

**КОНЦЕПЦИЯТА ЗА „РЕПУБЛИКА“ В
ПЪРВАТА СЪВЕТСКА КОНСТИТУЦИЯ:
РИМСКИ ПРОИЗХОД (*RES PUBLICA*) (НА
АНГЛИЙСКИ ЕЗИК)**

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Резюме: Докладът е посветен на анализ на концепцията за републиката, така както е определена в първата конституция от съветския период, и се фокусира върху юридическата, историческата и сравнителната перспектива. Концепцията за републиката в Основния закон от 1918 г. донякъде е сходна с тази на Цицерон и римската традиция. Докато в съвременната юриспруденция републиката се отнася към определена форма на управление и се различава от монархията, римляните са имали различно разбиране за нея. Конституцията на РСФСР въплъщава две измерения на представата за републиката като общност (съюз) с нейните цели, икономически и политически основи. Въпреки това, за разлика от *res publica* на Цицерон, Конституцията от 1918 г. обявява новата република не за обща кауза на всички хора, а за обединение на една част от него – на трудещите се. Тя е съобразена с конкретния исторически период („преходен период“) – основната ѝ цел е да създаде диктатура на градския и селския пролетариат и на най-бедното селячество – „експлоатираната“ част от „народа“.

Ключови думи: общност; конституция; труд; право; народ; република; съвет.

THE CONCEPT OF THE REPUBLIC
IN THE FIRST SOVIET CONSTITUTION:
ROMAN ORIGIN (*RES PUBLICA*) (ENGLISH
LANGUAGE)

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Abstract: The paper is devoted to analysis of the concept of the republic as defined in the first constitution of the soviet period and focuses on the juridical, historical and comparative perspective. The 1918 Fundamental law’s concept of the republic was somewhat similar to that of Cicero and Roman tradition. While in modern jurisprudence the republic refers to a certain form of government as opposed to monarchy, Romans had a different understanding of it. The Constitution of RSFSR embodies two dimensions of the notion of the republic as a community (union) with its goals, economic and political foundations. However, as opposed to Cicero’s *res publica*, the 1918 Constitution declares the new republic not a common cause of all people, but an association of its part – the workers. It was tailored to a specific period (“transition period”) in history - its primary goal was to create a dictatorship of the urban and rural proletariat and the poorest peasantry – “exploited” part of the “people”.

Keywords: community; constitution; labour; law; people; republic; soviet.

INTRODUCTION

This paper aims to conduct an analysis of the concept of the republic as defined in the first constitution of the soviet period, the 1918 Constitution of the Russian Socialist Federative Soviet Republic (the RSFSR). The paper focuses on the juridical, historical and comparative perspective without factoring in the approach of political sciences sometimes used in the study of constitutions that were adopted in the RSFSR and later in the USSR.

It is only natural to preface such an analysis with some remarks on the notion of constitution in soviet jurisprudence. In a dedicated article, Yury Shulzhenko keenly observed that an overly critical view prevents researchers from investigating meaningful findings of soviet research into constitutions, adding that a number of “key features” of this document had seen extensive research that remains relevant to this day.¹ His comment is equally appropriate in regards to the notion of the republic.

The soviet constitution was a single codified act – i.e., it was both comprehensive and structured. It was the state’s fundamental law invested with legal supremacy – any enactment contradicting it was to be repealed or amended. Both in the RSFSR and subsequently in the USSR, each federation republic had its own constitution, while the principle of supremacy of the federal constitution was maintained.

As for their content, constitutional provisions did not only cover the realm of politics, but also governed economy, society and culture. The constitutions were indeed *constituting* acts aimed at institutionalising the radical changes undergone by the soviet society: the success of the October Revolution, establishment of a dictatorship of the proletariat, creation of the USSR, creation of a foundation for socialism, mature socialism and creation of a people’s state. Talking about the 1918 Constitution, Lenin remarked that it “embodies what experience has already given, and will be corrected and supplemented as it is being

¹ ШУЛЬЖЕНКО, Юрий Леонидович. Понятие конституции в науке советского государственного права [The concept of constitutional science in the Soviet state law]. – В: *Труды Института государства и права РАН* [Proceedings of the Institute of State and Law of the RAS]. Москва, 2013, № 6. с. 5. See at <https://cyberleninka.ru/article/n/ponyatie-konstitutsii-v-nauke-sovetskogo-gosudarstvennogo-prava/viewer>

put into effect.”² The texts of the constitutions, however, also outlined key goals and objectives for the development of soviet society and state, as well as the organisational framework required to attain them – this point will be further illustrated in regards to the first Soviet Constitution.

Soviet constitutions reflected the views of Marx, Engels, Lenin and subsequently Stalin on the fundamental law of the state and were imbued with dominant ideology. This ideology resulted in one of the main features of both the constitutions and the government they created – their class nature. Here is how Lenin described the crux of the newly adopted Constitution in autumn 1918: “The world has never known such a constitution as ours. It embodies the workers’ experience of struggle and organisation against the exploiters both at home and abroad.”³ Peter Stuchka, a prominent lawyer and statesman, defined the Constitution as “the framework for ruling class’s exercise of power.”⁴

1. SOME DETAILS ON THE DEVELOPMENT OF THE NEW CONSTITUTION

The decision to develop the first Soviet Constitution was made at the 3rd All-Russian Congress of Soviets (23–31 January 1918, Petrograd), three months after the October Uprising in the capital, which set in motion the revolutionary effort in the Russian Empire. The Congress entrusted this task to the All-Russian Central Executive Committee operating in between Congresses. On 25 January, the Congress adopted the Declaration of Rights of the Working and Exploited People, which was later fully incorporated into the 1918 Constitution of the RSFSR and became one of its building blocks.

On 1 April, the All-Russian Central Executive Committee formed a Constitutional Commission. The Commission discussed details of the new Constitution, starting on 5 April. After 20 April, the discussion continued in its three sub-commissions. The project was finalised by the end of June, and on 10 July 1918 the Constitution was adopted at the 5th All-Russian Congress of Soviets. On 18

² LENIN, Vladimir. Speech at a Congress of Chairmen of Gubernia Soviets. July 30, 1918. Newspaper Report – See at <https://www.marxists.org/archive/lenin/works/1918/jul/30.htm>

³ LENIN, Vladimir. Extraordinary Sixth All-Russia Congress of Soviets Of Workers’, Peasants’, Cossacks’and Red Army Deputies. 6-9 November, 1918. – See at <https://www.marxists.org/archive/lenin/works/1918/nov/06a.htm>

⁴ СТУЧКА, Петр Иванович. Учение о государстве и о конституции РСФСР [Studies in state and in Constitution RSFSR]. Курск, Агитотдел Губкома, 1922. с. 93.

July, the Presidium of the All-Russian Central Executive Committee reviewed the Constitution, and on 19 July it was published and entered into force.

The Constitutional Commission numbered 15 members, including representatives of the All-Russian Central Executive Committee: Bolsheviks (Commission Chairman Sverdlov, Pokrovsky and Stalin), Left Socialist-Revolutionaries (Magerovsky and Shreider) and a Maximalist Socialist-Revolutionary (Berdnikov); and representatives of five People's Commissariats and of the Supreme Board of the National Economy. Commission membership had a direct impact on discussions of constitutional provisions. In fact, the Commission's concept of the republic turned out to be very similar to that prevalent in Ancient Rome. This comes as no surprise, since Lenin (who was not in the commission) and the lawyers that formed the commission were thoroughly grounded in Roman law, which was taught both extensively and comprehensively at Russian universities.

2. REPUBLIC IN THE CONSTITUTIONAL DRAFTS

This trend showed from the outset of the commission. The concept of the republic, as found in the drafts of the constitution, had three features. Firstly, the republic the commission sought to establish was defined as a community of people: *community*⁵ (suggested by Reisner), *society* (suggested by Stalin), *organisation of communal life* (suggested by Berdnikov), *free union* (suggested by Rengarten), and *union* (resolution drafted by Reisner following the discussion of Stalin's report)⁶. Secondly, the republic was to unite the *workers, peasants, Cossacks, field labourers* (Russian: батра́к) and *all the working people* (suggested by Reisner), *Russia's working people* (suggested by Stalin), *all able-bodied people* (suggested by Berdnikov), *working people* (suggested by Rengarten), all working people, workers, peasant labourers (Russian: батраки), working Cossacks, etc. (language adopted in the resolution).⁷ Thirdly, union members (i.e.,

⁵ In this paragraph, our translation is everywhere. Source in English not translated or unavailable.

⁶ Original terms in Russian: *общность* (community), *сообщество* (society), *организация общежития* (organisation of communal life), *свободный союз* (free union) and *союз* (union).

⁷ Стенограмма заседания Комиссии по выработке Конституции РСФСР от 10 апреля 1918 г. с приложением „Доклада члена комиссии М. А. Рейснера об основных началах

the society) were to be organised into “class, labour, professional, economic and political unions” (suggested by Reisner), *city and country soviets* (suggested by Stalin), *federations* (suggested by Rengarten); in order to govern they were to “create soviets and congresses of soviets of workers’, peasants’ and other labourer deputies that comprise a united inseparable federation within the Russian territory, referred to as the RSFSR” (language adopted in the resolution).

In addition, there was another facet of the notion of the republic that was discussed starting from the first days of the Commission. The notion had previously been mentioned in the Declaration of Rights of the Working and Exploited People and reflected the multinational nature of the country: “The Russian Soviet Republic is established on the principle of a free union of free nations, as a federation of Soviet national republics.”⁸

3. CICERO ON THE CONCEPT OF THE REPUBLIC

While in modern jurisprudence the republic refers to a certain form of government as opposed to monarchy,⁹ Romans had a different understanding of it. Their perspective was captured by Cicero in his dialogue *De re publica* (1.25.39): “*res publica est res populi, populus autem non omnis hominum coetus*

Конституции Р.Ф.С.С. Республики“ и проекта положения „О Федеральных учреждениях Российской Республики“ [Minutes of the meeting of the Commission for Drafting the RSFSR Constitution of 10 April 1918 with Commission member Mikhail Reisner’s report on the key foundations of the Constitution of the RSFS Republic], с. 78–94; СТАЛИН, Иосиф Висарионович. Общие положения Конституции Российской Социалистической Федеративной Советской Республики: Проект, принятый комиссией ВЦИК по выработке Конституции Советской Республики [General provisions of the constitution of the Russian Socialist Soviet Republic (Stalin’s draft)] – В: *Стенограмма заседания Комиссии...*, цит., с. 36–41 – See at http://grachev62.narod.ru/stalin/t4/t4_18.htm#s14. See also <https://www.prlib.ru/item/711492>; Проект основ конституции трудовой республики, выработанный комиссией исполнительного бюро союза социалистов-революционеров максималистов [Draft of the constitution of the workers’ republic developed by the commission of the executive bureau of the Maximalist Socialist-Revolutionary Union] – Ibid., с. 43–51; Проект резолюции по общим прениям члена комиссии М. А. Рейснера. [Draft of the resolution following a general discussion prepared by Commission member Mikhail Reisner] – Ibid, с. 42. See at <https://www.prlib.ru/item/711518>; Статьи проекта конституции (Составлены приват-доцентом Ренгартеном [Constitution draft articles (prepared by P. Rengarten)] – Ibid., с. 52–58, see at <https://www.prlib.ru/item/711514?mode=archive>

⁸ О федеральных учреждениях Российской Республики (докладчик И. В. Сталин) [On the Federal Bodies of the Russian Republic] – Ibid., с. 59 See at <https://www.prlib.ru/item/711514?mode=archive>. See also <https://constitution.garant.ru/history/act1600-1918/5321/>

⁹ For instance, the digital version of ENCYCLOPEDIA Britannica suggests a simplified version of the academic definition: <https://www.britannica.com/topic/republic-government>

quoquo modo congregatus, sed coetus multitudinis iuris consensu et utilitatis communione sociatu.” Cicero sees the republic as a common cause of the people. The people – the essential part of the definition – is not just a society, but a union of people sharing a common understanding of law and common good.¹⁰

Cicero’s ideas were further developed in the 5th century by Saint Augustine. Here, there are three points important for discussing this topic in English. Saint Augustine gives an original definition of people as “an assemblage of reasonable beings bound together by a common agreement as to the objects of their love”¹¹ (*coetus multitudinis rationalis rerum quas diligit concordi communione sociatus*) (*De civitate Dei*. 19.24). A republic is inseparable from justice (*iustitia*) (2.21); and, as such, a true *res publica* exists only when it is well and justly governed by the monarch or the whole people (*cum bene et iuste geritur*).¹²

It has been repeatedly noted that the aforementioned abstract from Cicero’s dialogue is quite hard to translate into English. Saint Augustine’s original interpretations have probably encouraged translators to use certain terms which are inconsistent with Cicero’s dialogue when rendering the notion of the republic. Namely, *commonwealth*, while an intuitive concept for the British, is not an adequate translation for *res publica*. *Association* is not a good match for *coetus*, and neither are *constitution* for *res*, or *justice* for *ius*.¹³ *Republic* is not synonymous with *property of the people*, just as *justice* is not with *iurius consensu* or *common*

¹⁰ CATALANO, Pierangelo. Il principio democratico in Roma. – In: *Studia et Documenta Historiæ et Iuris*, Vol. 28, 1962, p. 317–318; CATALANO, Pierangelo. Popolo. Parte giuridica. Principi e Sistema. – In: *Enciclopedia di Bioetica e Scienza giuridica*. Vol. 10. Napoli, 2016, p. 487; LOBRANO, Giovanni. Res publica – res populi. La legge e la limitazione del potere. Torino, G. Giappichelli, 1966, p. 113–120.

¹¹ https://en.wikisource.org/wiki/Nicene_and_Post-Nicene_Fathers:_Series_I/Volume_II/City_of_God/Book_XIX/Chapter_24

¹² SINISCALCO, P. Res publica e populus nel de civitate dei (XI. 21 e XIX. 21 ss.) di Agostino d’Ippona. – In: *Ius Anticum*, 1996no. 1, p. 179. See at <http://www.dirittoestoria.it/iusantiquum/articles/sinisc.pdf>. See Source of Terms at https://en.wikisource.org/wiki/Nicene_and_Post-Nicene_Fathers:_Series_I/Volume_II/City_of_God/Book_II/Chapter_21

¹³ I refer to the following translation: “Commonwealth is a constitution of the entire people. The people, however, is not *every association of men, however congregated, but the association of the entire number, bound together by the compact of justice, and the communication of utility*” – See POLITICAL Works of Marcus Tullius Cicero: Comprising his Treatise on the Commonwealth; and his Treatise on the Laws. Translation, Dissertations and Notes by F. Barham. 2 vols. London, Edmund Spettigue, 1841–1842. Vol. 1, p. 342. See at <https://oll.libertyfund.org/titles/cicero-treatise-on-the-commonwealth--5>

*good, with utilitatis communione sociatus, etc.*¹⁴ These inconsistencies are of methodological significance for research into this topic.

Thus, when one incorporates Roman law into the comparative analysis of the sources for the Constitution of the RSFSR, it becomes evident that the myth of the Commune Republic¹⁵ – originating from France and analysed, among others, by Lenin – is not the only source for the republic used by the authors of the 1918 Constitution.

4. TWO DIMENSIONS OF THE NOTION OF THE REPUBLIC

The 1918 Constitution embodies two dimensions of the notion of the republic similar to Cicero's republic. Part Two (General Provisions) defines the Russian republic as the “free socialist society of all the working people of Russia”¹⁶ (art. 10). Part One (articles 1-8 comprising chapters 1–4) that contained the Declaration of Rights of the Working and Exploited People primarily focused on the second dimension of the notion of the republic: it “is established on the principle of a free union of free nations” (art. 2). The authors endeavour “to create a genuinely free and voluntary, and therefore all the more firm and stable, union of the working classes of all the nations of Russia” (art. 8). It was conceived as a federation of soviet republics, as a (federated) association of autonomous regional unions (articles 8 and 11).

¹⁴ These are the terms that have been used in recent scholarship (SELLERS, M. N. S. The influence of Marcus Tullius Cicero on modern legal and political ideas. – In: *Ciceroniana*. The Atti of Colloquium Tullianum Anni 2009. Vol. 13, p. 244. See at <https://poseidon01.ssrn.com/delivery.php?ID=741072022102027081077113121098080026016056000029024069069122096076082095009064093108016120111006027011049004065016116100000101123042042011081085095102002022025030012023096125100123094082117111003004106113024010080027081080068105126081070064015099&EXT=pdf>; MAHDI, M. Cicero on Constitution, Government and Ethics. – In: *International Journal of English Literature and Social Sciences* (IJELS) 2018, Vol. 3, p. 84 See at https://www.researchgate.net/publication/323270472_Cicero_on_Constitution_Government_and_Ethics. The authors used this translation: CICERO. *The Republic and The Laws*. Transl. by N. Rudd. New York, Oxford World's Classics, 2008, p. 19.

¹⁵ МЕДУШЕВСКИЙ, Андрей Николаевич. Миф Коммуны и становление Советского государства (К переосмыслению Конституции РСФСР 1918 года). [The myth of Paris Commune and the creation of Soviet state (Toward the rethinking of RSFSR Constitution of 1918)]. – В: *Общественные науки и современность*, 2015, № 4, с. 121–140. See at <http://ecsocman.hse.ru/data/2018/08/05/1251868923/121-140-Medushevsky.pdf>

¹⁶ Hereinafter, the source of the translation of the Constitution see at [https://en.wikisource.org/wiki/1918_Constitution_\(Fundamental_Law\)_of_the_RSFSR](https://en.wikisource.org/wiki/1918_Constitution_(Fundamental_Law)_of_the_RSFSR)

5. GOALS OF THE REPUBLIC

The Constitution was tailored to a specific period in history, and, as such, reflects a number of factors that ensured that the republic was a workers' union. These are, first and foremost, its goals (articles 3 and 9): the suppression of the bourgeoisie, the abolition of the exploitation of men by men, the entire abolition of the division of the people into classes, the suppression of exploiters, the establishment of a socialist society in which there will be no state of autocracy, and the victory of socialism in all lands.

These goals were to be achieved by the “dictatorship of the urban and rural proletariat and the poorest peasantry”; the primary goal of the “transition period” was to create such a dictatorship (art. 9). When commenting on this constitutional provision, Nadezhda Krupskaya observed: “Proletariat needs dictatorship in order to completely eradicate the old and to clear the space for the new.”¹⁷ The dictatorship provision was suggested and promoted by Stalin; it was not present in other drafts mentioned above. However, it is worth pointing out that both the temporary nature of the dictatorship and the fact that it establishes dedicated government bodies *re exigente placuit* in order to attain specific goals at a pivotal moment in the life of the society evoke Roman public law (D. 1.2.2.18).

6. ECONOMIC AND POLITICAL FOUNDATIONS OF THE REPUBLIC

The economy of the republic as the association of workers (art. 3.a-c) was based on the property of the Soviet Workers' and Peasants' Republic. The Constitution stipulates how this property is formed. For instance, the entire available land was “socialized” to become “public property”¹⁸ (similar to *ager publicus* in Ancient Rome), while “[A]ll forests, treasures of the earth, and waters of general public utility,” as well as “all equipment whether animate or inanimate, model

¹⁷ КРУПСКАЯ, Надежда Константиновна. Конституция Российской Социалистической Федеративной Советской Республики. [Constitution of the Russian Socialist Federative Soviet Republic]. Москва, ВЦИСК, 1918, с. 6. See at <https://www.prlib.ru/item/711447>

¹⁸ In the original: “public property” and below in the same sentence – “national property”. In the used translation of the Constitution, the terms “public property” and “national property” are the same translation – national property (in general, justified). Therefore, here we moved away from this translation and propose the term “public property” to preserve the terminological accents. At the same time, public property and national property, in general, same the synonym.

farms and agricultural enterprises” were declared the property of the republic, as were banks. The “complete transfer of ownership” of all factories, mills and other means of production and transport was seen as another goal. Thus, all the aforementioned property was to become public (common, in Roman terms) property.

The foreign policy objective of the society of workers was defined as a “democratic peace without annexations or indemnities, upon the basis of the free determination of peoples” (art. 4). The political foundation of the Republic was determined by the appeal “To the Workers, Soldiers and Peasants” adopted by the Second All-Russian Congress of Soviets on 26 October 1917 and reflected in the Constitution: “Russia is declared to be a republic of the Soviets of Workers’, Soldiers’, and Peasants’ Deputies. All the central and local power belongs to these soviets.” (art. 1).

7. THE WORKING PEOPLE

As opposed to Cicero’s *res publica*, the 1918 Constitution declares the new republic not a common cause of all people, but an association of its part – the workers. In fact, the 1st part (the Declaration) only mentions *народ* (the people) twice in total, defined by the adjectives “labouring and exploited.” The Constitution is also clear in stipulating the agent that holds public power: it “must belong entirely to the toiling masses and to their plenipotentiary representatives – the Soviets of Workers’, Soldiers’, and Peasants’ Deputies” (art. 7). The latter, however, does not mean the adoption of representative governance, since “[t]he entire power, within the boundaries of the Russian Socialist Federated Soviet Republic, belongs to all the working people of Russia, united in urban and rural soviets” (art. 10). This claim to direct democracy is nevertheless restrictive in nature. When the goal of establishing a “dictatorship” is set, an even more limited list of those who hold power is given: “the urban and rural proletariat and the poorest peasantry” (art. 9).

It is worth noting that the Constitution does mention “citizens” – Russia’s inhabitants (articles 15, 19, 20, 22). All of them are proclaimed to have equal rights, with one exception of political rights. The reason for this restriction is that “during the progress of the decisive battle between the proletariat and its exploi-

ters, the exploiters should not hold a position in any branch of the Soviet Government” (art. 7). The Constitution clearly discriminates between active and passive citizens, the distinction first adopted in the French Constitution of 1791. In the 1918 Constitution, active citizens enjoy the right to vote and to be elected to the Soviets. The association of active citizens is what constitutes the aforementioned power agent, i.e. the “toiling masses.” These included men and women meeting two conditions (art. 64): (1) they must be 18 or older and (2) they must be engaged in activities that would allow for them to be considered “working.” The latter requirement is met by “[A]ll who have acquired the means of livelihood through labor that is productive and useful to society, persons engaged in housekeeping which enables the former to do productive work,” and Soviet soldiers and sailors. Even foreigners, who lived in Soviet Russia and were “engaged in work and who belong[ed] to the working class or to the peasantry not employing the labour of others”¹⁹ could be granted citizenship “without complicated formality” (art. 20).

The Constitution clearly specifies categories of people who enjoyed neither active nor passive suffrage (art. 65). However, should they cease exploitation and become working people, they would immediately be granted full suffrage. The authors of the Constitution renounced many of the restrictions prominent at the time, including that on account of sex. Thus, for the first time in history, women could participate in elections on an equal footing with men.

It is indicative that the proclamation of the citizens’ work duty is followed by the motto “He shall not eat who does not work,” coined by one of the most famous Romans known as Paul the Apostle (Second Epistle to the Thessalonians). State atheism prevented the authors from citing the source, but the use of this quote implied their commitment to Christian cultural values. These were known to all Russians, including the “exploiters,” and, to some extent, justified the founders’ decisions.

The introduction of legal requirements for voters and elected officials, as well as introducing categories of people who could not participate in elections, was quite widespread in the 19th and at the turn of the 20th century. It was, however, normally used to establish a framework for electing representative bodies.

¹⁹ Fragments of the above translation and later translation are used at <https://www.departments.bucknell.edu/russian/const/1918toc.html>

In the 1918 Constitution, it was used to specify categories of people that constituted the “society of workers,” which was to be governed through a “pyramidal system” of soviets.

8. SOVIETS

The 1918 Constitution declared Russia a republic of the soviets of workers’, soldiers’, and peasants’ deputies, where “all the central and local power belongs to these soviets” (art. 1). Article 1 not only validated the revolutionary changes that had already taken place in Russia, including the adoption of the new Constitution, but also outlined the specific framework for how workers would exercise power. This framework was based on pre-existing social groups and employed established labels for those groups. Professor Georgiy Gurvich, who took part in drafting the new Constitution, noted that Article 1 was “a more or less precise photograph of what was already in place.”²⁰

At the same time, the Constitution sets out the fundamentals of the standardised procedures for the soviets’ establishment and operation. Here, multi-level system of soviets was an innovation (articles 24–63). The All-Russian Congress of Soviets was granted “supreme power,” while regional, provincial (*губерния*), county and rural (*волость*) Congresses would operate in the country, and Soviets of Deputies, in towns and cities. The system was shaped like a pyramid: the superior soviets were comprised of representatives of the inferior; thus, the secondary level would draw from the primary, and the tertiary would draw from the secondary. In their meetings, voters would only directly elect deputies for urban or rural Soviets.²¹ These local meetings were similar to those of plebeians in Rome (*concilia plebis*).²² The plebeians constituted the majority of the Romans, as opposed to patricians,²³ just as the “working people” of RSFSR outnumbered the “exploiters.”

²⁰ ГУРВИЧ, Георгий Семенович. История Советской конституции [History of the Soviet constitution]. Москва, Социалистическая академия, 1923, с. 21. See at <https://www.prlib.ru/item/711459>

²¹ ГИМПЕЛЬСОН, Ефим Гилевич. Из истории строительства Советов (ноябрь 1917 – июль 1918) [From the history of procedures for the soviets’ formation (November 1917 – July 1918)]. Москва, Госюриздат, 1958.

²² Mentioned in: IG. 1.3; IJ. 1.2.4. De MARTINO, Francesco. Storia della costituzione romana. 6 vols. Vol. 1. 2. ed. Napoli, 1972, p. 372.

²³ CATALANO, P. Circa l’uso del diritto pubblico romano: dal ‘Contrat social’ di J.-J. Rousseau alla ‘Storia della costituzione romana’ di F. De Martino in Roma e America. Diritto romano

The multi-level system of Soviets and the procedure for their formation were clearly loaned from the Jacobin Constitution of 1793, which, in turn, was heavily influenced by Roman law and Jean-Jacques Rousseau's works. The 1918 Constitution binds the deputies by an obligation to report to their voters, and recognizes the voters' right to recall their deputy, should he or she lose their confidence (art. 78). This provision demonstrates that the authors of the Constitution rejected political representation, and is similar to how Roman magistrates operated.

When defining the framework for the Soviet government, the authors of the 1918 Constitution rejected the separation of powers as an obsolete principle of bourgeois public law. They believed that the legislators understood their legislation better than anyone else and were thus best suited to implement it, while the real life would advise the legislators on the necessary amendments and additions to the legislation. However, the 1918 Constitution authors were not only driven by the idea of conserving efforts and resources. They also directly followed the example of the Jacobins inspired by the ideas of Jean-Jacques Rousseau, a philosopher who extensively studied the experience of Ancient Rome and did not rule out division of functions between public authorities.

The new framework of supreme state bodies was influenced by the French Constitution of 1793 that established, among other things, a permanent Corps législatif, the supreme state body. According to the 1918 Constitution, the All-Russian Congress of Soviets – the “supreme power” – elected the All-Russian Central Executive Committee that was responsible to the Congress and was the “supreme legislative, executive and controlling organ of the Russian Socialist Federated Soviet Republic” (articles 29, 31). The All-Russian Central Executive Committee formed the Council of People's Commissars for “the purpose of general management of the affairs of the Russian Socialist Federated Soviet Republic, and departments for the purpose of conducting various branches.” The continuity of the activity of local Soviets, in turn, was ensured by their executive committees.

comune. – In: *Rivista di diritto dell'integrazione e unificazione del diritto in Europa e in America Latina*, Vol. 27, 2009, p. 3–16. See at <http://scienzepolitiche.uniroma2.it/files/2017/11/Roma-e-America-27-2009.pdf>

9. WAS THE SOVIET REPUBLIC NOT A STATE?

The particular nature of the republic as a new social framework was recognised by foreign lawyers and experts who analysed the 1918 Constitution. For instance, René David, a distinguished French jurist, noted that the constitution “avoids use of the very word ‘state.’”²⁴ Massimiliano Tomba observed “striking anomalies that make it difficult to use the word ‘state’” to refer to the soviet “experiment.”²⁵

The subsequent soviet constitutions showed different trends. Firstly, the 1924 and 1936 Constitutions, unlike the 1918 Constitution, use the term “state” – not “republic” – to define the USSR established in 1922 and its member republics. The term “republic,” in turn, is used to denote the form of government. Secondly, the class division of society gradually became less important, with a more universal and popular nature of the state and legal structure (the change in names of government bodies is quite telling: the Soviets of Workers’ Deputies in the 1936 Constitution, and the Soviets of People’s Deputies, in 1977). Thirdly, soviet legislators sought to preserve the connection to the source of the soviet constitutional system and maintained the idea of the association of people united by common goals, objectives and legal order, as well as by the social, economic, political and spiritual fundamentals. These ideas were most prominently expressed in the 1977 USSR Constitution, which introduced the notions of “soviet people” as a social group, and that of the “people’s state.” Thus, the Constitution returned to Cicero’s idea (*De re publica*. 26.42): *illa autem est civitas popularis - sic enim appellant -, in qua in populo sunt omnia* – at a new historical level.

Clearly, the fact that the 1918 Constitution’s concept of the republic was somewhat similar to that of Cicero and Roman tradition is connected with the importance that Ancient Rome assigned to public (i.e., common) interests and to the need to guarantee them with proper organisation of people’s life. However, the authors, including lawyers, could not afford to openly acknowledge this similarity due to their proclaimed focus on novelty and on building a new world.

²⁴ DAVID, René and BRIERLEY, John E. C. *Major legal systems in the World today: An introduction to the Comparative Study of Law*. London, Stevens and Sons ; New York, Simon and Schuster, 1978, p. 169. See at [http://lawfaculty.du.ac.in/files/course_material/Old_Course_Material/1%20Term%20Jurisprudence-I%20\(Legal%20Method\)%20July%202016.pdf](http://lawfaculty.du.ac.in/files/course_material/Old_Course_Material/1%20Term%20Jurisprudence-I%20(Legal%20Method)%20July%202016.pdf)

²⁵ TOMBA, Massimiliano. *Politics beyond the state: The 1918 Soviet Constitution*. – In: *Constellations*, Vol. 24, 2017, no. 4, p. 503.