
ARBOR SCIENTIÆ
ARBOR VITÆ

SOVIET LEGAL THEORY

Its Social Background and Development

by

RUDOLF SCHLESINGER
DR. RER. POL.

NEW YORK
OXFORD UNIVERSITY PRESS
1945

PREFACE

This book deals with Soviet conceptions of Law. As is natural in a country where Law is regarded as an expression of social conditions and social needs, those conceptions are sociological rather than legal, i.e. they deal with Law not as an isolated system of values and norms but as an agent in social life. Some of the concepts that we are to discuss in this book are in fact what are commonly called "legal theories", that is to say, theories evolved by lawyers for the purposes of the Law. The greater part have been elaborated not by lawyers but by politicians, sociologists and economists; some have even been evolved with the intention of demonstrating the alleged obsolescence of Law in a society of the Soviet type. Some—perhaps the most important—have not been elaborated explicitly at all, but are implied in the actual working of Soviet legislation.

Under such circumstances the title of the book may be regarded only as an approximately accurate indication of its contents. But it was the best available. "Soviet conceptions of Law" would have been open to even more serious misunderstanding because of the widespread confusion between Law on the one hand, and Justice and Morals on the other. It might also have raised expectations of a detailed treatment of the concrete contents of the Soviet legal system which cannot be satisfied in this book. I have tried to deal with the evolution of the fundamental concepts of Soviet Law within the framework of the general evolution of Soviet society. Thus I have written a sociological and economic rather than a legal book. Such an approach may be right or wrong, according to the philosophy of Law that may be accepted; but it is an approach which would seem natural to the people about whom I write. The study of revolutionary Russia can make the maximum contribution to science and social reconstruction in other countries only if it starts from Russian rather than from imported, Procrustean standards.

I am not sufficiently a philologist to aspire to make a contribution to highly controversial subjects like the correct transcription of Russian words, or even the translation of the technical terms of one legal system into those of another, completely different in its structure. My aim has been to make the meaning intelligible

with as little effort on the part of the reader as possible. I have added a footnote only in those cases where there was danger of misunderstanding, not in all those where my choice of terms is controversial.

Dr. Mannheim, the editor of this Library, not only encouraged me to write this book, but also made some most valuable suggestions in discussing the typescript. Mr. Andrew Pears revised the style.

I thank those organisations, British and of refugee scholars, the support of which made it materially possible for me to write this book. I am also deeply obliged to the librarians of Chatham House and of the Society for Cultural Relations with the U.S.S.R. who gave me every assistance in collecting the materials needed.

RUDOLF SCHLESINGER.

THE BUNGALOW, LODE, CAMBRIDGE,
December 1944.

CONTENTS

BIBLIOGRAPHY

SOVIET LEGAL THEORY

CHAPTER I

INTRODUCTION

The Dispute on the Essence of Law and the Special Conditions of Soviet Law

It is the intention of this book to deal with the growth of the theoretical conceptions which have accompanied and influenced the evolution of Soviet Law. The main interest in this Law is that it is the first modern [1] Law of a society which is not based upon private ownership of the means of production; and the central point of the discussions which follow is the extent to which Law is possible in such a society. Foreign critics of the U.S.S.R. and of socialism in general have denied this possibility and have described socialism as a state of lawlessness and arbitrary rule. Discussions within the U.S.S.R. have inquired whether socialism would demand new means of regulating human behaviour which would be superior to traditional Law. In some cases it has not been possible to dissociate the first form of the argument from the second.[2] Such issues are largely a matter of definition. But in order to take up a stance from which to approach the opinions of the Soviet lawyers we have to start from a working definition of Law, and from a survey of the various forms in which it appears in the U.S.S.R.

A preliminary definition which reduced our problem to a series of truisms would be inadequate. If we content ourselves with the statement that "wherever there is a society, there is also Law",[3] then there is no problem in the existence of Soviet or any other Law. Even if a more concrete approach is taken and Law is identified with the existence of fixed regulations for

[1] In this book, we are not concerned with the question of whether the most primitive forms of regulating human behaviour, in a society prior to any form of private property in means of production, could be described as Law. Marxism would deny it. The question of Law in a pre-capitalist (feudal or slave-holding) society with pre-capitalist forms of property (see below, p. 27) is quite a different matter.

[2] See below, p. 156.

[3] Korovin, op. cit., 1924, p. 6. It ought to be remembered that this is an utterance by an international lawyer, and that the vagueness of their subject induces his kind of lawyers everywhere to be satisfied with rather vague definitions of Law.

human behaviour, duly published and enforced, there can be no doubt that such regulations exist in the U.S.S.R., that the everyday behaviour of the individual citizen as well as the daily transactions of the bodies administering Soviet economy are governed by them. And no Soviet theorist has been so utopian as to dream of a state of society where something of this kind would not be needed. On the other hand we cannot accept those definitions that identify Law with the rule exercised by lawyers, or with the existence of a power vested in the courts superior to that of the other organs of the State. Such theories play a highly contested rôle in the U.S.A. and have also been accepted by certain schools of legal thought in this country (although they were strictly rejected by the Austinian school). In other countries their rôle is rather insignificant. The U.S.S.R., especially, would answer such a definition simply by the statement that, whatever its interest in Law, it has never aimed at establishing the ruling power of lawyers, and that, however desirable it may be to safeguard the independent working of the specific law-administering organs of the State from other State organs, these organs and the law administered by them are certainly part and effluence of the State.

A working definition of Law, sufficient to meet its problems in general and under the special conditions of the U.S.S.R., can be found if we follow the classical approach of the positivist school, since Ihering on the Continent and Austin in this country.[4] We may define Law as the sum of the general rules of behaviour enforced by the State. By emphasising the general character of these rules, as opposed to a sum of individual cases decided by the organs of the State according to their individual merits, we emphasise a fundamental characteristic of Law and of the principle of legality as distinct from arbitrariness, namely its predictability and its formally equal approach to all cases that equally satisfy the conditions established in the law for certain reactions of the State machinery. By emphasising compulsion by the State as the characteristic sanction of all legal rules we distinguish Law clearly from other agencies intended to regulate social behaviour that work either through the individual conscience (like religion and ethics) or through social pressure outside the State machinery, such as moral conceptions in general. The positivist definition of Law gives full scope to meet and to

[4] See P. Ihering, *Law as a Means to an End*, English ed., Boston, 1913, pp. 239–40, and Austin, *Jurisprudence*, 4th ed., vol. I, p. 98.

discuss the fundamental problems of Soviet Law : whether the generality and formal equality of Law is compatible with the needs of a period of revolutionary transition, and whether compulsion by the State is needed for regulating the behaviour of the members of a Communist society. Amongst the Soviet lawyers themselves, the positivist approach to Law has always held undisputed sway.[5]

Positivism clearly accepts any given legal system as such, but no less clearly refrains from judging the " meta-legal ", especially moral, validity of any legal system.[6] But the efficiency of the State requires that its command should be accepted as binding. Since that command has lost its former religious authority it is a primary purpose of legal ideology [7] to provide arguments for the alleged morally binding force of these commands, or, if the ideology opposes the existing legal order, to describe the standards to which a legal system ought to comply in order to be accepted as binding. The lawyers applying the legal system are bound to regard the norms composing it not as mere norms of compulsion but as corresponding to general principles of Justice or Morality realised in Law.[8] Hence the tendency, which is opposed to Positivism, to construct a " Natural Law ", i.e. a system of supposedly legal norms, the validity of which is not derived from the existing legal order but, conversely, ought to condition the latter's validity. This tendency has held sway as long as the young national state was confronted by a generally accepted religious and moral ideology, and also when the decreasing force of the religious ideology demanded its replacement by some other, more suitable to seventeenth–nineteenth-century needs. Natural Law was accepted as the basis from which the liberal revolutionaries argued against the validity of the existing feudal laws, and was dropped by them once they had succeeded in shaping a legal system corresponding to the needs of the middle-classes. More recently the threat to the latter's rule has resulted in some renaissance of the theories of

[5] See below, pp. 18, 74, and 243–4. For the specific problems of International Law see below, pp. 285–87.

[6] See Kelsen, " The Pure Theory of Law," in *Law Quarterly Review*, vol. LI, p. 535.

[7] In this book, unless stated to the contrary, we use the term " ideology " in the general sense, i.e. to denote theoretical conceptions as conditioned by social facts. Some only of these ideologies (as very evident from the example given in the text) are ideologies in the narrower sense used by Mannheim (*Ideology and Utopia*, London 1934), i.e. denote such conceptions the social function of which is the defence of the existing social order.

[8] Kelsen, op. cit., vol. L, p. 481.

Natural Law, especially in the U.S.A.[9] Characteristic of Natural Law, especially in its modern conceptions, is the juxtaposition of Law and Power, as distinct from the positivist position according to which Law is the order according to which the compulsory machinery of the State works. For the adherent of Natural Law, Law connotes equality and not subjection, and is a relation between equals, not between a superior and an inferior.[10]

From the sociological point of view it is not difficult to recognise in such an approach an idealisation of the relations supposed to exist between the members of a society based on independent private entrepreneurs in competition with each other, whose mutual relations are to be ordered by the Law. From the point of view of juridical analysis the supposed equality of the partners to the Law is but an idealisation of the formal equality involved in the principle of generality which we have recognised as an essential characteristic of any legal order : If the reactions of State machinery to the doings of the individual members of the society are deemed predictable (and this is a fundamental condition of the efficiency of a legal order) all citizens are " equal before the Law ", i.e. their actions, if equally corresponding to certain conditions established in the general rule, are followed by equal reactions on the part of the State machinery. This criterion is purely formal : in a state denying certain property rights to women the equality of all citizens before the Law may still be realised in the sense that everyone answering the formal demands of the Law, whether man or woman, is equally granted the rights corresponding to his or her respective status. But even if distinctions in rights are restricted to those which, by the general consent of public opinion in a given period, are recognised as justified,[11] there remains actual inequality in the possibility of making use of " equally granted " rights. The ideology of " equality before the Law " does not demand that, say, anyone who inflicts certain damages upon another ought to pay a certain compensation, but only demands that everyone's claims, *if* brought before the courts and defended by all means

[9] See Ch. G. Haines, *The Revival of Natural Law Conceptions*, Harvard University Press, 1930. A characteristic expression of the trend described is Bodenheimer, *Jurisprudence*, New York, 1940.

[10] Ibid., p. 21, and see Chapter V of this book, pp. 155–6. Bodenheimer (loc. cit., p. 26) recognises the relation of his views to those of Pashukanis.

[11] As is done now in regard to minors or the mentally deficient, not to mention those cases where women, and even the Negroes may be " naturally " included amongst the minors for certain purposes. 100 years ago this was " natural " in all Western countries.

provided for by the law, including costly appeals to the higher courts, should be equally dealt with. The modern adherent of the Natural Law school will not deny that virtual inequality, say between capital and labour, may allow the rule of formal equality before the Law to result in a condition of subjection, and will satisfy himself with the remark that relations of subjection and domination are alien to the idea of Law.[12] We shall see [13] that his theoretical juxtaposition of the conceptions of Law and Power may result in a defence of actual inequality.

The failure of any representative of the Natural Law school to find the self-invented principles of " Natural Law " in process of being realised in existing Law, would itself prove no more than the need to invent new patterns of " Natural Law "—as, indeed, successive representatives of this trend have been doing now for 700 years, not to mention their predecessors in antiquity. But quite apart from individual explanations of " Natural Law ", its very foundations, the juxtaposition of Law and Power (*alias* the compulsion as exercised by the existing states) is bound to obliterate the characteristics of Law as distinct from Morality. It is quite impossible, even for representatives of the Natural Law school,[14] to draw this distinction otherwise than by the fact that the first group of rules for social behaviour are enforced by the State, and the latter by the unofficial pressure of public opinion. On the other hand, the main argument of the modern representatives of Natural Law against positivism is the latter's failure to distinguish between states ruled by Law, and states ruled by Power,[15] and to erect insurmountable barriers between Law and Administration.[16] It is impossible to prevent the use of any kind of definition : a man may describe as Law those

[12] Bodenheimer, op. cit., pp. 26–7.

[13] See below, pp. 7–8.

[14] See Bodenheimer, op. cit., p. 80. " Political means of enforcement " is, of course, merely another term for what elsewhere is labelled " Power " by the same author. Compare Duguit, " The Law and the State," *Harvard Law Review*, November 1917, p. 4.

[15] Ibid., *passim*, e.g., p. 57. B. is completely wrong in describing Kelsen's statement according to which " every state is a government of Law " as obliterating the limits between Law and arbitrariness, unless his basic assumption that only a certain type of society is capable of legality is presupposed. According to Kelsen (op. cit., vol. LI, p. 534) " every expression of the life of the State is a legal act ", but " a human act (for example an act of the persons holding supreme power in a State) is only designated as an act of State by virtue of a legal norm which qualifies it as such ". Every state is, for Kelsen, a government of Law for the simple reason that systems of compulsion not working according to established systems of norms could not be described as states, within the Kelsenian system.

[16] Bodenheimer, op. cit., p. 91. Kelsen (op. cit., pp. 521 ff.) makes a gradual distinction between the more general rules described as laws and their more specified application by administration and judicial decisions. It is true he puts these two on the same level, to the disapproval of most lawyers.

types of social relations which he likes, and as Power those which he dislikes, and conclude with strict logic from such definitions that there can be no Law outside the type of Society which he favours. The question is whether such definitions are fruitful for social investigation or only for propaganda. For investigating the legal system of the U.S.S.R. they are certainly not fruitful, since amongst their fundamental assumptions they exclude the very notion that there could be any kind of Law in a state of the type represented by the U.S.S.R.

Traditional jurisprudence bases Law—at least in its most important parts—on a system of Rights, i.e. individual claims which are enforced by the State if they conform to certain conditions established by the Law. A positivist approach which is neutral to the respective merits of various social systems will describe the conferring of rights upon individuals by the legal order merely as a special technique of which the Law may, but need not, avail itself. It is the specific technique of the capitalist legal order, in so far as this is built upon the institutions of private property and therefore directed specially towards individual interests.[17] As we shall see below, it may be an overstatement to regard this technique as restricted to a capitalist system. But certainly Kelsen is accurate when he describes the conception of independent subjective right, which is even more " just " than the objective law, as a device to protect the institutions of private property from damage at the hands of the legal order.[18]

Now the application of this device is an essential of the Natural Law theories. " Power, in the world of social life, represents the element of struggle, war, and subjection. Law, on the other hand, represents the element of compromise, peace, and agreement. Power represents the dynamic element in the social order . . . Law, on the whole, is a static force ".[19] Such a statement contains ideological elements, in the narrowest sense of the word, and especially the assertion that Power is needed only in order to carry through changes of the existing order as

[17] Kelsen, op. cit., vol. L, pp. 495–6.

[18] Ibid., p. 493. This description might be regarded as an unjustified generalisation if applied even to approaches (e.g. Laski, in *A Grammar of Politics*) which submit the *moral* validity of existing law to the test of whether it conforms to certain conceptions of social Justice. But Kelsen is dealing with authors who speak of " just " in the sense of supreme legality, as for example the Supreme Court of the U.S.A., when deciding whether legislative acts are compatible with its interpretation of the Fundamental Rights as established in the Constitution.

[19] Bodenheimer, op. cit., p. 10.

distinct from preserving it, and that on the other hand compromise and agreement must necessarily work through the means of Law as long as this order is preserved.[20] But, in fact, a statement like the foregoing is the simple consequence of the attitude of the Natural Law school which explains Law by certain individual rights as established within the existing social order. For similar reasons in the conservative trend in American jurisprudence changes in the existing legal order, even when carried through by completely constitutional means, are regarded as illegal.[21] From such a point of view there can be no Soviet legality, and no socialist legality at all.

According to the modern Natural Law school, Law (as opposed to Power) presupposes an equilibrium of power between the participants in the legal relations, as also between Individual and State. If a state like the U.S.S.R. grants to its citizens " social rights ", i.e. rights to the provision of certain conditions for their well-being by the operation of the public services, it will not be able to ensure the full satisfaction of these rights unless it controls most of the economic resources of the country. But if it does so, it will of necessity combine political with economic power and be in a position to make the fulfilment of its obligations dependent upon the complete obedience and loyalty of its citizens. From the point of view of the Law, increasing recognition of social rights might be considered as partial retrogression to the rule of Power, unless the recognition of social rights is coupled with a recognition of individual rights.[22] It is clear that such individual rights as regards property in private means of consumption, matrimonial relations, etc., would not be sufficient to counterbalance the economic power of the State. For this, individual rights to property in the essential means of production would be needed. But these would involve the likelihood of private monopolies which, as our author recognises,[23] may tend to be supplemented by political power and thus to exclude the supposed rule of Law from the other side. It is very difficult, when confronted with such explanations, to disagree with Kelsen's opinion that " the individual engaged in an apparently insoluble conflict with society is nothing else than an ideology fighting for certain

[20] An interesting instance was the appeasement in December, 1928, by the German Government of the steel-mill owners, who had refused to submit to a binding decision of the statutory Arbitration Tribunal, by virtually recognising the law-breaking attitude of the employers as legal. It only just preceded the establishment of the dictatorship of Big Business.

[21] See also Haines, op. cit., pp. 337–42.

[22] Bodenheimer, op. cit., pp. 22–4.

[23] Ibid., p. 21.

interests against their limitation by a collective system ".[24] The problem of our book is to investigate how far that collective system may apply Law as a means of regulation. A theory which describes this system as *a priori* illegal is, obviously, unsuitable as our starting point.

In their criticism the Natural Law school insist upon the difficulty of explaining, by means of the positivist interpretation, two particular characteristics of Law as opposed to arbitrariness : namely, the due competence of the State organ issuing the commands, as distinct from usurpation and from acts *ultra vires*, and the principle of generality as regards the rules and the consequent formal equality of all subjects to the Law. The first difficulty is, indeed, nearly insurmountable if the sovereign is to be regarded naturalistically as a certain physical person in the Austinian sense. But within the purely juristic conception of positivism this difficulty can be solved by the simple proviso that only those acts of the State organs which conform to their competences within the legal norm on which the State works can be attributed to the State.[15] Permanent and successful action by the supreme State organs " *ultra vires* " would have to be interpreted as an extra-legal phenomenon, a " revolution from above ", producing a change in the legal order and the further acts of such a state would have to be interpreted within the altered framework. As regards the principle of generality the inherent difficulty is not restricted to the positivist interpretation of Law : for while there may be cases where individuals themselves form a group from the point of view of the purposes of the law under discussion, so that special legislation for these cases would not cease to be general,[25] yet there will hardly be agreement as to the point where the desired formal generality begins to result in actual inequality, in view of the completely different conditions to which formally equal standards are applied. Mine-owners may resent any special legislation dealing with coal-mines, and employers in general any rule concerning the contract for labour as distinct from other kinds of contract. They may complain of " arbitrary " discrimination against them, of " privileges " accorded to miners or to workers in general. The workers concerned—and probably also the legislators who

[24] Op. cit., vol. L, p. 497, cp. also Bodenheimer, op. cit., p. 28.

[25] See, for example, McIver, *The Modern State*, London, 1926, pp. 256–7. Apart from Sovereigns who, by law, are a class in themselves, there are cases where one powerful enterprise monopolises one important industry the conditions of which differ from those of others.

have enacted such laws—will hold the opposite view. There is no conception of Natural Law that could help us to decide whether conditions in coal-mines differ from those of other industrial enterprises enough to render special legislation for them necessary lest formally equal rulings (such as equal hours) should result in completely different conditions of life for the workers concerned. In fact, there is nothing in a positivist or any other conception of Law that would enable such a decision to be made. Questions like these cannot be answered by legal theory. But the desirability of generality from the point of view of the efficiency of the legal order can be expressed in positivist terms at least as well as in those of Natural Law.

Unless one assumes an inherent superiority of general formal equality over a method of attempting to meet concrete conditions as equally as possible, and an inherent superiority of the Judge over the Administrator, it is impossible to make a hard-and-fast distinction between legislation and administration. But within a positivist approach it is fully possible [16] to distinguish between legal orders which contain a well-elaborated hierarchy of more general and more specified norms and which solve the maximum number of issues as generally as possible, and those systems where the onus of the decision rests upon the judge or administrator, and the impression which the merits of each individual case make upon him personally. It is quite true that Kelsen's Pure Theory of Law (the most coherent elaboration of positivist principles) contains no standard against which the merits or demerits of various legal orders can be judged. In my opinion, however, this is no argument against a positivist approach, or the Pure Theory of Law specifically, but simply a proof of the limitations of a purely juristic approach in general. It can but provide formal results : it is the task of the sociology of Law to investigate the origins and probable results of any system of Law.[26] But whatever the shortcomings of the purely formal positivist approach, at least it prevents the exclusion from sociological analysis of phenomena which may be interesting in that they are new, and furthermore it is not limited by the ideological standards of past law which have been elevated into the "*a priori*" requirements of "Natural Law".

Soviet Law manifests fundamentally new features both in

[26] Kelsen, op. cit., vol. L, pp. 486–7, and in his book *Der soziologische und der juristische Staatsbegriff*, Vienna, 1920, recognises the need for such investigation. So Laski's criticism (op. cit., p. VI) expresses the naturally diverse emphasis which the sociologist and the lawyer respectively are likely to lay upon their subjects.

the state from which it emanates and in the economic structure of the society which it has to serve, but as regards general formal structure it provides little essentially new material. Since its authors [27] had to start out from existing codes and systems, they simply reproduced "Criminal Law", "Matrimonial Law", "Civil Law", and "Administrative Law", etc., without giving much thought to the question of their specific reality under the new conditions.

In general, Law (apart from International Law) is divided into two categories: Civil Law [28] deals with the individual claims of citizens who are in principle regarded as equal. In so far as the State may be, say, the owner of a railway, it has the status of a private citizen and is subject to Civil Law. In Public Law the subject is supposed to be confronted by the authority of the State. Civil Law has, for practical purposes, such subdivisions as Commercial Law, Land Law, Matrimonial Law, etc., while Public Law may be subdivided relatively easily [29] into three categories: Constitutional Law deals with the general structure of State organs and the formation of State decisions. Administrative Law regulates the relation between the citizen and the administrative machinery, and between the various links of the latter. Criminal Law institutes sanctions against certain actions that are described as crimes. The division, like so many survivals from totally different conditions, is artificial enough even in the normal capitalist state; quite a lot of legal fiction is needed to describe, say, the begetting of a child as a legal transaction comparable with contract, or tort if out of wedlock. Further, the more emphasis that is laid upon individual rights as the basis of Law proper, the more difficult it is to make a fundamental difference between the lawsuit of a mother who, under Civil Law, sues her divorced husband, father of her child, for the right to meet this child on certain days a week, and that of another mother whose child has been transferred to an educational institution and who

[27] See below, Chapter III, section (*c*), and Chapter IV, section (*b*).

[28] We use, in this book, the current Continental terminology from which Soviet jurisprudence (and Russian jurisprudence in general) has started, verbally translating its terms. In English jurisprudence, Private Law would be the nearest approach.

[29] Going into detail, one would have to stress the word "relatively". Administrative penalties, say for violating the rules of the road, are only slightly different from the smaller penalties of the Penal Code. And the amount of general administrative rulings on economic and similar matters included in a Continental Constitution, depends mainly on the political conditions at the time of the constitutional compromise.

complains, under Administrative Law, that the headmaster of that institution does not allow her such access to her child as she feels entitled to. But in the liberal conception of society the traditional division of Law has the big advantage that it corresponds to the division between the sphere of everyday life as where members of the community are left free in their transactions with one another, and those disturbances or transformations of everyday life where the State has to interfere. Within the framework of the traditional liberal ideology a prosperous society might be described as one which showed a maximum number of Civil Law transactions amongst its members, whether commercial or matrimonial, and a minimum of administrative interference, constitutional amendments, and, of course, criminal prosecutions. As is well known this conception has already been virtually undermined in recent decades—but still it survives, at least in the minds of the lawyers, as is shown for example in their abhorrence of *Droit Administratif*, etc.

Although for the greater part of the period under discussion [30] Soviet lawyers did little to replace the traditional divisions by new ones, their difficulty is that the traditional divisions clearly contradict the real problems of the society within which they live. The major part of the economic life of the country is administered by the State according to a central plan, i.e. according to principles of subordination rather than of co-ordination. Within this centralised system, the decision whether to apply Civil or Administrative Law is regarded simply as a question of efficiency in management. Although the claim of a mother for alimony would be decided under Civil Law, a Soviet lawyer would be even more emphatic than his progressive colleagues in other countries that the decision ought to be dominated by the public interest in creating the best conditions for the education of the child, and he could base this explanation on the text of the Law.[31] Yet he will readily admit that his private position as a tenant of a municipal flat is affected more by administrative rulings regarding priority claims, contributions to current repairs, etc., than by the truly Civil Law suit that would follow if he were to be divorced and his own and his wife's respective claims to the flat would have to be decided. He is well aware of the extent to which Civil Law and Administrative Law are intermingled in regulating the everyday life of the Soviet citizen as well as the

[30] This has changed only since 1938. See below, Chapter VIII, pp. 252 ff.
[31] See below, p. 104.