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DOI: 10.15290/mhi.2017.16.01.03

Soviet Family Law: Genesis and Evolution from the Perspective of the Latvian SSR Experience

SUMMARY

Soviet Family Law: Genesis and Evolution from the Perspective of the Latvian SSR Experience

The Soviet law, which was created at the beginning of the 20th century in Soviet Russia, had evolved on the basis of the legal tradition of Continental Europe; it was a legal system based on the Marxist law theory as understood in Soviet Russia and later in the USSR and the countries that came under its influence, and it differed considerably from the idea of law in Roman and Germanic legal circles. Marxism-Leninism advocated actual equality in society, including gender equality, which determined Soviet state policy in the sphere of marriage and family law. Moreover, Marxism-Leninism turned against private property, which necessitated the separation of family law from civil law into a new individual branch – marriage and family law. In the spring of 1940 the Republic of Latvia was annexed to the Soviet Union. In the territories occupied by the USSR in 1940 – Latvia, Estonia, Lithuania – the previously existing national systems of law were replaced by Soviet law, which was grounded in Marxist-Leninist ideology. As a result of the Soviet marriage and family regulations being put in place, the following was established in the territory of Latvia: civil marriage as the only valid form of marriage, equality of spouses, and the equality in the rights of all children regardless of whether they were born in or outside of marriage. These, undoubtedly, were advanced and positive innovations. However, at the same time, a Soviet family was one that lost its private nature, as it was obliged to fulfil tasks of national importance. This, in turn, meant interference by the state and by society in family life; childless families had to pay a childlessness tax, so that the State could use those funds to support orphans, lone mothers and large families with many children.

Key words: Soviet marriage and family law, Marxism-Leninism, civil marriage, equality of spouses

Słowa kluczowe: Sowieckie małżeństwo i prawo rodzinne, marksizm-leninizm, małżeństwo cywilne, równość małżonków

In the spring of 1940, the Republic of Latvia was annexed to the Soviet Union. Latvia lost its independence and became one of the 15 union republics.[1] In the territories occupied by the USSR under the Molotov-Ribbentrop Pact of 21 August 1939, namely, Latvia, Estonia and Lithuania, the previously existing national systems of law were replaced by Soviet law, which was grounded in Marxist-Leninist ideology.[2] The laws of Soviet Russia were enacted in the new Soviet republics, translated accordingly into each of the national languages. Legally, this process started with the decree of the Presidium of the Supreme Council of the USSR of 6 November 1940, "On the temporary application of the Criminal, Civil, and Labour Codes of the RSFSR in the territories of the Soviet Socialist Republics of Lithuania, Latvia and Estonia".[3] The imposition of Soviet law created an interruption in the historical process of development of Latvian law, as the law imposed on Latvia was that of a different nation and country and, moreover, that motivated by a specific ideology.[4]

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Before discussing the family and marriage law of Soviet Latvia, it is necessary to briefly describe Soviet law. Although the Soviet law, which was created early in the 20th century in Soviet Russia in accordance with the understanding of the Marxist theory of law, had evolved on the basis of the legal tradition of Continental Europe, it differed considerably from the idea of law in Roman and Germanic legal circles.

I would like to point out the most substantial differences. First, Soviet law was negative about such concept as private property, viewing it as a basis for inequality and, consequently, social injustice. Second, the division of law into private law and public law, which is familiar in Continental Europe, did not exist in the Soviet state. Soviet statesmen stressed that, "the socialist law has nothing to do with private law, and all branches of law are of a public character".[5]

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1 Bleire D., Butulis I., Feldmanis I., Stranga A., Zunda A., *Latvijas vēsture 20. gadsimts*. 2ªed., Riga, 2005, pp. 219–224.

2 Blūzma V., "Latvijas inkorporācija PSRS sastāvā un padomju tiesību uzspiešana Latvijai (1940–1941)", *Latvijas tiesību vēsture (1914–2000)*, ed. D. A. Lēbers, Riga, 2000, pp. 288–295.

3 Vēbers J., *Ģimenes tiesības*, Riga, 1970, pp. 13.

4 Lazdiņš J., Osipova S., "Latvijas tiesību sistēmas ģenēzes un evolūcijas aspekti Eiropas tiesību kontekstā", *Tiesību harmonizācija Baltijas jūras reģionā pēc ES paplašināšanās*, Riga, 2012, pp. 324, 325.

5 Вышинский А. Я., *Вопросы теории и права*, Москва, 1949, pp. 170. This point was so important for the Soviet regime that it was imposed also on the so-called socialist "satellite states" See: Fiedorczyk P., "The Principles of the Soviet Family Law and the Way of its reception in the legislation of Socialist Countries", *Pocta Karlu Schellemu k 60. narozeninam*, ed. M. Frýdek, J. Tauchen. Ostrava, 2012, pp. 244–252, Meder S., *Rechtsgeschichte*, 2ªed., Böhlau, 2005, pp. 387, 388, and Reich N. *Sozialismus und Zivilrecht. Eine rechtstheoretische-rechtshistorische Studie zur Zivilrecht Theorie und Kodifikationspraxis im sowjetischen Gesellschaft- und Rechtssystem*, Athenäum, 1972, pp. 55.

The application of regulatory legal acts in the Soviet law was usually limited to their grammatical interpretation. Sometimes, when this was insufficient, the legislator's intention was considered, which could be found among the aims defined at the Communist Party congresses. This was the practice because the Communist party had undertaken the responsibility for the development and improvement of the Soviet legal system.[6] Thus, it can be said that the Communist party, rather than the parliament, was the true driver of law-making. The socialist legality category was in use in the Soviet state, which, instead of the formal compliance with the law, presupposed a purposeful application of the law to promote the achievement of the Soviet state's political goals. For example, Section 1 of the RSFSR Civil Code (1922) stipulated that the civil rights of a person were not protected in cases when those rights were "used contrary to their socio-economic purpose".[7]

The Soviet idea of law is reflected, e.g., in the definition of law provided in A. Vyshinsky's report, which was presented at the All-Union Conference on Soviet Law and State Science on 16 July 1938: "Law is the aggregate of rules of conduct expressing the will of the ruling class and of customs and rules of community life, which were legislatively sanctioned by the state authority, the application of which is secured by state coercion in order to protect, consolidate, and develop social relations and social order beneficial and desirable to the ruling class".[8]

The Marxist-Leninist ideology advocated actual equality in society, including gender equality, which determined the Soviet state policy in marriage and family law. In the *Manifesto of the Communist Party* by Karl Marx and Friedrich Engels, marriage was clearly described as an institution allowing a man (husband) to exploit a woman (wife), and parents – to exploit children. Quoting the *Manifesto*: "On what foundation is the present family, the bourgeois family, based? On capital. On private gain ... But you Communists would introduce a community of women, screams the bourgeoisie in chorus. The bourgeois sees his wife a mere instrument of production. He hears that the instruments of production are to be exploited in common and, naturally, can come to no other conclusion that the lot of being common to all will likewise fall to the women. He has not even a suspicion that the real point aimed at is to do away with the status of women as mere instruments of production."[9] Besides, Friedrich Engels had initially believed in the "utopia" of both the marriage and the family eventually disappearing in the Communist society of equals. Later

6 Vēbers J., *Padomju civiltiesības. I daļa. Vispārīgā daļa. Īpašuma tiesības*, Riga, 1979, pp. 13.

7 *KPFSR civilkodekss: Ar pārgrozījumiem līdz 1940. g. 15. nov.*, Riga, 1940.

8 Вышинский А. Я., *Вопросы теории и права...*, pp. 83.

9 Markss K., Engelss Fr., Komunistiskās partijas manifests, online: http://www.satori.lv/article/komunistiskas-partijas-manifests (20.07.2017).

on, the Marxist classics revised this idea, saying that only the nature of the family would change. It would become a union of two free individuals with equal rights, based on love and mutual respect.[10] Thus, the essence and social role of marriage and family was revised in the Soviet state, and law conforming with the ideology was developed.

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Soon after the Bolshevik Revolution in Russia on 7 November 1917, the new government started introducing regulatory changes in marriage and family law. Before that, marriage in Russia was mainly regulated by the church law, and family – by the local civil law and common law. The families of country landlords and townspeople lived by the church and civil laws, and those of peasants – by church law and common law. Also, the vast empire itself, with different ethnic and religious groups, made it inevitable that civil law differed from one region to another. The Baltic province (guberniya) had its own civil law,[11] and Finland, Poland and other territories also had some legal autonomy.

From the second half of the 19th century onwards the issue of divorce was paid the broadest attention in the marriage law of the Russian Empire. Though allowed in Tsarist Russia, divorce, alongside the conclusion of marriage, fell within the competence of the Church. The canonical process of the dissolution of marriage was long and complex. Divorce itself was admissible only in exceptional cases, which were specifically provided for by laws. Such cases were, e.g., the husband's sexual incapacity lasting at least three years, infidelity, a spouse's retirement to the convent. Divorce was an extraordinary measure in the Russian Empire: only 0,029 marriages per 1000 people per year were being dissolved at the beginning of the 20th century.[12] Liberalisation of divorce was unsuccessfully argued for by both the liberals, who advocated freedom of the individual, and social democrats, who considered that the existing law was discriminatory against a woman, turning her into her husband's property and object of exploitation. The socialists saw divorce, i.e., women leaving their husbands' control, as a prerequisite for female emancipation.[13] This was

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10 Декрет о расторжении брака, 16 (29) декабря 1917 г., online: http://www.1000dokumente.de/index.html/index.html?c=dokument_ru&dokument=0002_ehe&object=context&l=ru (15.01.2016).

11 Свод гражданских узаконений губерний Прибалтийских (Часть III Свода местных узаконений губерний Остзейских), Петроград, 1915.

12 Миронов Б. Н., *Социальная история России периода империи (XVIII – начало XX вв.): генезис личности, демократической семьи, гражданского общества и правового государства*, 1 том, Санкт-Петербург, 1999, pp. 176.

13 Антипова Л., *Введение. Декрет о расторжении брака, 16 (29) декабря 1917 г.*, online: http://www.1000dokumente.de/index.html/index.html?c=dokument_ru&dokument=0002_ehe&object=context&l=ru (15.01.2017).

incompatible with the state policy of the Empire, since a stable monogamous family, which also formed a single economic unit, was considered as an essential constant value; therefore, the process of divorce was not simplified.

After the left-wing forces came to power in Soviet Russia, it was widely discussed whether marriage and family are at all necessary in the new society, which could develop as a society free from shackles. Ideas were expressed on free sexual relationships and on the community of women, which had been mentioned ironically in the *Manifesto of the Communist Party*... And still, the majority of the revolutionaries stood in favour of preserving, at least temporarily, the institution of marriage, though transforming it substantially in accordance with new ideals – namely, with the vision of a family as a union of equal spouses free from economic interest. The development of the Soviet family law starts with two decrees, signed by Lenin, of the All-Russian Central Executive Committee and the RSFSR Council of People's Commissars, proclaiming the new Soviet state's family law policy. This policy was focused on "putting an end to the enslaved position of women and clearing the state of inequality and the remnants of feudalism."[14]

Since Lenin, too, viewed the bourgeois family as an institution enslaving women, the first regulatory act in Soviet family law was the decree *On Divorce* of 16 (29) December 1917, stipulating that the Church's authority to dissolve marriage was replaced with that of the State. The authorities mentioned in the Decree as those competent to dissolve a marriage were the local courts and civil registries. A person wishing to apply for divorce neither had to state the reason for divorce in the petition nor had to provide any kind of proof. In examining the case, the judge heard both spouses, and the wish of one spouse to divorce was enough to uphold his or her claim. To dissolve a marriage in a civil register office, the consent of both spouses was necessary.[15] Thus, the freedom of divorce was introduced in Soviet Russia, based on the principle of equality of both spouses.[16] The initial procedure for divorce established in the Soviet law was revolutionary in its liberalism. Later, it was revised substantially.

On 18 (31) December 1917, the decree *On Civil Marriage, Children, and Introduction of Civil Registry Books* was issued,[17] by which the State abolished the church marriage as an official form of marriage and took over from the Church the rights to keep civil records. From a union blessed by God, the marriage

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14 Vēbers J., *Ģimenes tiesības*, Riga, 1970, pp. 14.

15 Антипова Л., *Введение. Декрет о расторжении брака, 16 (29) декабря 1917 г.*

16 Vēbers J. Ģimenes tiesības, p. 13.

17 Декрет ВЦИК и СНК о гражданском браке, о детях и о ведении книг актов состояния 18(31) декабря 1917 г., online: http://www.hist.msu.ru/ER/Etext/DEKRET/17-12-18.htm (14.01.2017).

was transformed into a civil contract. This was not a revolutionary step for early 20th century Europe, as the separation of the State and the Church was not new. Already at the end of the 18th century, in France, the foundation of civil marriage was laid as the only legal form of concluding a marriage. The mentioned decree envisaged a family as a monogamous, voluntarily formed union of absolutely equal partners, and provided for separate property of spouses to prevent the wife from becoming economically dependent on her husband, as had happened previously, the husband becoming his wife's guardian and the manager of her property after marriage. The decree emphasised the equality of spouses in personal relationships and in property matters.[18] By the same decree, extramarital children were given equal rights with children born in wedlock. It can be said that this concept made the Soviet law revolutionary for Europe, whose most conservative part arrived at similar legal solutions only in the second half of the 20th century.

Though not really a regulation in the sphere of family law, another step by the Soviet power to protect women's rights needs to be mentioned – the decree of 18 November 1920, *On the Protection of Women's Health*, legalising, for the first time in the world, a woman's right to choose abortion, which, according to the decree, would be performed free of charge by a physician in a state hospital.[19] The Soviet power did not support abortions in principle; however, by this decree it fought against illegal abortions that threatened a woman's health and life.

The State became completely separated from the Church in Soviet Russia by the decree of 2 February 1928.[20] Though proclaiming freedom of religion, the decree contained restrictions on the rights of the believers, which were later followed by open repression against them. The decree made a substantial change to the civil law, determining that the Church and any religious organisation were not legal entities and therefore could not own property; the existing property of the Church being taken over by the State. Moreover, oath as proof was abolished.

On 16 September 1918, the first Soviet *Code of Laws on the Documents of Civil Status, and on Marriage, Family, and Guardianship Law* was adopted.[21] The Code confirmed that the Soviet law was following Continental Europe's tradition

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18 Vēbers J. Çimenes tiesības, p. 13.

19 Постановление Наркомздрава РСФСР, Наркомюста РСФСР от 18.11.1920 "Об охране здоровья женщин", online: http://lawru.info/dok/1920/11/18/n1205637.htm (11.02.2017).

20 Декрет Советом Народных Комиссаров РСФСР 23 об отделении церкви от государства и школы от церкви принятый января 1918 года, online: http://drevo-info.ru/articles/15402.html (15.01.2017).

21 Кодекс законов об актах гражданского состояния, брачном, семейном и опекунском праве (принят 16.09.1918), online: http://www.lawrussia.ru/texts/legal_346/doc346a690x330.htm (15.01.2017).

of codifying law by branch. The novelty was that marriage and family law was separated out from civil law, into an individual and independent branch of law; this demonstrated that the Soviet family law was not grounded in property interests, which were regulated and protected by the civil law.

The Code continued the tradition already established by the decrees, according to which all spouses were equals. The Code stated that a marriage was a union voluntarily entered into by both parties. The preconditions for marriage were: age qualification (women could marry from the age of 16, men – from the age of 18), and other qualifications – one had to be of sound mind, not married at the moment of concluding the new marriage, future spouses could not be close blood relatives – relatives in the descending or ascending line, as well as siblings or half-siblings. Thus far, the requirements of the Soviet law did not contradict the European legal system. The innovation was contained in the sections cancelling the previously existing restrictions on marrying. Sections 71 and 73 allowed marriage between the representatives of different confessions, as well as the marriage of monks, the clergy, and persons who had sworn celibacy. A marriage could be recognised as null and void only by the court. The regulation on divorce had been transposed from the decree. The Code also provided for maintenance (alimony) obligations. After the conclusion of marriage, the spouses had to take a common family name, however, they were free to choose either the husband's or the wife's surname (Section 100).[22] The spouses were also given rights to freely choose their place of residence, and they had no obligation to have one shared place of residence (Section 104). No community of property developed between the spouses (Section 105). No common property of parents and children developed, either: it was strictly stipulated that children had no rights to their parents' property, and the parents had no rights to the property of their children. Minors and disabled children were entitled to maintenance allowance from their parents (Sections 160, 161); however, the parents were released from their obligations to their children in cases where the State had undertaken to care for them. To a certain extent, it was intended to implement the utopic socialist ideals, according to which the upbringing of the new generation was the responsibility of the whole society.

The Code recognised actual (biological) origin as the proof of relation, and provided for the principle of equality of all children, i.e., extramarital children were made equal in rights to children born in marriage.[23] The Code provided

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22 Кодекс законов об актах гражданского состояния, брачном, семейном и опекунском праве (принят 16.09.1918), online: http://www.lawrussia.ru/texts/legal_346/doc346a690x330.htm (15.01.2017).

23 Веберс Я. Р., *Родство как основание возникновения прав и обязанностей по советскому семейному и гражданскому праву*, Москва, 1963, с. 3.

that all children that had been adopted or taken into care before the Code came into force were equal to biological children; however, further on adoption would be prohibited in Soviet Russia. The prohibition of adoption had its roots in the conviction that the Soviet state itself would take care of the children that, for various reasons, were left without parents.[24] These norms, too, reflect the idea of an ideal future society, in which the State, i.e., the whole of society, would take care of its children.

The concept of "civil marriage", which was used in the decrees and in the 1918 Code as opposed to the concept of "church marriage", was not used in subsequent regulations. The terms used in further regulations were "marriage" and "registered marriage".[25] In addition, the RSFSR *Code of Laws on Marriage, Family, and Guardianship* of 19 November 1926, introduced a completely new legal concept – "marriage in fact", meaning an unregistered life together as a couple, which, as to its legal effects, i.e. the persons' mutual rights and obligations, was equated to a registered marriage.[26]

The reason for legalising actual cohabitation was that there were many couples in the new Soviet state who had not registered their relationships during the Civil war and also later.[27] The population census in 1923, revealed that there were approximately 100 000 unregistered couples in Soviet Russia, who had been living together for a long time and were raising children.[28] The same problem exists nowadays, when in a great number of European countries up to the half of all new-born children are born to couples who have not registered their marriage.[29] The Soviet legislator in the beginning of the 20th century responded to this social tendency by introducing the "marriage in fact" concept. Section 3 of the 1926 *Code of Laws on Marriage, Family, and Guardianship* provided for the right of the couples living together without registration to register their relationship at any time, registering also the real date their life together had started. It is most interesting that also the "marriage in fact" could be dissolved in court, which, in examining the case, first had to find out whether the actual cohabitation, the elements of which were defined in Section 12 of the Code, had really taken place: "a shared place of residence, a common household, the fact

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24 Кодекс законов об актах гражданского состояния, брачном, семейном и опекунском праве (принят 16.09.1918).

25 Сарычева Н.В., *История становления института гражданского брака в России*, online: http://nina-saricheva.ru/stattya2.html (15.01.2017).

26 Кодекс законов о браке, семье и опеке РСФСР, online: http://www.lawrussia.ru/texts/legal_861/doc861a657x504.htm (18.01.2017).

27 Фархтдинов Я.Ф., Камалдинов Р.Р., *Этапы развития семейного права России*, online: http://www.tisbi.ru/home/science/journal-of-tisbi/2000/4/25/ (19.01.2017).

28 Сарычева Н.В., *История становления института гражданского брака в России*.

29 *Kind ohne Trauschein: Welche Dokumente Väter benötigen. Berlin.de. Das offizielle Haupstadtportal*, online: https://www.berlin.de/special/familien/2901458-2864562-kind-ohne-trauschein-welche-dokumente-va.html (05.02.2017).

of actual marital relationship being exposed to third persons in private correspondence or other documents, as well as, depending on the circumstances, mutual material support, joint efforts in raising children, and other elements".[30] While encouraging people to register their "marriages in fact", the legislator simultaneously simplified, even further, the process of divorce. Section 19 of the Code prescribed registration of divorce in a civil register office, which also registered on the spot which parent the common children were going to live with, as well as the procedure for paying the maintenance allowance. A court could establish the fact of divorce in case no certifying documents were available, but, according to the Code, the court was not the body competent to dissolve a marriage.[31] Later on, when the Soviet state decided that a marriage was a value, this expressly liberal approach to divorce was criticised in the Soviet family law doctrine, as "in practice, it had diminished the role of family law in the formation of new family relationships, created an irresponsible attitude to marriage and family in some less conscientious citizens."[32]

Persons that had lived in a "marriage in fact" often turned to the court after the death of their "spouse in fact" in order to be able to claim inheritance, as, under the legal regulation on notaries, a notary could not recognise a "spouse in fact" as an heir.[33] The situation was further complicated by the fact that, through the 1926 Code, Soviet Russia's legislator revised the presumption of proprietary relations between spouses, moving on from the presumption of separate property of spouses to the community of property. It turned out that the former presumption had given no material protection to those women who, having no paid employment, were managing the household and taking care of children, and were left without means of subsistence after divorce. Moreover, the Soviet state had learnt that the liberal marriage in rural areas had become a means of exploiting women, as the peasants, making use of the fast and cheap procedure of marriage and divorce, as well as of the separate property presumption, had caught the trick of taking a wife for one season, namely, for summer or for harvest, and, after the work in the fields was done, divorcing and kicking the wife out of the house without any means of sustenance.[34] In the legal doctrine of the Soviet period, it was stressed that the amendments introduced by the 1926 Code were aimed at protecting the

30 "12. Доказательствами брачного сожительства в случае, если брак не был зарегистрирован, для суда являются: факт совместного сожительства, наличие при этом сожительстве общего хозяйства и выявление супружеских отношений перед третьими лицами в личной переписке и других документах, а также, в зависимости от обстоятельств, взаимная материальная поддержка, совместное воспитание детей и пр." Кодекс законов о браке, семье и опеке РСФСР.

31 Кодекс законов о браке, семье и опеке РСФСР.

32 Vēbers J., *Ģimenes tiesības*, p. 15.

33 Сарычева Н.В., *История становления института гражданского брака в России*.

34 Ibidem.

interests of women and minors, simultaneously strengthening the role of the family in the state, yet, sadly, diminishing the role and the responsibilities of society in marriage and family relationships.[35] This was confirmed also by the new principles of establishing parentage. Previously, the principle of biologic origin, i.e. blood relation, was essential in establishing parentage, which was to a large extent attested by the marriage of the child's parents, i.e., by the presumption that the child's father was his/her mother's husband; after the adoption of the 1926 Code and the introduction of the actual, i.e. unregistered, marriage of the child's parents, a man was allowed to register paternity regardless of the fact of marriage between the parents, which sometimes meant – regardless of the true origin of the child. It was important that a person would recognise the child as his own, and the State would register it. The State presumed that the biological father would recognise paternity, but it was not always the case in practice. For cases when a man did not wish to recognise a child, the Code envisaged establishment of paternity through a court action. Parentage was viewed as a social, rather than biological, link between parents and children.[36] It should be noted that there were many children at the time, whose parentage was not registered at all. The institution of adoption was also restored, with the condition that only juveniles and minors could be adopted. The following persons were not allowed to become either adopters or guardians: persons whose source of sustenance was serving in a religious cult (monks and the clergy), persons who had worked in the home affairs system of Tsarist Russia (gendarmes, policemen, officials in the sector), representatives of the Russian royalty, the mentally ill and the weak-minded, persons that had been punished for seduction and for committing crimes for personal gain. This restriction was, to a large extent, a transposition of the restrictions on the active and passive electoral rights set by Article 69 of the 1925 RSSR Constitution for the above-mentioned and some other categories of persons (those hiring labour force; those living on unearned income, i.e. interest on capital, rent, etc.; private traders and brokers).[37]

The adoption and implementation of the 1926 Code marked the ending of the liberal stage in Soviet marriage and family law, which in the Soviet doctrine was singled out as the socialism-building stage. Summing up the genesis and evolution of Soviet marriage and family law during the period from the Bolshevik Revolution until the time of Stalin's terror, one may highlight the following:

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35 Vēbers J., *Ģimenes tiesības*, p. 15.

36 Веберс Я. Р., *Родство как основание возникновения прав и обязанностей...*, p. 3.

37 Постановлением XII Всероссийского Съезда Советов от 11 мая 1925 года «Об Утверждении Конституции (Основного Закона) РСФСР», online: http://constitution20.ru/ckeditor_assets/attachments/39/konstitutsiya_rsfsr_1925.pdf (18.01.2017).

1. Separation of the State and the Church, civil marriage being established as the only type of marriage registered by the State; at the same time – tolerance of unregistered cohabitation. These, alongside the simple marriage registration and divorce procedures, were expressly liberal trends.
2. Acknowledgement of full gender equality, not only in public law, but also in private law, was a progressive step, which translated the socialist ideals into action.
3. A woman's free choice of abortion paid for by the State.
4. Legal equality of all children, regardless of whether they were born in or outside marriage.
5. Creation of marriage and family law as an independent area of law.

Thus far, the Soviet law was in the legal avant-garde of its time and delineated the legal solutions to which the rest of Europe only came as late as the second half or even the end of the 20th century. At the same time, it should be noted that the respective rights and freedoms did not apply to all members of society, as part of the society had limited political and civil rights, including those belonging to family law, for example, the rights to adopt children or become guardians. Those were, in the first place, the gentry and the clergy of the former Russian Empire, as well as merchants and brokers, who were limited in their rights. Equality only applied to workpeople: the proletariat, peasants and, partially, the intelligentsia (according to the Soviet concept, the intelligentsia were servants, their mission being to provide the working people with the services of physicians, teachers, librarians, or to entertain them with the creative work of artists, writers, musicians), insofar as the views and works of particular members of the intelligentsia were concerned, they were not recognised as anti-state. Many members of the intelligentsia, however, left the country as dissidents, which is a subject for another research.[38]

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The consolidation of Stalin's power, the formation of a totalitarian state, and the beginning of a regime of terror, marked a significant change in Soviet state policy; the rights and freedoms of the population were drastically reduced. The state was assuming an increasingly wide responsibility for people's lives, which meant the strict regulation of social relationships and wider restrictions. The 1936 Constitution was of great legal importance; in it, the Soviet state undertook to guarantee its citizens broad fundamental rights, while simultaneously establishing the citizens' obligations to the State and, thus, also

[38] Osipova S., "Die Entwicklung der lettische Rechtssprache nach der Gründung der Republik Lettland am Beispiel der juristischen Ausbildung", *Einheit und Vielfalt in der Rechtsgeschichte im Ostseeraum.* Hrsg. M. Luts-Sootak, S. Osipova, Fr. L. Schäfer, Peter Lang Verlag, 2012, pp. 173–185.

restrictions on freedoms.[39] This constitution formed a totalitarian state, proclaiming the principle of the authority of the people, which consolidated the leading and directing role of the Communist party in Soviet society. In the Soviet doctrine, the period following the adoption of the 1936 Constitution was referred to as the stage of "Victorious Socialism".[40] At present, historians characterise this period (until Stalin's death in 1953) as a totalitarian State's terror against its own population.

Admittedly, the strengthening of the State's role in the life of a Soviet citizen started earlier than 1936 – with the compulsory collectivisation, i.e. integration of individual farms into collective farms (kolkhozes), the state industrialisation plans, and the increasingly broadening state regulations in the spheres previously belonging to private law. Already from 1929, the ruling circles had been talking about the "marriage and family crisis" emerging in Soviet society. Homeless children, socially and economically unprotected women, falling birth rate – all these were objective reasons for the State to search for new solutions. The answer was an abrupt change of the state marriage and family policy, renouncing liberalism, turning against sexual liberty and the liberal forms of matrimonial alliance, which came to be described as unethical, incompatible with Soviet morals, undermining social discipline, consolidation, mobilisation and collectivisation of society which had been started in line with the requirements of the newly forming totalitarian state.[41] The new concept in family law, which was based on the correlation between a woman's choice to bear and raise children and a stable family, consisted in the idea of building a stable monogamous family entrusted with the performance of publicly important tasks – to reproduce the population and to bring up responsible new Soviet citizens. The Soviet family law doctrine stated that the "Family, alongside the reproduction of people, which is its natural function and a most important one, performs the function of bringing up new members of society in the communist spirit, developing their personality, as well as important economic functions".[42] A monogamous, politically loyal family was proclaimed "the fundamental cell of Soviet society" and came under the State's care and supervision.[43] No more talks went on in the state about the disappearance of the family in communist society; quite the opposite, the strengthening of the institution of family was discussed as a task of national impor-

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39 Конституция (Основной закон) СССР в редакции от 5 декабря 1936 г., online: http://constitution.garant.ru/history/ussr-rsfsr/1936/red_1936/3958676/ (22.01.2017).

40 Коханова Л. А., Алексеева Т. С., *История Российской государственности*, Москва, 2008, p. 310.

41 Антипова Л., Введение. Декрет о расторжении брака, 16 (29) декабря 1917 г.

42 Vēbers J., *Latvijas PSR ģimenes tiesības*, Riga, 1984, p. 7.

43 Стайтс Р., *Женское освободительное движение в России. Феминизм, нигилизм и большевизм. 1860–1930*, Москва, 2004, p. 522.

tance. On the regulatory level, this policy change was first reflected in the decision issued by the USSR Central Executive Committee on 27 June 1936 – "On the prohibition of abortions, increases in financial aid to parents, establishment of state aid to large families, expansion of the network of maternity homes, nurseries and kindergartens, the reinforcement of criminal responsibility for the non-payment of alimony, and on some amendments to divorce regulations".[44] This regulatory act gave a start to the policy that remained the Soviet state's unchanged priority in family law. Women's freedom to choose abortion, which had been established in Lenin's time, was abolished. Russian researchers nowadays speculate that the prohibition of abortions could have been related to Stalin's plans to build a great, densely populated country with a numerous army.[45] The prohibition of abortions in the USSR was cancelled in 1955.

It was this conservative form of the Soviet marriage and family law that was enacted in Soviet Latvia in the 1940s, with the State undertaking both the care and a certain degree of control of the family. The real civil equality, and the equality of spouses, was also new to Latvian society. Although women in Latvia had acquired political equality along with the founding of the Republic of Latvia in 1918, in family law, even after the adoption of the new Civil Law in 1937, the husband remained the head of the family, and gender equality in civil law was only just beginning to develop.[46]

On 26 November 1940, the Republic of Latvia Civil Law of 1937 became invalid in the Latvian SSR, and the 1926 RSFSR *Code of Laws on Marriage, Family, and Guardianship* came into force. Simultaneously, civil registry offices were reorganised, and the registration of civil status documents was excluded from the church's competence (under the 1937 Civil Law, marriage could be concluded by both the state civil registry offices and churches of traditional religious confessions[47]).[48] On 4 April 1941, the bodies of trusteeship and guardianship were reformed, the respective functions being transferred to the executive committees of district, town and parish soviets (councils) of workers' deputies. Previously, the bodies in charge of those matters had been orphans'

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44 Постановление ЦИК СССР N 65, СНК СССР N 1134 от 27.06.1936 (извлечение) О запрещении абортов, увеличении материальной помощи роженицам, установлении государственной помощи многосемейным, расширении сети родильных домов, детских яслей и детских садов, усилении уголовного наказания за неплатёж алиментов и о некоторых изменениях в законодательстве о разводах, online: http://www.lawrussia.ru/texts/legal_346/doc346a242x337.htm (22.01.2017).

45 Тольц М., *О советском опыте регулирования семейной жизни граждан*, online: http://www.gazeta.ru/comments/2014/07/22_x_6129129.shtml (09.07.2017).

46 Osipova S., "Sieviešu tiesības Latvijā 1918.–1940.: starp politisko pilntiesību un civiltiesisko nevienlīdzību", *Latvijas Universitātes žurnāls. Juridiskā zinātne*, vol. 8, Riga, 2015, pp. 111–125.

47 51. pants. "Latvijas Republikas Civillikums", *Valdības Vēstnesis*, vol. 41, 1937, p. 2.

48 Vēbers J., *Ģimenes tiesības*, p. 19.

courts.[49] As noted by J. Vebers, professor of Soviet family law, "the further development of family legislation in Latvia [Latvian SSR] is no longer separable from the development of family legislation in the whole of the USSR."[50]

During World War II, while the territory of Latvia was occupied by Nazi Germany (1941–1944), the institution of marriage strengthened in Soviet Russia, as well as the state support to mothers and to children without parents. A few decrees need to be mentioned in this connection:

1. The decree of 21 November 1941, introducing the childlessness tax to be paid by single citizens and childless couples. The tax had to be paid by men between the age of 20 and 50, and by women aged between 20 and 45. An individual was liable to the tax until the birth of his/her child.[51] The funds collected were intended to be used for the state care of war orphans and as state support to large families. The childlessness tax, under various conditions, remained in place in the Soviet tax system until the very collapse of the state in 1990/1991. This tax, too, is indicative of the public dimension in the life of Soviet citizens: bringing up children was the responsibility of the whole of society. People having no children of their own had to bear part of the financial burden of raising orphans or children whose parents were poor.

2. The decree of 8 September 1943 *On Adoption*, providing for the right of adopters to give the child their name; the child's consent was needed if the child was over 10 years of age. The child's new name was recorded in birth registry books.[52]

3. The decree of 8 July 1944 "On the increase in state aid to expectant mothers, mothers of large families and unmarried mothers, on the strengthening of protection of motherhood and childhood, on the institution of the honorary title of Mother-Heroine, and on the establishment of the Order of the Glory of Motherhood and Motherhood Medal". This decree expanded the childlessness tax to include those parents who had one or two children. However, the rate payable was differentiated. People without children paid 6% of their income, parents with one child paid 1%, and parents with two children paid 0.5%. In turn, mothers of at least 3 children were receiving substantial state aid. Simultaneously, this decree ended the legality of actual cohabitation as a form of marriage, its section 19 providing that only a registered marriage gave rise to those rights and responsibilities of the spouses which were guaranteed by laws. The decree encouraged the couples living in actual cohabitation to reg-

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49 "Latvijas Republikas 1934. gada 2. augusta "Likums par pilsētu bāriņtiesām", *Valdības Vēstnesis*, vol. 177, 1934, p. 1.

50 Vēbers J., *Ģimenes tiesības*, p. 20.

51 Указ Президиума Верховного Совета СССР от 21 ноября 1941 года О налоге на холостяков, одиноких и бездетных граждан СССР. *Ведомости Верховного Совета СССР*, № 42, 1941.

52 Указ Президиума Верховного Совета СССР от 8 сентября 1943 года Об усыновлении, *Ведомости Верховного Совета СССР*, № 34, 1943.

ister their marriage, indicating the actual time of their life together. Section 20 of the decree revoked the right of a mother to apply to court to establish paternity and to recover child support funds from a person she was not married to. The new term "lone mother" was introduced, to denote a mother who gave birth to a child while being unmarried. If a child's mother was not married, the child, being registered in accordance with the decree, received his or her mother's surname. Furthermore, the decree introduced the requirement that the fact of marriage be fixed in the spouses' passports, specifying information about the other spouse, the place and time of concluding the marriage. Divorce was transferred to the exclusive competence of the people's court, and a complex divorce procedure was established.[53] The primary task of the court, when considering a case, was to reconcile the spouses. Only in cases when the first instance court had failed to reconcile the spouses did the claimant have the right to appeal to the second instance court, where the case would be examined on merits.[54] This immediately reflected in the statistics of dissolved marriages: 205 000 marriages were dissolved in the USSR in 1940, and 6 600, which is 31 times less, in 1945.[55] Because of the state ideology, as well as the fact that, in accordance with the requirements set in the Decree, the divorce procedure was announced in the local press, those couples who remained committed to divorce were generally condemned by society and considered to be without morals. The party responsible for the divorce (an adulterer or a drunkard), if he or she was unable to salvage the marriage, was often punished by being expelled from the Communist party.[56]

4. The last wartime decrees to change the legal regulation of the family and marriage sphere were the decree of 10 November 1944 "On the procedure for acknowledging a marriage in fact when one of the spouses has died or gone missing in action"[57] and the decree of 14 March 1945 "On the application of the USSR Supreme Council Presidium's decree of 8 July 1944 to the children whose parents have not registered their marriage".[58] These decrees made it

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53 Указ Президиума Верховного Совета СССР от 8 июля 1944 г. "Об увеличении государственной помощи беременным женщинам, многодетным и одиноким матерям, усилении охраны материнства и детства, об установлении высшей степени отличия – звания "Мать-героиня" и учреждении ордена "Материнская слава" и медали "Медаль материнства", online: http://base.garant.ru/186976/ (12.07.2017).

54 Фархтдинов Я.Ф., Камалдинов Р.Р., *Этапы развития семейного права в России*.

55 Тольц М., *О советском опыте регулирования семейной жизни граждан*.

56 Кощеев А. В., "Расторжение брака по советскому законодательству", *Вестник Вятского государственного гуманитарного университета*, vol. 4, 2010, p. 77.

57 Фархтдинов Я.Ф., Камалдинов Р.Р., *Этапы развития семейного права в России*.

58 Указ Президиума Верховного Совета СССР от 14 марта 1945 г. «О порядке применения Указа Президиума Верховного Совета СССР от 8 июля 1944 г. в отношении детей, родители которых не состоят между собой в зарегистрированном браке», *Ведомости Верховного Совета СССР*, № 15, 1945.

possible for those who, because of the war, had been unable to comply with the decree of 8 July 1944 and register their marriage, to protect their rights, including the rights of their children, enabling the latter to claim inheritance from a father who had been killed in the war.

All these changes were largely due to the war, during which the mobility of people was high and stable social links became broken; thus, it was difficult to prove the existence of actual cohabitation in court, with the help of witnesses, and, moreover, a considerable number of people were forming several parallel families. It should be taken into account that a large number of farmers who had been forced into kolkhozes during collectivisation had no passports until the time they went to war, which made it impossible for them to leave their home villages. A "great migration of peoples" occurred during the war with many men not returning home. This too affected the stability of the institution of marriage. Conversely, the post-war years in the USSR were marked by rapid growth in the number of registered marriages, which was due both to the State's requirement of registered cohabitation and to the advent of peace with people returning home to their loved ones after a long period of absence.[59]

Summing up, we may say (following from its earliest stages the establishment of the principle of all citizens being equal in marriage and family rights, regardless of their beliefs or ethnic origin, and in particular the equality of men and women in family relations) that Soviet family law in the years of Stalin's rule renounced liberalism and the principle of non-interference of the State in family relations, and established the following principles in State policy and law:

1. the principle of family protection by the state, which was tightly connected to the principle of family relations being legally regulated by the state. This was established not only in the laws regulating marriage and the family, but also in the constitutions of the USSR and the LSSR.[60]
2. the principle of protecting the interests of mother and child, which, *inter alia*, was aimed at supporting mothers and enabling them to combine the upbringing of a child with full-time employment by creating in the country a network of nurseries, kindergartens, schools with extended-day groups, and boarding schools.
3. the joint responsibility of society for the upbringing of children, including their sustenance, as evidenced by the imposition of the childlessness tax.

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59 Араловец Н.А., *Городская семья в России, 1927–1959 гг.*, Тула, 2009, pp. 154–155.

60 Both in the 1936 and the 1977 Constitutions of the USSR.

The following was proclaimed in the marriage law: the principle of monogamy, the principle of free and voluntary marriage, the freedom of divorce under state control.[61]

The extremely complex and burdensome divorce procedure, according to which the court could refuse to dissolve a marriage if it did not see legal grounds for a divorce, was in force in the USSR for 21 years. The decision of the USSR Supreme Court Plenum of 16 September 1949, which contained explanations of regulations binding on courts, stipulated that a court could not dissolve a marriage if the applicant's motives specified in the divorce petition were incompatible with communist morals. It was only in 1969 that this binding explanation was cancelled by the USSR Supreme Court Plenum.[62] From 1946 onwards, a simplified divorce procedure was envisaged only in exceptional circumstances provided for by law, e.g., when one or other of the spouses was: actively serving a prison sentence of longer than 3 years duration, or suffering from a chronic incurable mental disease.[63]

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After Stalin's death in 1953, the "strong hand of the state" relaxed its grip on many legal matters. This period is referred to as "Khrushchev's Thaw" (Nikita Khrushchev being the First Secretary of the CPSU from 1953 to 1964). This period began with the 20th Congress of the CPSU, at which Khrushchev gave a speech "On the Cult of Personality and Its Consequences".[64] The state government policy introduced by Stalin was condemned, as were the repressions against the people, and the course of the state policy was altered radically in pursuit of the following aim: to restore the principles of socialist legality and legal order, democratisation and the rights and freedoms of the citizens.[65] Even so, the "thaw" in the USSR under Khrushchev's rule did not touch on family law, as the family policy established in Stalin's time continued and no regulations were amended.

The complicated and humiliating procedure for divorce was in place up to Leonid Brezhnev's time (1964–1982), when, on 10 December 1965, the decree "On amendments to the procedure for hearing divorce cases in courts"

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61 Vēbers, J., *Latvijas PSR ģimenes tiesības*..., p. 13.

62 Пленум Верховного Суда СССР Постановление от 4 декабря 1969 года N. 10. "О практике применения судами основ законодательства Союза ССР и союзных республик о браке и семье", online: http://xn--b1azaj.xn--p1ai/USSR/postanovlenie-plenuma-vs-sssr/N10-ot-04.12.1969-sssr.html (03.03.2017).

63 Кошеев А. В., "Расторжение брака по советскому законодательству", с. 77.

64 Хрущев Н.С., "Доклад на XX съезде КПСС О культе личности и его последствиях", *Известия ЦК КПСС*, № 3, 1989.

65 Биюшкина Н.И., "Принципы советского права в контексте кодификации 1950-х – 1960-х гг.", *Genesis: исторические исследования*, vol. 6, 2015, с. 291–310.

was passed. This decree repealed the obligation to publish information about a divorce process in the local press, as well as the two-stage hearing of a divorce case in court, the first court trying to conciliate the spouses, the second – dissolving the marriage. After the amendments, divorce cases were heard by a single court.[66]

This was not the end of changes in the marriage and family law, as work started in the union republics to develop new codes of laws on marriage and the family. The work in fact started in the heart of the federation – Moscow, the USSR Supreme Council approving, on 27 July 1968, the *Fundamentals of Legislation of the USSR and the Union Republics on Marriage and the Family*.[67] The union republics needed to follow the guidelines set in the Fundamentals when developing their own codes.

To begin with, the new fundamentals of legislation on marriage and family simplified the divorce procedure. The new regulation provided that, if both spouses wished to divorce and had no underage children and property disputes, the marriage could be dissolved in a civil status registry office. Such procedure was also incorporated in the union republics' codes, including the LSSR Code of 1969 *On Marriage and the Family*, which stipulated that a marriage was dissolved in court, and in cases when "divorce has been agreed on by spouses that have no underage children" (Section 39) or "the marriage to be dissolved is to a person that has been recognised as missing, legally incapable, or has been punished by imprisonment for a period of at least three years" (Section 40), the marriage was dissolved by a civil status registry office. The divorce became absolute after three months following the submission of petition, so as to give the spouses time to reconsider.[68]

The principle of "Soviet social justice" was incorporated into the new regulation to an even greater extent – e.g., the regulation on alimony claims was developed in a more detailed way.[69] For this reason, some legal norms were made retroactive. The retrospective effect applied to those family relations which had not been regulated in the 1926 Code,[70] e.g., declaring a marriage null and void if it had been concluded without the intention to form a family or if the requirements for the conclusion of marriage had not been complied with (i.e., only an unmarried person of full age, who was legally capable and was not closely

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66 О некоторых изменениях порядка рассмотрения в судах дел о расторжении брака Указом Президиума Верховного Совета СССР от 10 декабря 1965 г., *Ведомости Верховного Совета СССР*, N 49, 1965, с. 725.

67 Верховный Совет Союза Советских Социалистических Республик Закон СССР от 27.06.1968 об утверждении основ законодательства СССР и союзных республик о браке и семье, *Ведомости ВС СССР*, N 27, 1968, s. 241.

68 *Latvijas PSR laulības un ģimenes kodeksa komentāri*, ed. J. Vēbers, Riga, 1985, p. 109.

69 Биюшкина Н.И., *Принципы советского права...*, p. 291–310.

70 Vēbers J., *Ģimenes tiesības*, p. 27.

related by blood or by adoption to the other spouse, could marry).[71] Although these restrictions on marriage, except for the above-mentioned declaration of a fictitious marriage as unlawful, had already existed in the Soviet marriage law from the early days and a whole chapter (sections 74 to 84) of the 1918 Code had provided for the procedure by which and the grounds on which a court could declare a marriage invalid from the moment of conclusion,[72] still the 1926 Code had not provided for a legal mechanism to terminate such unlawful marriage, envisaging that a marriage was terminated only in two cases – by the death of one of the spouses or by divorce.[73] Thus, the 1968 Code's provision on a marriage being recognised by court as invalid was, considering the 1926 Code, new to Soviet law. The fact that the 1926 Code had regulated termination of marriage quite marginally and had no regulation whatsoever on recognising a marriage as invalid can, to a certain extent, be explained by the liberal attitude to the institution of marriage at the time the Code was adopted, as well as by the "strong hand of the State" on the legal regulation of marriage that existed in the second half of the 1930s.

In addition, the 1968 Code provided for new grounds for recognising a marriage as illegal – the fact of entering a fictitious marriage, i.e. marrying without the intention to form a family. Fictitious marriages became an issue in Soviet society in the latter half of the 1960s, and for two reasons:

1. at the time, the size of housing allotted by the Soviet State to its citizens was directly dependent on whether the person was single or married, i.e., a married couple had better chances to get a separate flat rather than a room in a dormitory or in a communal apartment where the State would accommodate several families at the same time, often one family per room.
2. the permission granted to Jews and their families to leave the USSR. In a country which had effectively isolated itself from the rest of the world by the "iron curtain" and prohibited its citizens from travelling, a fictitious marriage to a Jew could be the only possible way to leave the Soviet state.

Among the retroactive norms of the 1968 Code, there were also those regulating the establishment of paternity of extramarital children upon application by both spouses to a civil status registry office,[74] which had previously been prohibited so as to motivate parents to register their marriage. Even though

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71 *Latvijas PSR laulības un ģimenes kodeksa komentāri*, pp. 119–121.

72 Кодексс законов об актах гражданского состояния, брачном, семейном и опекунском праве от 16 сентября 1918 года, online: http://www.lawrussia.ru/texts/legal_346/doc346a690x330.htm (23.02.2017).

73 Всероссийский Центральный Исполнительный Комитет Постановление от 19 ноября 1926 года "О введении в действие Кодекса законов о браке, семье и опеке", online: http://www.lawrussia.ru/texts/legal_861/doc861a657x504.htm (23.02.2017).

74 Vēbers J., *Ģimenes tiesības*, pp. 27, 28.

the Soviet law was in favour of setting extramarital children equal in rights to those born in marriage, the status "extramarital child" still existed.

Historically, in Soviet family law it was the established origin of a child that gave rise to parental rights and responsibilities. If there was no paternity established for a child, the mother alone was entitled to all the rights and responsibilities of a parent. Whereas, the paternity of a child having been established under the relevant regulations, all parental rights and responsibilities were assigned also to the father. Thus, as it followed from the provisions of Section 18 of the *Fundamentals of Legislation of the USSR and the Union Republics on Marriage and the Family*, as approved by the USSR Supreme Council on 27 June 1968, both parents had equal rights and responsibilities, regardless of whether they were spouses, whether they lived together or whether they lived separately. The mentioned provision was transposed in the codes of the union republics, including the Latvian SSR *Code on Marriage and the Family*, where it was transposed through Section 61.[75] Theoretically, this norm applied to all possible forms of family – incomplete families, where the parents had never lived together; families where the parents lived together, and families where parents no longer lived together. However, it was a dubious idea – to create a single regulation for actual family relations that were so essentially different. As a result, though envisaging formal equality, this abstract norm was not equally applicable in different actual circumstances. Therefore, the USSR courts in their practice, despite the formal equality established by the republics' codes, always considered the actual reality, i.e., that children were mostly taken care of by mothers, and took into account the emotional relations between the child and the parents when resolving disputes; thus, the courts usually decided that the child would live with his/her mother after divorce.[76] Soon after the adoption of the *Fundamentals of Legislation of the USSR and the Union Republics on Marriage and the Family*, namely, on 4 December 1969, the Plenum of the USSR Supreme Court provided a binding explanation for the application of those Fundamentals and of the Codes of marriage and family laws adopted by the union republics, which, *inter alia*, stated that parents could only raise their child together if: "the father lives together with the child and the child's mother or sees the child on a regular basis, demonstrating parental care and attention."[77]

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75 *Latvijas PSR laulības un ģimenes kodeksa komentāri*, p. 158

76 Pēlmane L., "Vecāku varas institūta transformācija vecāku aizgādības tiesībās", *Jurista Vārds*, Nr. 29. (624), 2010, online: http://www.juristavards.lv (03.03.2017).

77 Пленум Верховного Суда СССР Постановление от 4 декабря 1969 года N. 10. "О практике применения судами основ законодательства Союза ССР и союзных республик о браке и семье", online: http://xn--b1azaj.xn--p1ai/USSR/postanovlenie-plenuma-vs-sssr/N10-ot-04.12.1969-sssr.html (03.03.2017).

The social justice principle, as understood by the Soviet law, was also implemented in the regulations regarding the procedure for the payment of alimony (child support allowance), which stipulated that the allowance to‘ be paid to minors was determined in proportion to the number of children and the salary of the person responsible for payment. Such procedure had already been established by the decision of the USSR Central Executive Committee issued on 27 June 1936 – “On the prohibition of abortions, increases in financial aid to parents, establishment of state aid to large families, expansion of the network of maternity homes, nurseries and kindergartens, the reinforcement of criminal responsibility for the non-payment of alimony, and on some amendments to divorce regulations”[78] and had continued to exist. According to the *Fundamentals of Legislation of the USSR and the Union Republics on Marriage and the Family*, which was approved by the USSR Supreme Council in 1968, the alimony obligation was not limited to support allowance paid to underage and disabled children, disabled parents and grandparents, but extended also to supporting a disabled spouse for a certain period after divorce. The childlessness tax, which had been introduced in 1941, also remained in place as a mechanism of implementing the principle of social justice.[79]

Summing up the developments in the Soviet marriage and family law in the period between 1953 and 1970, one may say that the personal liberty, which had been restricted in the time of Stalin’s personality cult, was partially restored, as: abortions were once again allowed, procedures for divorce and for establishing paternity of an extramarital child were simplified.

Concurrently, legal writing got more advanced, therefore, the regulation contained in the 1968 Fundamentals and in the 1969 Latvian SSR *Code of Laws on Marriage and the Family* was legally more complete and detailed. However, compared to the first decade of the Soviet law, self-determination of persons in a family was not fully restored, as the family was not only supported by the State, but also entrusted with publicly important tasks. Section 1 of the Latvian SSR *Code of Laws on Marriage and the Family* contained the “Objectives of the Latvian SSR legislation on marriage and the family: “to further reinforce the Soviet family, which is based on Communist moral principles, ... to ensure that a family would raise children strictly in accordance with the principles of public education, cultivating their devotion to the Homeland and communist attitude to labour, preparing them for active participation in the building of

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78 Постановление ЦИК СССР N 65, СНК СССР N 1134 от 27.06.1936 (извлечение) О запрещении абортов, увеличении материальной помощи роженицам, установлении государственной помощи многосемейным, расширении сети родильных домов, детских яслей и детских садов, усилении уголовного наказания за неплатёж алиментов и о некоторых изменениях в законодательстве о разводах, online: http://www.lawrussia.ru/texts/legal_346/doc346a242x337.htm (22.08.2017).

79 Биюшкина Н.И., *Принципы советского права в контексте кодификации...*, pp. 291–310.

a communist society; to protect, by all means, the interests of the mother and children and to secure a happy childhood for every child; to contribute to eliminating the harmful customs and relics of the past in family relationships..." Protection of the rights of a mother could lead to restrictions on those of a father. In the doctrine of Soviet family law, too, it was acknowledged that "the principle of equality between a man and a woman does not exclude the necessity to establish specific provisions as regards the legal status of women. This is usually necessary because of a woman's special status as a mother in the society and in the family."[80]

The stated objectives simultaneously determined both the public nature of marriage and family law, and the control of spousal relations on the part of the State and society (public). The public oversight was ensured through non-state courts – comrades' courts, which were formed in workplaces, and through Party and Komsomol (Soviet Communist Youth) organisations. Relationships between spouses could be reviewed by a comrades' court in the respective workplace, or at a Party or Komsomol meeting. The State control was incorporated in the law itself; e.g., the State was invested with the right to recognise that a marriage had been concluded without the intention to raise a family and to declare the marriage invalid.

The procedures established in the Soviet marriage and family law in 1968/1969 remained effective, with some minor changes (in LSSR – updates regarding establishment of paternity were made in 1980; in 1992, after the restoration of the Republic, the Preamble was excluded and Section 1 was substantially amended, loyalty to the USSR being replaced with loyalty to the Republic of Latvia;[81] some amendments were introduced to protect the rights of children[82]), up to the restoration of independence of the Republic of Latvia and reinstatement of the Civil Law on 1 September 1993.[83]

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