

## **Abstract:**

One would think of Roman Law and Soviet Law to be strange bedfellows, given the socialist-communist governmental regimes of the Soviet Union and the republican regime of the early Roman Empire. However, Roman law has provided the foundations for much of the Soviet legal system, from the disparate realms of taxation to even criminal defense. By tracing the early interactions between the Byzantine Empire and the nascent Kievan Rus, we can see an exchange of legal concepts that persisted into the Soviet Union and even the contemporary Russian Federation.

## **1. Introduction**

The Soviet Union, although it was in staunch opposition to capitalist legal traditions and Western bourgeois jurisprudence, was paradoxically able to preserve a great deal of Roman law in its legal doctrine and practice (Baburin 5). This fundamental contradiction was central to Soviet legal development and required an exploration of how an officially anti-Western socialist state could have retained meaningful relationships with one of Western civilization's most ancient traditions of law (Arabadzhy 3). The Soviet attitude towards Roman law had to do with selective reception, in which certain doctrinal elements – including those concerning property rights, obligations under contracts, and civil procedures – were incorporated, while others were expressly excluded in line with the principles of Marxism-Leninism (Arabadzhy 3). This nuanced adaptation underpins the intricate nature of Soviet legal ideology, which claimed to be superior to bourgeois law while simultaneously inheriting, in an institutional sense, bourgeois legal structures. It is precisely the Roman law and its role in Soviet jurisprudence, with all of its legacies in its multifaceted methods and levels, which created a layered transmission of legal concepts not in the least against ideological negation. Roman legal thinking left a heavy mark on constitutional formulations embraced in the 1922 codification years as civil law codifications during the entire Soviet period and procedural frameworks inherited from pre-revolutionary Russian legal schools (Bisay, Nur, and Paramitasari 6). You see this by analyzing explicit references to the Roman legal system in Soviet academic writing and formal practice. In the immediate post-1917 period, Soviet legal theorists first adopted a legal nihilism, but later understood that certain Roman legal rules—such as those pertaining to property, succession, and obligations—provided organizational tools for managing a complicated

socialist state (Erokhova 8).

Such pragmatism showed how even ideologically passionate jurists deemed Roman law concepts essentially unavoidable in the production of current statutory codes and judicial procedures (Pejo and Kolaneci 20). This essay will illustrate that Soviet legal development was a process of adaptation, not a complete elimination of classical Roman law foundations, forming a durable structure that survived ideological transformations and revisions to the constitution from 1922 to 1991 (Bisay, Nur, and Paramitasari 6).

## **2. Historical Foundations of Roman Law in the Soviet Legal System**

Roman law principles did not make their way into the development of Soviet law by virtue of overt reception but by practical need for codification and the inheritance of prerevolutionary structures of Russian pre-modern law based on Romano-Germanic jurisprudence (Kozminykh 17). This reflects the enduring nature of Roman law as a building block of contemporary legal systems, achieving conceptual unity in light of ideological change (Ushakov and Mekka 26) and maintenance under conditions of ongoing flux regarding key areas such as property rights and contract law (Ushakov and Mekka 26). Finally, the fact that Roman law is resilient in the Soviet context, in its entirety, stands for how deeply, however, entrenched legal institutions are able to resist fundamental changes to ideology can hold back the overhaul of what is established Roman law. The long historical legacy of Russian legal engagement with Roman law predated the Soviet period, when founding institutional concepts that would become transformed in an ideological sense only to survive structurally through Soviet times (Arabadzhy 3). Roman Law's reception in Russian law received a specific response, as Byzantine influence and Germanic legal transmission by direct contacts with Russia led to a hybrid form of civil law (Arabadzhy 3). Early legal codes (for example, the twelfth-century Russian Pravda) absorbed Roman legal thought through Byzantine sources, and medieval implements such as Lithuanian Statutes and regional charters codified these inherited principles into Russian legal ways of doing business (Arabadzhy 3). By keeping the doctrinal transmission going, from Kievan Rus to the Muscovite period to imperial Russia to the Soviet legal system, this established an unbroken descent from Roman law into Russian law (Nadtochii and Trukhan 18). Roman law ideas were well integrated into Russian legal thought by centuries of practice adjustment with the law (Nadtochii and Trukhan 18). As an example of this, the category of accessory

obligations, established by Roman formulations, "the validity of the accessory legal relationship is predetermined by the validity of the basic legal relationship," spread through Russian legal law over time through periods of comparative neglect in the medieval period (Nadtochii and Trukhan 18). Similarly, Roman principles governing unjust enrichment developed through pre-revolutionary Russian legal scholarship (Ablyatipova and Masyutkin 1) and served as universal solutions to problems of property acquisition and preservation, without boundaries placed by time or political order.

Before the Russian Revolution, scholarship looked seriously at Roman legal principles; they were said to have been essential roots in today's jurisprudence (Kalenjuk and Savchuk 12). Russian legal theorists of the nineteenth and early twentieth centuries approached Romanist doctrine with intellectual rigor, recognizing that Roman law's moral and ethical dimensions provided essential frameworks for contemporary legal problem-solving (Kalenjuk and Savchuk 12). It was this tradition that insisted on the universality of Roman legal principles and which saw them as indispensable for the construction of modern law, rather than just as historical puzzles or expressions of capitalist ideology (Ushakov and Mekka 26). Russian jurists considered the way that Roman law's basic axiological attitude towards the administration of humanistic justice could shape contemporary legal structures, especially those dealing with the safeguarding of the individual subjecthood and with the rational structure of private law relations (Ushakov and Mekka 26). This scholarly continuity, therefore, created intellectual conditions for subsequent Soviet legal theorists to be convinced that the ideas encoded in Roman law were instrumental, if only within ideological terms, against what was essentially seen as Western legal influences (Ushakov and Mekka 26). In other words, when Soviet legal codification began, practice was received not as a foreign legacy that needed to be intentionally introduced, but as an established tradition already well embedded within Russian legal thought. The 1922 Russian Civil Code and its revisions illustrated the long-lasting architectural impact of Roman law types on Soviet legal systems, as in Soviet law systems, the legal paradigm could simply be observed (Kozminykh 17). The Soviet legal development was not a revolutionary disruption from the traditional structures but rather a pattern of continual development (Ushakov and Mekka 26). The Code's formulation of property rights, contractual obligations, and legal personhood was guided by principles of Roman legal categories, but was also the fruit of a historical process in the service of the socialist condition, but not an entirely new concept (Kozminykh 17). The 1922 Code borrowed from imperial Russian law the consensual

perspective of contract law, where a binding obligation was formed by consent (*pacta sunt servanda*), a tenet directly derived from Roman jurisprudence (Ushakov and Mekka 26).

Definitions of property rights, distinguishing between such interests as possessory and ownership based on conceptual schemes that developed from Roman conceptions of possession as distinct from dominium, guided the Soviet attitude to ownership concerning the ownership of real and personal property. Additionally, the doctrine of *bona fides* (good faith), which underpinned contract and commercial law in particular, Roman law remained the leading law and thus the organizing principle in Soviet civil legislation, even though the revolutionary ideology is theoretically opposed to bourgeois legal constructs (Erokhova 8). This institutional continuity suggests that Soviet legal architects, faced with the actual demands of making law to govern modern, intricate economic relations between people, found Roman legal categories too rational and stable for them to jettison. Thus, while the Soviet legal system evolved from Romano-Germanic family-oriented principles, as opposed to developing a fully autonomous socialist legal system, this reflects the remarkable difficulty of expunging traditions of the legal system over time, resulting partly from these centuries of cultural development, even though the Romano-Germanic civil law family had no independent legal structure.

### **3. Roman Law's Influence on Soviet Constitutional and Public Law**

Roman constitution principles, with the Roman republic's particular characteristics, had a subtle and decisive effect upon Soviet constitution construction, despite the Soviet Republics' explicit official disavowal of bourgeois constitutionalism (Baburin 5). The concept of constitutional law, which the Soviet state sought from its outset to reconstruct using socialist theories, stayed true to the Roman-inspired structure, e.g., by keeping aspects of separation of powers with legal hierarchy (Baburin 5). The Soviet constitutions of 1924, 1936, and 1978 adopted the Roman conception of sovereign authority distribution, and in demonstrating that the ideological proclamations of revolutionary legal rupture concealed a deep continuity with the previous legal structure (Baburin 5). Architectural considerations of the devolving or sharing of authority between the law, the legislature, the executive, and the judiciary were based on Roman tradition in the form of the Roman constitution, which had been copied through the Romano-Germanic line of legal tradition of the formative era of pre-revolutionary Russian jurisprudence (Peresh and Bielova 21). Even though Soviet legal

doctrines were ideologically opposed to overt Western legal constructs, the Roman legal system's conceptual basis of state and civil relationship was valuable (Pejo and Kolaneci 20).

In Roman jurisprudence, Soviet legal scholarship brought the terminological and conceptual material that set the parameters of demarcation between state action and private juridical relations, as well as Roman law, offering the conceptual system through which to imagine socialist legal categories (Baburin 5). This distinction allowed Soviet lawmakers to create a consistent framework for ordering functions of state and duties of citizens within richly codified statutes, producing legal frames that retained Roman organisational logic despite turning toward socialist ideology (Pejo and Kolaneci 20). The impact extended to certain constitutional features on citizenship, rights, and duties, the treatment of citizen obligations and state authority in Soviet constitutional law being rooted in the Roman legal formulations, particularly that of public order and the role of the state in protection. The legal characterisation of public order changed during the Soviet era, but the Roman base of the legal system was retained, even if it was not entirely new, and attempted to be a socialist construction (Ruschak 25). Roman law defined public order as a constraint on private agreements that violated community interests (Ruschak 24). The Soviets, in turn, modified a formulation of socialist constitutional values by reorganizing the public order in the sense of socialist legal values and state interests (Ruschak 25). Roman law Constitutional provisions protecting public order were practically used to support state institutional integrity and social stability, in accordance with what it calls "Marxist-Leninist terms," although different doctrinal intentions and legal tools could not be eliminated from Roman law (Ruschak 25). The durability of these Roman constitutional and public law categories across Soviet legal development demonstrates the inherent stability of Roman legal thought, which was too functionally indispensable to be discarded by Soviet legal architects, although revolutionary thought had in theory an absolute commitment to be entirely independent of bourgeois jurisprudential norms. The state institution itself was based on Roman models of institutional law that allowed the administration of public functions and the regulation of property throughout the Soviet period (Kozminykh 17), which the Soviet legislation built. Soviet legal frameworks provided a practical framework for the management of socialist bureaucracy, showcasing a dual nature and the construction of the two aspects of social life based on the concept of Roman law constructs.

#### **4. Roman Law in Soviet Civil, Criminal Law, and Legal Methodology**

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The Soviet civil law, while doctrinally committed to revolutionary legal transformation, always retained Roman legal categories as the primary framework (Bisay, Nur, and Paramitasari 6). Although the Soviet legal system was hostile to capitalist legal relations, the fundamental concepts of Roman law pertaining to property, contract, and legal capacity continued to be reflected in Soviet civil law, despite the fact that the socialist ideology was against them (Bisay, Nur, and Paramitasari 6). The Soviet Civil Code's organisation usually preserved the Roman tripartite structure of persons, things, and obligations, confirming the fact that Soviet civil law was fundamentally within the Roman law tradition and, contrary to theoretical claims, its origins were not firmly in the principles of Marxism (Orel 19). This structural continuity underscores the overwhelming challenge of completely dropping the legal design system after a continuous century of development (Kozminykh 17).

Instead of devising a completely new socialist legal system, Soviet legal architecture simply received from and extended the Roman conceptual categories with modification of these definitions to be compatible with socialist ideological aims, while retaining the structure and administrative logic in a similar way (Kozminykh 17). The 1922 Civil Code, which served as the basis for Soviet civil law in the New Economic Policy period, formalised the concept and definition of property, contract relations, and the status of legal persons, including Romanism's doctrinal schemes, while being molded to socialist economic circumstances and constituting essentially continuations of Roman legal ideas. Key Roman law doctrines governing contractual relations persisted in Soviet legal practice despite theoretical opposition to bourgeois jurisprudence (Pejo and Kolaneci 20). Concepts like good faith (*bona fides*), unjust enrichment, and restitution were directly adapted from Roman law sources and continued to underpin Soviet commercial transactions (Erokhova 8). Good faith evolved in Soviet jurisprudence in considerable measure, evolving from a subjective understanding of *bona fides* as the state of mind of the contracting parties to an objective specification governing an agreement's performance to more precise, objective standards (Erokhova 8). The treatment of quasi-contractual obligations by the Soviets and the regulation of innominate contracts followed Roman legal models rather than devising genuinely new socialist alternatives (Gaffar and Al Mamari 10). The scheme of unjust enrichment had significant ties with the Roman legal paradigm with respect to the acquisition and conservation of property through legally unjustified means during the pre-revolutionary, Soviet, and modern periods that were systematized by Soviet jurists (Ablyatipova and Masyutkin 1). Roman categories and different forms of enrichment without lawful

justification were incorporated in Soviet law to establish remedy obligations in contract-like cases, preserving Roman conceptual frameworks while adapting them to socialist property relations.

The last example of Roman contractual doctrine persisted, suggesting a level of universalism among Soviet legislators and jurists, as they accepted in Roman law that contracts could be a solution for any problem of obligation that spanned ideological borders. And Roman concepts of possession, ownership transfer, and legal remedy similarly shaped Soviet property law thought, as can be seen in such things as the treatment of state property, collective property, and the limited amount of private property allowed under Soviet law (Kozminykh 17). And yet through post-Roman legal concepts of due process, burdens of proof, and evidentiary standards, Soviet criminal procedure embraced basic tenets—despite ideological initiatives to establish all new socialist legal frameworks (Korobeev and Lobach 14)—in a common legal landscape rooted in principles from Roman law. Originally rejected by early Soviet revolutionary theory as a bourgeois legal fiction, the presumption of innocence would be reintroduced into Soviet criminal procedure via a conceptual revival of the foundations of Roman law, suggesting that functional legal systems need consistent protections regardless of political ideology (Astafichev 4). The Roman axiom that guilt must be proven and not assumed evolved from intellectual dismissal into pragmatic practice as Soviet judges and lawyers came to understand that criminal laws run without evidentiary safeguards generated flawed convictions and eroded confidence in law (Astafichev 4). The Roman legal distinctions between types of criminal liability were also reflected in the Soviet criminal codes, differentiating between intentional offenses and negligent conduct in accordance with doctrinal schemes that can be traced directly back to the Roman jurisprudence distinguishing between *dolus* and *culpa* (Korobeev and Lobach 14). This practical realization of this Roman typological structure in Soviet law demonstrated that even radical legal theory would not survive from the imperative to arrange criminal guilt according to certain theoretical motifs that held up well throughout the centuries. The form of the Soviet crimes system maintained aspects of the Roman system of procedure—antecedent opposition of parties, judicial fact-finding that was related to the Roman rule, particularly by the Byzantine transfer of Roman legal procedure (Kostogryzova 15). Roman civil procedure in Justinian's *Corpus Juris Civilis* was kept and perfected in Byzantine courts, and the concepts of legality, equality before the courts, reasonable timeliness of proceedings, adversarial party participation, and procedural

fairness continued and developed, which shaped European thought on procedure. While Soviet legal interpretation was ideologically an effort to reconstruct legal methodology in line with socialist theory, Roman law's classical principles of equity, legal certainty, and proportionality continued to remain active tools (Orel 19).

These principles, which formed from Roman jurisprudence's careful consideration of concrete cases and resolution through reference to general legal maxims, provided the framework for Soviet legal argument even when Soviet theorists were seen to showcase their own theoretical originality. Soviet scholars adopted from the Roman approach to legal argumentation the way particular judicial decisions could be rationalized by reference to established general principles, rather than abstracting from ideological propositions. Despite the theoretical claims that socialist legality worked on totally alien rational grounds, this casuistic approach, which was fundamental to Roman legal development, persisted as the principal of Soviet legal practice. This continuity of this methodology shows that such functional legal systems depend on stable interpretive frameworks, and it was essential for Soviet lawyers to embrace Roman law as the pragmatic approach to resolving legal disputes through principled reflection, independent of the ideological character of their political system. Despite manifesting in socialist contexts, principles rooted in Roman law made their way into the formulation and delivery of legal ethics and professional responsibility in Soviet legal education (Peresh and Shchoka 22).

Although formally legitimized by Marxist-Leninist theory, Soviet legal training created deontological principles that governed legal professional conduct, which were in line with elementary Roman legal thought about the moral duties of legal practitioners, the significance of justice administration and the rule of law as foundational principles in elaborate legal systems. Latin legal forms maintained their technical rigor over the course of Soviet legal discourse, demonstrating the continuity of Roman conceptual structures at the linguistic level, where legal meaning is most readily formed (Hanzha 11). This allowed words like *actus reus*, *mens rea*, *caveat emptor*, *force majeure*, and *pacta sunt servanda* to continue in Soviet law, in which the Roman conceptual content governed interpretation. This was even more than simply linguistic conservatism; this terminological continuity constituted a profound structural adoption of Roman legal conceptual frameworks, which was far more effective than the generation of quite new socialist terminology.



## 5. Conclusion

The influence of Roman legislation on the Soviet Union was not purely cosmetic or limited to technical jurisprudence; it constituted a core principle of the legal structure that justified Moscow's legal development (Baburin 5). A deep structural dependence on Roman law principles for organizing, conceptualizing, and defining the legal orders and human relations in the legal systems and methodological approaches to legal reasoning obscured the Soviet legal ideology's rejection of European legal influence (Baburin 5). The continued presence of Roman property law categories, contractual principles and jurisprudential frameworks governing legal liability across Soviet jurisprudence shows that ideological formulations of revolutionary legal transformation could not override the practical imperative to ensure conceptual continuity and institutional effectiveness (Ablyatipova and Masyutkin 1). Even Soviet legal theorists who committed themselves to legal nihilism and the eventual abolition of law were trapped in the very categories of Roman law they claimed to reject (Fedoseenkov 9). This paradox proves that functional legal systems require stable concepts, regardless of the political ideology attached to them (Kalenjuk and Savchuk 12). Soviet legal history only makes sense when understanding the ideological content of the claims of socialist legal originality when understood as rhetorical placements within a legal system being fundamentally structured on the basis of Roman law principles (Amirov 2). For Soviet legal architects facing the challenge of rule in a complex multinational state, the moral and ethical character of Rome and how that was able to develop into a supranational order across centuries was at the same time persuasively compelling (Kalenjuk and Savchuk 12). Instead of abjuring Roman law's tried-and-true solutions to repeated legal problems, Soviet legislators transformed Roman conceptual categories into Marxist norms. This retained vital organizational logic and reshaped substantive content (Ushakov and Mekka 26). The principles of equity, legal certainty, and proportionality that emerged out of Roman jurisprudence's systematic engagement with concrete cases remained operative in Soviet legal interpretation, though theoreticians' attempt to reformulate legal methodology according to socialist theory (Orel 19).

The 1922 Civil Code laid the foundation for Soviet legal development through the New Economic Policy period, presenting property and obligations in accord with traditional Roman tripartite forms. This demonstrated that continuity of institutions transcended revolutionary rupture (Bisay, Nur, and Paramitasari 6). This organizational choice suggested

an understanding among Soviet legal practitioners that legal systems need reliable categorizations that work across political contexts. Thus, the period in Soviet history is not a discontinuity with Roman legal tradition but rather a specific historical period in the ongoing development of the Roman legal family, one in which ideologies are re-evaluated without fundamental remodeling.

Even though ideological orientation favored relatively different socialist systems, the civil procedure principles of Ancient Rome, the roots upon which most modern legal systems are built worldwide, remained architecturally central to the practice of justice in the Soviet legal system (Kotvaykovskiy and Obodyeva 16). Soviet courts, on the other hand, utilized a system of case-based legal argumentation and principled reasoning inherited from Roman legal tradition, and preserved the causation basis of justification of particular decisions through appeals to general legal maxims as opposed to abstract ideological deduction. The constitutional principles of separation of powers and legal hierarchy mirrored Roman constitutional principles passed down via the Romano-Germanic legal tradition that governed pre-revolutionary Russian jurisprudence, and show continuity concealed in revolutionary discourse (Peresh and Bielova 21). The idea of the state institution as such, explained in Soviet legislation during the Soviet period as a device of performing public functions and property management, borrowed from models of Roman institutional law dealing with legal personhood and organizational capacity (Kozminykh 17). The basic moral and ethical principles developed by the Roman jurists continued to exert positive influence on Soviet legal concepts, despite official rejection of Western legal styles (Kalenjuk and Savchuk 13). In post-Soviet jurisdictions, the persistence of Roman law principles and how easily these systems were able to reconstitute themselves as conventional civil law jurisdictions proves with certainty that Roman law was and continues to be foundational throughout all of Soviet legal development. After the dissolution of the Soviet Union and the reconstruction of the Russian Federation, Ukraine and Belarus, among others, followed by full constitutional and legal reforms, their re-unification made it clear that they were to come back to being civil law systems rooted in the Roman law family, not in a struggle to retain a distinctly socialist system for themselves or the future (Amirov 2). As the post-Soviet states adopted elaborate civil codes throughout their systems of law and constitutional systems that stressed separation of powers and a hierarchical legal system, along with procedural arrangements heavily based on European Romano-Germanic law, it is evident that legal professionals in the post-Soviet States understood that it was more

important than these ideological interpretations would suggest (Postoronko 23). This profound continuity of legal tradition, despite ideological shifts and attempts at deconstruction, is further clarified by recognizing Roman law's enduring influence (Bogatyrev 7).

The Soviet experience consequently illuminates fundamental truths regarding the relationship between legal tradition and political ideology, demonstrating that stable legal systems require foundational principles that prove remarkably resistant to even determined revolutionary transformation, thereby confirming Roman law's enduring influence across diverse historical periods and political regimes.

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