reason: A Treatise on Legal Argumentation*. Springer. 2011.

jurisprudence is only partly guided by formal logic. In it, as in any social science, there are no true or false premises, and their relationship is nonlinear;

d) clarifying the extent to which legal views were determined by the spirit of their time and place: social practices, expectations, and public sentiment (philosophical conventionalism);

e) assessment of the external effects of law (social consequentialism), with the help of which we assessed how the law described in Soviet doctrine could potentially influence society and the state if fully implemented in life;

f) subjective interpretation - in some cases used to make assumptions about the hidden true intentions and views of individual authors.

The work of R. Siltala does not offer any original methodology, but in a systematized form, it reflects the methods of scientific knowledge in the field of law widely used in Russia and abroad, from which the most relevant approaches were selected for this dissertation.

In the historical and legal aspect, this work is based on the approaches of specialists in the field of intellectual history (L. Febvre, M. Blok)⁴⁰. Thanks to this, it was possible, among other things, to show how the rich doctrinal heritage of the pre-revolutionary period, rightly called in the literature the “golden age” of Russian jurisprudence,” influenced legal ideas and partly the content of the academic and practical activities of such lawyers as P.I. Stuchka, M.A. Reisner, and the ups and downs in the career of A.G. Goykhbarg caused a change in the attitude of his contemporaries towards his theories. The author of the work also uses the approaches of specialists from the Cambridge school, in particular Quentin Skinner, suitable for the interpretation and reconstruction of legal ideas and concepts of the creators of the Soviet doctrine of law⁴¹. This made it possible to determine which theories fit into the general mainstream of social and legal discussions in Soviet

⁴⁰For a description of the method, see: *Watmore R.* What is Intellectual History? M.: NLR. 2023.

⁴¹ The method proposed in: *Skinner Q.* Meaning and Understanding in the History of Ideas // *History and Theory*. 1969. Vol . 8. No. 1. P . 3–53. Description of the method, its capabilities and limitations in the Russian intellectual space: *Pavlov A.* Adventures of the method: Cambridge school (of political thought) in contexts // *Philosophical and literary magazine “Logos”*. 2018. No. 4 (125). pp. 261–302. [*Pavlov A.* Prikljuchenija metoda: Kembrižshkaja shkola (politicheskoy mysli) v kontekstah // *Filosofsko-literaturnyj zhurnal «Logos»*. 2018. № 4 (125). S. 261–302.].

Russia, which were a response to scientific research taking place abroad, and which views were not in line with the mainstream of the revolutionary years and the period of the 1920s.

Scientific Novelty. As a result of the research, the author of the work for the first time explained the content of the main theories that made up the doctrine of Soviet law of 1917–1930, based on current legal methodology.

These approaches made it possible to reconsider certain stereotypical approaches and assessments existing in the research literature concerning several works on the theory of Soviet law and their influence on the formation of the doctrine of law, written by E.B. Pashukanis, P.I. Stuchka, A.G. Goykhbarg, and others, and offer an original author's interpretation of their content.

In addition, for the first time, the influence of the theories of Soviet law on the socio-economic, political, and intellectual context of the period under study was studied: the concepts of modernization and modernism, philosophical positivism, the technocratic state (scientific management and scientific transformation of society), etc.

The political and legal ideas of Soviet legal theorists have been studied systematically for the first time, in the totality of their constituent scientific approaches and from the standpoint of their impact on the legislative process and legislation of the period under review.

The formation of the doctrine of Soviet law is for the first time comprehended from the perspective of the factors of political and legal significance influencing it, namely: legal ideology, concepts of legal understanding that are influential for academic jurisprudence, the state and development of legal institutions in the 1920s.

This made it possible to reliably assess, on the one hand, the novelty and originality, and on the other hand, the continuity and similarity of the ideas of Soviet theorists. Thanks to this, it became possible to describe the nature and magnitude of their contribution to the development of the general theory of law. In addition, this approach made it possible for the first time to give a balanced answer to the question of how Marxist teaching, sociological positivism, normativism and the latest

achievements of branch legal sciences (civil, criminal, labor law and other areas) were related to each other in the doctrine of Soviet law.

Provisions for defense (Main Results):

1. The doctrine of Soviet law (October 1917 - 1930) is a detailed system of philosophical and legal views on the role and place of law in the Soviet state, in the creation of Soviet society and its communist transformation. Its main feature is the desire to creatively combine Marxist ideas about law, state, and economic structure with the advanced achievements of the Western philosophy of law, productive in the conditions of limited pluralism of the NEP period. The content of the theoretical discussion on the transformation of institutions of law and state in the conditions of socialist transformation periodically changed under the influence of the developments of Soviet legal theorists. The dissertation establishes, for example, that the concept of the withering away of law and the state in the conditions of socialist construction, expressed by Bolshevik theorists, did not receive detailed theoretical confirmation in Soviet doctrine.

2. The doctrine of Soviet law is based on a rich set of legal material, as well as a high level of abstract interpretation. In the legal field, several original conclusions were drawn from the philosophical theories of the late imperial period: about law as a set of social relations, about the regulatory role of the state, about the ideological (in a philosophical sense) nature of law, etc. These achievements of Soviet legal theorists give their work relevance, including at the present time.

3. The theoretical concepts of the creators of Soviet law had a significant influence on the legislation of the 1918–1920s. Thus, the views of M.A. Reisner's ideas about the Soviet state structure predetermined the discussion in the Constitutional Commission of the All-Russian Central Executive Committee in the framework of the preparation of the Constitution of the RSFSR of 1918. Approaches to civil law and the protection of property of A.G. Goikhbarg were reflected in the Civil Code of 1922, which determined the content of private law institutions in Soviet Russia.

4. The original legal concepts of Soviet theorists are relevant primarily to the Marxist-Leninist picture of the world, within the framework of which the political and legal process in the 1918–1920s was conceptualized. This was due to the lack of a sufficient level of freedom of research and free competition between different concepts.

5. Within the framework of the period under study, it is necessary to highlight the following stages in the process of formation of the doctrine of Soviet law:

1) November 7, 1917 – February 1921 - the emergence of a discussion about the content and essence of Soviet law, characterized by the desire to create a “new law” or “proletarian law” from a “clean slate”;

2) March 1921 – December 1925 – the growth of academic discussion among legal scholars, the natural result of which was the publication in 1925 of key monographs by E.B. Pashukanis, M.A. Reisner, and I.P. Razumovsky on the doctrine of Soviet law;

3) January 1926 – July 1930 – slowdown and the beginning of the fading of the discussion about the content and essence of Soviet law. This stage was characterized by an increasingly obvious involvement in the academic discussion of the economic situation, characterized by a gradual departure from the principles of the NEP. During this period, confrontation, and polarization of the views of Soviet legal scholars grew, and the search for academic truth gave way to ideological struggle and competition for recognition of one or another theory as the most ideologically verified and appropriate in the context of the tasks of socialist construction.

6. The study showed that the formation of the doctrine of Soviet law was influenced by a wide range of factors, which were not limited to communist ideology. The philosophy of modernity, as well as the latest world achievements of legal and social sciences, had a fundamental influence on scientific legal understanding. This allowed the doctrine of Soviet law to become an organic part of the intellectual “landscape” of that time. Revolutionary Marxism did not oppose the general logic of modernity but offered a certain way of interpreting it.

7. Authors of the earliest chronological concepts of Soviet law M.Yu. Kozlovsky and D.I. Kursky understood law as any sort of class violence, only organized class violence, legislative mediation of economic relations, or all of the above together. Class violence was recognized as fair when it was used by the majority against the minority. With the transition to the NEP, this point of view was little discussed and was not influential among legal theorists.

8. One of the most influential during the NEP period was the exchange theory of law by E.B. Pashukanis. The author tried to reduce the law to an economic exchange transaction, but in essence, justified its autonomy from the economy. Analyzing the state, Pashukanis separated the functions of public authority and class dictatorship. He interpreted the public authority as an institution that regulated the free market in the interests of the whole society, without being part of the market exchange. Pashukanis did not reveal the essence of class dictatorship state in detail, but judging by his other arguments, such an understanding of the state is theoretically impossible. He saw the withering away of law as a matter of the distant future, when relations between people would be regulated exclusively by technical norms, which was not the original development of E.B. Pashukanis, but rather the image of the future widespread in world culture of that time.

9. Legal theory of M.A. Reisner was noticeable and quite widely recognized during the period under study. He divided law into subjective law – intuitive class law, and objective law, which implied a compromise between the intuitive legal consciousness of different classes. The essence of subjective law was manifested in the desire of a certain class to restore violated justice, which Reisner identified with actual (not formal) equality. The mechanism for transforming such demands into an objective legal order has not been convincingly described. Reisner's philosophical views found expression in the original concept of the Soviet state as a multi-level association of public corporations.

10. Works on the theory of law by P.I. Stuchka were widely cited in Soviet Russia. The jurist expanded the concept of law in comparison to Marx's, including not only the legalized will of the ruling class but also any significant social relations.

Sacrificing internal logic, he did not abandon any of the classical elements of the three-part definition of law as a norm, relationship, and ideology. At the same time, Stuchka's affiliation with the sociological understanding of law, declared in scientific literature, does not, in our opinion, find consistent confirmation: he often and in detail discussed the values of law and its normative foundation, attaching no less importance to them than to relationship. As a theorist, he did not predict the extinction of Soviet law, but as a practitioner, he did a lot for the development of positive legislation and legal institutions in the USSR. P.I. Stuchka remained a supporter of the NEP even during the period of the first Soviet Five-Year Plan.

11. Less noticeable, but also significant for the scientific discussion in the field of philosophy of law of the 1920s, remained the views of I.P. Razumovsky. He sought to separate law from economics and give it an autonomous internal content, derived from the ideological nature of law. Razumovsky called for relying on the classical bourgeois concept of law in the USSR and did not see any significant contradictions between bourgeois legal principles and the proletarian dictatorship.

12. A significant contribution to the development of Soviet philosophy of law was made by A.G. Goykhbarg. In particular, he proposed a theory of economic function, which he considered a logical continuation of the bourgeois doctrine of good faith and proposed to use the latest achievements of bourgeois legal researches to modernize civil law in the USSR, believing that state intervention in the economy and social sphere in the USSR is not very different from the regulatory role of the state in Western European countries.

The theoretical significance of the study is that its results deepen knowledge about the development of Soviet political and legal theory, expand scientific ideas about the formation of the doctrine of Soviet law in the period from October 1917 to 1930, its content and significance for the development of Soviet law and legislation.

Many provisions and conclusions of this dissertation research offer a new look at the Soviet legal doctrine of the 1920s. They are intended to influence the current academic debate among legal scholars about the Soviet legal legacy. For example,

the study of the legal heritage of E.B. Pashukanis, which reflects the original concept of the regulatory state, can intensify discussions in such a field of knowledge as “law and economics”. Pashukanis's views on justice should be considered as an independent scientific phenomenon. Historians of the legal profession and legal policy will undoubtedly gain a lot from familiarity with the views of P. Stuchka, M. Reisner, and A. Goikhbarg on the state and significance of practical jurisprudence in the 1920s.

The practical significance of the study is determined by the possibility of using its results:

– in law-making activities related to the development and implementation of legal policy by the modern Russian state. Here, the ideas of E.B. Pashukanis about the regulatory state and criticism of the “capitalist-state”, about the relationship between the compensatory and punitive functions of criminal law, expressed in the 1920s, are of absolute value, as well as ideas about law as a compromise of multidirectional demands of justice expressed by M.A. Reisner. This allows to take into account and involve in the process of policy-making social and professional groups that are underrepresented in it today;

– in research activities aimed at studying political and legal thought, legal theory, and their influence on the legislative practice of the 1920s;

– in the development of legal education, as part of teaching courses on the history of political and legal doctrines of Russia, the history of state and law of Russia, theory of law, philosophy of law, a special course on the history of legal education, etc.

Degree of reliability and approbation of research results. Based on the results of the dissertation research, the dissertation candidate prepared a number of articles published in recommended journals of the National Research University Higher School of Economics (list D; for a list of publications, see page 29 of this summary). Reports on individual research results were presented to the legal community at conferences:

Interuniversity scientific conference “Institutes of Russian statehood in the conditions of changes in the first third of the 20th century. (on the 115th anniversary of the publication of the “Basic State Laws of the Russian Empire” in 1906)” (organizers: the Department of Theory of Law and Interdisciplinary Legal Disciplines of the National Research University Higher School of Economics (Moscow) and the Faculty of Law of the St. Petersburg branch of the National Research University Higher School of Economics). Saint Petersburg. May 14, 2021. Topic of the report: “Towards anti-law through law: philosophical foundations of jurisprudence in the works of E. Pashukanis”;

Scientific conference with international participation “Concepts of law and state and methodology of legal and state studies at the crossroads of eras (late 19th century - 30s of the 20th century)” (organized by the Department of Legal Theory and Interdisciplinary Legal Disciplines of the National Research University Higher School of Economics, as well as project group “Intellectual history of law: ideas and institutions”). Moscow. December 12, 2020. Topic of the report: “Social and scientific premises of the early Soviet theory of law: bourgeois sociology and Marxist political economy.”

In addition, the chapters and main conclusions of this dissertation were discussed in the format of scientific reports by the dissertation author at meetings of the Department of Legal Theory and Comparative Law, Faculty of Law, National Research University Higher School of Economics in 2022–2023.

SUMMARY OF THE WORK

The **introduction** to the dissertation reflects the relevance of its topic, as well as the degree of its development, identifies the subject and goals of the research, sets research objectives, defines the object, subject, and methodology of the research, substantiates the scientific novelty, presents the main provisions put forward for defense, reveals the theoretical and practical significance of the study, provides information about the approbation of the research, and describes the structure of the dissertation.

The first chapter “*Background for the Formation of the Doctrine of Soviet Law*” characterizes the cultural and historical context and factors influencing the formation of the doctrine of Soviet law in a given period.

In paragraph 1.1 “*Socio-philosophical and legal forerunners of the new concept of law*” it is indicated that Soviet ideas about changing society through government intervention were an organic part of the intellectual environment of the 1920s in Russia and abroad. The socio-philosophical and doctrinal prerequisites for the emergence of a new concept of law are analyzed.

Paragraph 1.2 “*Revolutionary Marxism as a source of the Soviet doctrine of law*” is devoted to the characteristics of Marxism in Lenin’s interpretation. Marxist philosophy recognized the state and law as a mechanism of capitalist exploitation, and therefore they were destined for complete extinction under communism. However, this forecast was abstract and could not be verified. It also remained unclear how a complex society would function without state and law. Regarding the transition period of socialism, K. Marx assumed that during this period bourgeois law would operate in a limited manner, only for the distribution of consumer goods. Such a limited effect of the law is very difficult to implement in practice. The concept of distribution of goods “according to work,” on the one hand, assumed the equivalence of exchange (bourgeois law), and, on the other hand, demanded the nationalization of social life and general alienation from the means of production.

Such gaps and contradictions opened space for the construction of various legal theories.

Paragraph 1.3 “*Scientific legal institutions and printed publications*” examines the environment in which Soviet legal scholars existed. The NEP period was characterized by the stabilization of society and cultural upsurge relative to the first years of Soviet power. At this time, the discussion in legal science continued about how the NEP corresponded to the Marxist path of development. Most of the 20s the main research legal institution of the USSR was the Institute of Soviet Law, which published the journal “Soviet Law”. The Institute was often opposed by the section of the general theory of law and the state of the Communist Academy. The general list of platforms for work and publications on legal theory was much wider and included central and regional government institutions and publications. Among the publications reviewed in this work are “Soviet Law”, “Revolution of Law”, “Proletarian Revolution and Rights”, “Soviet Justice Weekly”, “Under the Banner of Marxism”, as well as “Law and Life”. The author characterizes their role and significance in the formation of the Soviet doctrine of law.

The second chapter is “*Theories of Spontaneous Law and Order: D.I. Kursky, E.B. Pashukanis, and M.A. Reisner*”. It is noted that the history of the Soviet doctrine of law is, first of all, the history of criticism of ideas about the state and law in their classical sense. According to several Soviet theorists, a new law arose based solely on the principles of dialectical materialism. Such a legal order, according to its creators, did not require either positive legislation, legal institutions, or even legal literacy – it was a question of a spontaneous legal order, which was based on the ideology of the proletariat and the ideas of the revolutionary class about law, state, and justice.

In paragraph 2.1 “*The emergence of the concept of proletarian law and its interpretation in the works of D.I. Kursky*” the earliest Soviet concepts of law are analyzed. They recognize as law any act of coercion if it is applied by the majority against the minority (M. Yu. Kozlovsky), an expression of the dominance of the

proletariat, as well as the limited action of classical bourgeois law (D.I. Kursky understood proletarian law in those ways at different times).

Paragraph 2.2 “*Law as an exchange relation in the works of E.B. Pashukanis*” analyzes the views of one of the most influential theorists of Soviet law. The author's position substantiated that Pashukanis's views on the law were bourgeois to a greater extent than Soviet. They combined classical liberalism and popular a technocratic ideal of social order, envisaging the complete replacement of law with technical regulation, which was popular in the first third of the 20th century. The least disclosed in the doctrine of E. Pashukanis were the issues of the Soviet economy and law, which also received consideration in the dissertation work.

Acting based on Marxist ideas, E. Pashukanis saw the material substrate of law in exchange economic relations, but at the same time, he repeatedly demonstrated the autonomy of law from economics. He interpreted the right of ownership in way of the libertarian labor theory of J. Locke, according to which the legal owner of the thing is only the one who produced it with his labor, or received it through a voluntary transaction, for which the theory of E. Pashukanis was called “labor theory” by his contemporaries.

Analyzing the concept of state, E. Pashukanis identified its aspects as public authority and class dictatorship. He understood the first aspect of state as an institution, all of whose functions boil down to ensuring a free market. The understanding of state as an apparatus of class dictatorship was formal, without giving any arguments for it.

Contrary to the position popular in the Russian scientific literature, the theory of E. Pashukanis does not seem to deny law under socialism. The lawyer spoke about the withering away of law as an event of the very distant future, although he interpreted the law of the NEP as the first stage of that process. The role of law under communism, according to Pashukanis, should have been taken by total technical regulation in the form of a planned economy – this was also the technocratic ideal popular at that time.

E. Pashukanis' views on criminal law as well echoed what was popular in the first third of the 20th century: the idea⁴² that all criminal justice should, through repression, benefit society and rehabilitate criminals.

Pashukanis took a very active part in theoretical legal discussions, but he most often criticized his colleagues not from theoretical, but from ideological positions. At the same time, his views were, sometimes, reduced to a propaganda of Bolshevism.

Paragraph 2.3 “*Psychological concept of law M.A. Reisner*” dedicated to the post-revolutionary views of M.A. Reisner. Inspired by the methodology of the psychological theory of law L.I. Petrazhitsky, M. Reisner understood law in the narrow sense (subjective law) as a set of class demands of justice that do not depend on the influence of the state. Justice was a relative category for the jurist, and he was ready to recognize almost any class interest as law. Controversially, he transferred the results of individual psychological studies to a whole class, and at the same time denied the role of individual consciousness in the process of spontaneous law-making.

Law in the broad sense (objective law), according to M. Reisner, is a compromise between the multidirectional demands, which present in society. For this conflict to lead to the formation of a new legal order, it was required, as M. Reisner believed, “a common legal ground”, the meaning of which he did not specify. M. Reisner considered the Soviet system of the NEP period to be a legal order based on a compromise of proletarian, bourgeois, and peasant law. The theorist described the moment of the withering away of law in a utopian spirit – he associated it with the advent of universal equality and justice. Such theoretical views were not free from contradictions, but at the same time, they did not fully correspond to the vector of Soviet class politics, for which M. Reisner was criticized by P.I. Stuchka, E.B. Pashukanis, and I.P. Razumovsky.

⁴²First of all, we are talking about the school of “criminal sociology” (E. Ferri) and the criminal legal theory of a dangerous state (R. Garofalo).

M. Reisner's fame as a statesman was acquired even before the revolution. He was the author of the original concept of Soviet statehood and, in particular, the form of state unity. The basic political unit of the Soviet Republic was to be communes, uniting class, professional, economic, and political communities. Representatives of local communes should unite into Councils. Such grassroots Soviets would unite into a federal province, and the provinces into regional republics. The Council of Regional Republics formed the RSFSR, which could become part of a larger association. M. Reisner's project was called "The Fundamental Principles of the Constitution" and served as an alternative to the Stalinist project of the Constitutional Commission of 1918. M. Reisner outlined a specific image of the future Soviet society and law.

In the third chapter "*Theories of organized law and order: P.I. Stuchka, I.P. Razumovsky, A.G. Goikhbarg, and A.L. Malitsky*" we analyzed the views of theorists who proposed a view of law as a product of the exclusively purposeful activity of the state.

Paragraph 3.1 "*The concept of proletarian law by P.I. Stuchka*". His legal interests were very broad, and already in the mid-1930s, P. Kuzmin, the author of the preface to the posthumous collection of works by P. Stuchka, called him a true Bolshevik and a prominent revolutionary, whose works dealt "crushing blows to various designs, schemes, concepts of the Korkunovs, Petrazhitzkys, Muromtsevs, and many others"⁴³.

In our opinion, P. Stuchka's contribution to the doctrine of Soviet law is as follows. Firstly, he significantly expanded the concept of law concerning the Marxist definition. While Marx understood by law precisely the bourgeois law of the mid-19th century, P. Stuchka proposed calling law as any social relations that were significant enough to talk about their class nature.

⁴³ *Stuchka P.I.* The revolutionary role of Soviet law. M.: Gosizdat, 1934. P. 2. [*Stuchka P.I.* Revoljucionnaja rol' sovetskogo prava. M.: Gosizdat, 1934. S. 2.].

Secondly, contrary to the position often found in modern literature that identifies P. Stuchka with the sociological school of law⁴⁴, P. Stuchka proposed, in our opinion, not a sociological, but a mixed, or integrative, understanding of Soviet law. Although at the level of slogans, his sociological sympathies are obvious, the set and sequence of theoretical arguments speak in favor of the normative and values-centered foundations of law.

Thirdly, in the field of codification and simplification of the language and structure of laws, the views of P. Stuchka went through a long evolution. In the first post-revolutionary years, he actively advocated the idea of “burning old laws” – even if new rules would have to be invented intuitively. However, in the 1920s he focused on the problems of a reasonable and accessible law – concise, technically advanced, and understandable to ordinary citizens.

Fourthly, P. Stuchka’s love for civil law led to the fact that even recognizing its bourgeois continuity in the USSR, he proposed only minor improvements. The lawyer sought to fill Soviet civil law with politically correct content and even in the first years of the Soviet Five-Year Plan remained a supporter of the NEP and the preservation of civil circulation.

In **paragraph 3.2** “*Law as an ideological form of class relations in the works of I.P. Razumovsky*” the views of I. Razumovsky, a Soviet legal theorist and philosopher, who gave interpretations to the issues of scientific communism and historical materialism and wrote about the methodological problems of Soviet legal theory, are explored.

I. Razumovsky argued that the Marxist theory of law should be based on the same methods that K. Marx used in *Capital*, namely, historical, and ideological criticism of bourgeois ideas. He consistently argues that law is not identical to its economic source but has an independent role and content. This allows the proletarian state to rely on bourgeois law in the construction of socialism, while the withering

⁴⁴See, for example, Zhukov V.N. *Sociology of law in Russia...* P. 234; Petukhova A.V. *Sociological concept of law in Russia: historical and theoretical approach (XIX–XX centuries): abstract. dis. ...cand. legal Sci.* Nizhny Novgorod, 2012. [Zhukov V.N. *Sociologija prava v Rossii...* S. 234; Petuhova A.V. *Sociologicheskaja koncepcija prava v Rossii: istoriko-teoreticheskij podhod (XIX–HH vv.): avtoref. dis. ... kand. jurid. nauk.* Nizhnij Novgorod, 2012].

away of law remains an abstraction of the distant future. I. Razumovsky criticized the desire of his colleagues to propose a “new” theory of law at any cost. At the same time, he, like many other lawyers, actively participated in academic controversy.

Paragraph 3.3 “*A.G. Goikhbarg: criticism of the philosophy of law and reverence for civil law*” is dedicated to the views of one of the main experts on private law in the USSR, who is known primarily as the author of the Civil Code of the RSFSR of 1922⁴⁵. After the death of V. Lenin, A. Goikhbarg's career went on the decline: he was expelled from the party, worked as a legal adviser at the People's Commissariat for Foreign Trade, was arrested in 1948, and was subject to compulsory medical treatment until 1955.

A. Goykhbarg's general theoretical views were maintained in the spirit of ideological criticism of the bourgeois philosophy of law. In his opinion, in Soviet Russia, any reasonable rule (a rule that was rationally formulated to achieve a predetermined goal) established by state authorities should be considered law. Discussing the theory of economic function, he wrote that the subordination of all personal property rights to socio-economic goals is not just a socialist idea but has been a policy in effect for many years in the USSR and Europe. The ideas of A. Goykhbarg corresponded to the logic of the development of modern society in Russia and the European powers, characterized by the strengthening of planning principles, the growth of government intervention, mass social programs, etc.), but were not loyal enough to the official party line, which became the reason for the ideological and political critics of A. Goykhbarg was already in the 1920s.

Paragraph 3.4 “*A.L. Malitsky and L.M. Kaganovich: The USSR as a rule of law state?*”. This paragraph examines an episode of a correspondence discussion between the Kharkiv lawyer A. Malitsky and the Soviet manager L. Kaganovich. The atmosphere of intellectual semi-freedom of the NEP period allowed the existence of even such exotic theories of law, which represented a transfer of the ideas of the rule of law to Soviet soil. Appealing to the traditional *rechtsstaat*, A.

⁴⁵Civil Code of the RSFSR // SU RSFSR, 1922, No. 71, Art. 904.

Malitsky in his 1924 work “Soviet Constitution”⁴⁶ indicated that the Soviet state is legal since it produces a legal regime that is generally binding for everyone, and exercises its power through laws and legal institutions.

A. Malitsky's monograph did not receive a wide response in the legal press. And yet, in 1930, one of the main Soviet managers L. Kaganovich remembered about it. Kaganovich's article was mainly devoted to political issues, but for the audience of lawyers, he began it with an analysis of the views of A. Malitsky. Kaganovich considered it necessary to explain why the USSR could not be a rule-of-law-state: this term itself, according to him, was a way of hiding the class nature of the bourgeois state. Kaganovich outlined his vision of the Marxist doctrine of state and law and emphasized, with reference to V. Lenin, that Soviet power is a product of violence, and no laws should distort this idea. This short thought of the Soviet manager had the last word in the legal scientific discussion of the 1920s.

The dissertation ends **with a conclusion** containing a brief overview of the research conducted.

LIST OF THE AUTHOR'S PUBLICATIONS ON THE SUBJECT OF THE DISSERTATION RESEARCH

Publication in journals included into the HSE University list (list D):

1. *Bogatyrev G. T.* The idea of the withering away of law in the early Soviet theory of law (1917–1930) // *Theoretical and Applied Law*. 2023. No. 2. P. 67–76. 0.9 p.p.;
2. *Tumanova A.S, Bogatyrev G. T.* Continuity of legal mechanisms of social institutions modernization in Soviet Russia in 1917–1929 // *Russian Juridical Journal*. 2022. No. 3(144). pp. 151–165. 1.15 p.p.;

⁴⁶ *Malitsky A.L.* Soviet Constitution. Kharkov, 1924. [*Malickij A.L.* Sovetskaja konstitucija. Har'kov, 1924].

3. *Bogatyrev G. T.* Exchange theory of E. B. Pashukanis: philosophical and theoretical foundations // *Russian Juridical Journal*. 2021. No. 5. 37–46. 1.15 p.p.