LEGAL SUPREMACY: THE TRANSLATION BETWEEN TSARIST AND COMMUNIST CONSTITUTIONS AND CRIMINAL CODES

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COMMUNIST CONSTITUTIONS AND CRIMINAL CODES

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ABSTRACT

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This thesis examines the constitutions and criminal codes which appeared at the end of the Tsarist regime of Nicholas II and the beginning of the new regime of the Bolsheviks led by Vladimir Lenin. It contrasts the constitutions and criminal codes of each regime to demonstrate the changes between state ideologies and laws, but also highlight the similarities between the two in terms of their concerns for the state. It shows that despite the changes that occurred in the written law, each regime was primarily concerned with establishing the supremacy of the ruling government.
I want to first thank Dr. Jeffrey Hardy for being the primary advisor for this thesis project. I thank him for his willingness to discuss drafts and give feedback, and for his great insights on where to look for secondary sources and how to situate my work in what has already been done within the field. I also have to thank him for encouraging me to tackle this project to begin with. I appreciate his expert knowledge in Russian history and his support throughout the entire process of completing this thesis.

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Introduction

Russian law transformed in remarkable ways from the early days of the Tsarist era. In 1593, legal codes did not even distinguish between animate and inanimate objects. For example, a church bell was flogged and sent to Siberia after being charged with treason.¹ By the time the 1845 Criminal Code was presented to Tsar Alexander II, the law contained 2,035 articles which detailed 150 types of crime and a long list of punishments tailored to the severity of the misconduct.² In 1903, a new criminal law code (уголовное уложение) was presented to Tsar Nicholas II. It expounded on the definition of a crime against the state by establishing spreading “false information about activities of government officials and institutions,” as well as the “praise [of] any illegal action in print or speech” as a crime.³ While criminal codes changed, autocratic power remained constant.

Following the October Revolution of 1905, Nicholas II signed away his unlimited autocratic power and created a State Duma or parliamentary system that transformed Russia into a constitutional monarchy. In April 1906, the Russian Fundamental Law (Свод””Законов”) was signed by the Tsar and implemented as a new constitution for Russia that revised the earlier fundamental laws that were given in 1832.⁴ In addition to creating a parliamentary body for popular representation, the document established the

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¹ Frances Nethercott, *Russian Legal Culture Before and After Communism: Criminal Justice, Politics, and the Public Sphere* (New York: Routledge, 2007), 35.
² Nethercott, *Russian Legal Culture Before and After Communism*, 25.
⁴ Mikhail Speransky was the prominent statesman behind the creation of the laws and Tsar Nicholas I issued their installation in January 1833. These codes were to replace the Ulozhenie of 1649. The irregularity of these new codes is worth noting before analyzing the changes that came about in the new Fundamental Law of 1906 to better understand why a new code was created after almost a century under the old. “The Code of Laws’ of the Russian Empire Declared an Effective Source of Law,” Presidential Library, 2018, accessed November 24, 2018, https://www.prlib.ru/en/history/619022.
people's civil rights, including freedom of religion and the protection of private property. While a new constitution was created, the Tsar elected to keep the Criminal Code of 1903 in effect. It preserved the supremacy of the autocracy by defining any act against the sovereign as a criminal act worthy of punishment.

The Russian monarchy came to an end in 1917 following Russian losses and discouragement in World War I. The Tsar abdicated the throne in March, and the Provisional Government (Vremennoye Pravitel’stvo) took power. However, the Provisional Government was not the only body at work seeking to change Russia’s political climate. There was also the newly implemented Petrograd Soviet.5 Shortly after its creation, other Soviets began to spread across the country, showing the popularity of the system.6 At first it appeared that the Provisional Government and Soviets would be able to peacefully coexist, but this was not to be. The Provisional Government elected to continue the war efforts after their establishment and this proved to be a mistake. Anti-war sentiment permeated the Russian population, particularly among the Bolshevik supporters in the Soviets.7 This social discontent bolstered the popularity of the rising

5 The first of its kind, the Petrograd Soviet was a political body made up of “562 delegates from the working class.” They represented those from the metal industry, textile factories, and print works, and included an executive committee of thirty one members. Early on, the Bolsheviks recognized the importance of the Soviets and began participating in them. The word ‘soviet’ means council. Helene Carrere d’Encausse, Nicholas II: The Interrupted Transition (New York: Holmes and Meier, 2000), 101-102.

6 The leaders of the Petrograd Soviet came from moderate socialist parties such as the Mensheviks and the Socialist Revolutionaries. These groups favored democratic revolution. The Socialist Revolutionaries also appealed to the peasantry and their peasant communes as the purest form of governance. Both these groups participated in the State Duma, or assembly, established under Nicholas II. Valerie A. Kivelson and Ronald Grigor Suny, Russia’s Empires, (New York: Oxford University Press, 2017), 224-225.

7 Despite knowing about the strong opposition to the war, the Provisional Government elected to continue the war effort because “most leaders of the new government had agreed to the abdication of the tsar in the hope of improving the army’s fighting capacity.” They wanted to prove they could succeed where the Tsar had failed. David Christian, Imperial and Soviet Russia: Power, Privilege and the Challenge of Modernity (New York: St. Martin’s Press, 1997), 185.
Bolshevik Party, led by Vladimir Lenin. The Bolsheviks overthrew the Provisional Government and took power on November 7, 1917, claiming a new era governed by the Soviets in the name of the working class, which they believed had been oppressed under both the Tsar and the Provisional Government.

The Bolsheviks established a new constitution for the Russian Socialist State in 1918. In 1924 they established a constitution for the Union of Soviet Socialist Republics (USSR) to create a governing document for the expanding confederation of socialist states. The Bolsheviks promised a government based on the rule of the working class and created a legally constructed document to show their commitment to that end. Having witnessed the results of not appeasing a disgruntled populace in the Tsar’s failures following the October Revolution, as well as the failures of the Provisional Government, the new Bolshevik regime followed through with their promises to please the Russian people. In addition, they established a new criminal code in 1922. Unlike the Tsar’s Criminal Code, this Code was built upon an entirely different ideology, and therefore created a new government structure and procedures for administration of the Union.

Both the 1906 Constitution of Tsarist Russia and the 1924 Constitution of the Soviet Union were dedicated to legally backing the supremacy of the ruling regime. The Russian Fundamental Law of April 1906 failed to heal the rift between the Tsar and the Russian people because the Tsar built it upon the concept of his supreme authority. While the people were looking for the protection of popular sovereignty and the protection of the civil rights they believed the monarch had violated, the Tsar reasserted his supremacy in the Fundamental Law. He degraded the power of the elected Duma and defended the traditional rule of law as built upon the belief in one supreme autocrat. The 1924
Constitution of the Soviet Union was built on the belief of supremacy invested in the local Soviet councils, as well as the republics that constituted the Union. The Marxist beliefs of power residing in the proletariat, and the injustice of the imperial hierarchy, had bolstered the Bolshevik takeover and justified the ousting of Tsar Nicholas II. The people were to constitute the supreme power within the republics, and “unite in one socialist family.”

Current historiography emphasizes that each regime was built on a particular ideology. Scholars like Gilbert S. Doctorow argue that the Tsar was dedicated to his autocratic power and believed it was a gift handed down to him by the previous Tsars. Scholars of Communist Russia, such as Vadim Medish, argue that the Soviet government was focused on legitimizing itself through its beliefs in the principles set forth by Karl Marx and Friedrich Engels. Promoting the Communist ideology was the main priority of the state even if other government functions were sacrificed in the process.

While historians agree that the Tsarist and Communist regimes were built on different ideologies, this project seeks to examine how that ideology became a part of written law. It seeks to examine how legal language and provisions supported the ideology of the state, specifically through state constitutions. In addition, it seeks to understand how ideology, and the belief in the supremacy of the ruling regime, manifested itself in the criminal codes. For example, did ideology determine the definition of a crime against the state?

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The Tsarist and Communist Constitutions established supremacy of their regimes through their respective ideologies. It is then noteworthy that both the criminal codes of the Tsarist and Communist regimes had special sections that determined state crimes, or actions which defied the supremacy of the governing figure. The examination of the wording of the legal codes of 1903 and 1922 with the Constitutions of 1906 and 1924 reveals the influence of each regime’s ideology on the legal codes. A state crime under the 1903 Tsarist Criminal Code was any action performed against the sovereign, which opposed the ideology of a supreme autocrat. The 1922 Communist Criminal Code defined a state crime as any action that would oppose the ideology of the superiority of the proletariat over the bourgeoisie.

The 1906 Constitution of Tsarist Russia

The Fundamental Law (Svod”” Zakonov”) was signed by Nicholas II on April 23, 1906 following a lengthy period of hardship and inner turmoil in Russia. Crop failure and famine swept the land between 1891 and 1892 and exacerbated the people’s dissatisfaction with the Tsar and the bureaucracy. The peasants were not the only ones who had complaints. The industrial workers were also restless, feeling that “the laws were not sufficiently strict to prevent undue exploitation.”12 As strikes and riots broke out

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11 Russian historian Sergei Fedorovich Platonov said that when Nicholas took the crown he made it evident that he would follow in the footsteps of his father and “preserve the principle of autocracy firmly and immutably.” Seeing the change on the throne as an opportunity, though, the Zemstvos, or land councils, offered their cooperation during Nicholas’ first few days in power. However, Nicholas declined the offer and continued in his governance of the country with his bureaucracy and the “clubs of the police.” It is important to note here that the Tsar had the opportunity to cooperate with the voice of the people right at the beginning of his reign and turned it down. Sergei Fedorovich Platonov, History of Russia, ed. Frank A. Golder (Bloomington: University Prints and Reprints, 1964), 400-403.

12 Platonov, History of Russia, 402.
across the country, the people calling for governmental reform, the tension between the
Tsar and the people was further aggravated by the failure of the Russo-Japanese War.

On January 9, 1905, an organized group of workers marched on the Winter Palace
to petition the Tsar for a redress of grievances, but soldiers fired on the crowd instead.
The revolts and protests that followed led to the October Manifesto of 1905 (Oktiabr’skii
Manifest). On February 20, 1906, a governmental decree created a state parliament
known as the Duma (Gosudarstvennaia Duma) and made it equal with the Tsar’s
advisory body, the State Council (Gosudarstvennaia Sovet). Both bodies received
authority to pass legislation and helped to transform the Russian Empire into a
constitutional monarchy. However, the new limits placed on the Tsar’s unlimited
autocracy (neogranichennoe samoderzhavie), were not enough to satisfy every social
class. The nobility were placated because they saw the Duma as a place where they could
acquire office and start reform, but the working class still felt that their demands were
unanswered and that they had no place in the new system. Most historians agree with
the view of Ann Erickson Healy who states that the Tsar agreed to write the Fundamental
Law “solely as an attempt to calm the worst disturbances to date in [the] dynasty’s three
century rule.”

With riots and protests spreading across the empire due to economic decline, the
unsuccessful Russo-Japanese War, and widening divisions between the upper and

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13 The Manifesto also granted the people certain rights, including “unshakable foundations of civic liberty,
freedom from arrest without cause, and freedom of conscience, speech, assembly, and association.” The
lower classes also received the right to vote. The Manifesto was an important precursor to the Fundamental
Law of 1906 in terms of the Tsar responding to the voice of the people. Platonov, History of Russia, 404.
14 Stephen F. Williams, The Reformer: How One Liberal Fought to Preempt the Russian Revolution (New
York: Encounter Books, 2017), 120.
15 Christian, Imperial and Soviet Russia, 146.
16 Ann Erickson Healy, The Russian Autocracy in Crisis 1905-1907 (Hamden, CT: Archon Books, 1976),
23.
working classes, the Tsar had to make some concessions before he lost his complete authority and right to rule. In addition, the Tsar had to be the one to act because he could not rely on his army to crush the uprisings. Volker Sellin makes the point that the same people who made up the Tsar’s army also made up the protesters.\textsuperscript{17} Nicholas II probably hoped that the 1906 constitution would satisfy those who were unhappy with the monarchy, but the language he used showed that he was still fixed on retaining his absolute authority.

The introductory section of the Fundamental Law showed the unity that Nicholas II expected from the Russian people. The first principle of the law declares “the Russian State is one and indivisible.”\textsuperscript{18} Russia had just gone through a time of great upheaval and crisis, and a new feeling of unity needed to be cultivated. Nicholas had to recognize that his authority was in jeopardy. He needed to remind the people what the goal was and rekindle their belief in a common identity. The third principle of the introductory section carried this common identity further: “the Russian language is the general language of the state, and its use is compulsory in the army, the navy, and state and public institutions.”\textsuperscript{19} Nicholas II established Russian as the official language of the country, which was significant considering the Russian Empire was created from multiple ethnic groups and consisted of many languages from its founding.\textsuperscript{20} By having a common language among all his subjects, Nicholas hoped to reunite them under the current model of governance. Even before laying out the rights and privileges the people were anticipating with the

\textsuperscript{17} Volker Sellin, \textit{European Monarchies From 1814 to 1906: A Century of Restorations} (Munich: De Gruyter Oldenbourg, 2017), 103.
\textsuperscript{19} \textit{Svod“ Zakonov” Rossiisko Imperii}, Vol. I, pt. 3.
\textsuperscript{20} Kivelson and Suny, \textit{Russia’s Empires}, 121-122.
creation of the new constitution, Nicholas was establishing the ideals of solidarity and “Russianness” that he expected among them.

Following the introduction, the first chapter of the Fundamental Law asserted the Tsar’s authority, including his supremacy above the Duma. At the very beginning the Tsar declares, “the All-Russian Emperor possesses the supreme autocratic power (verkhovnaja samoderzhava vlast’). Not only fear and conscience, but God himself, commands obedience to his authority.” This statement declared that the tsar ruled by the divine mandate of heaven. David Christian states, the Tsar “believed his main duty was to protect the autocratic powers granted to him by God, and pass them on, intact, to his son.” For Nicholas, his reign was something that was legitimized beyond the power of earthly authorities and laws. He had always been a religious individual, and believed his reign was blessed by his faith. The Fundamental Law reiterated this belief and preserved it for the tsars Nicholas hoped would come after him. Chapter IV of the Law states that “the emperor who holds the throne of all Russia cannot profess any religion save the Orthodox.” If the future rulers of Russia hoped to receive the same legitimacy as Nicholas, they needed to belong to the same religion. From the people’s perspective, however, the reassertion of the monarchy in the Fundamental Law was disappointing, although a later principle seemed more promising.

The Law goes on to say that “the Sovereign Emperor exercises power in conjunction with the State Council and the State Duma.” This reflected more of the

22 Christian, Imperial and Soviet Russia, 154.
expected system of a constitutional monarchy. If the emperor was going to work with the
elected representative bodies, there seemed to be hope that the voice of the people had
been heard and that the Tsar was reacting to their demands.\(^{26}\) However, the point
immediately following did not support that, stating: “The Sovereign Emperor possesses
the initiative in all legislative matters. The Fundamental Laws may be subject to revision
in the State Council and State Duma only on His initiative.”\(^{27}\) The document continued to
expound on this point by stating that “the Sovereign Emperor possesses the
administrative power in its totality throughout the entire Russian state.”\(^{28}\) This seemed to
recant the Tsar’s previous promise in the October Manifesto for a true constitutional
monarchy. The Duma was not going to be an equal partner with the Tsar. It would
continue to be subjected to him, unable to govern and act without his approval. Nicholas
II’s language in these sections of the Fundamental Law reinforced his determination to
hold on to his autocratic power. Instead of a document for a constitutional monarchy, it
became the reinforcing document of the supremacy of the autocracy.

Some historians argue that the Tsar did not actually mind a national legislature or
the idea of popular representation, but that he simply preferred to promote the reform in
private. For example, historian Sergei Kulikov argued that he only wanted to introduce it
little-by-little, and that he would have introduced the parliamentary system sooner but

\(^{26}\) The hope for a constitutional monarchy was further illustrated in the fact that the Tsar restricted the word
‘unlimited’ from the Fundamental Law when addressing his autocratic power. Unfortunately, this did not
mean anything when words such as ‘supreme’ remained. S. S. Oldenburg, *Last Tsar: Years of Change, 1900-1907*,

\(^{27}\) Emphasis added.

\(^{28}\) The document expounds on this point by stating: “On the highest level of administration his authority is
direct; on subordinate levels of administration, in conformity with the law, he determines the degree of
authority of subordinate branches and officials who act in his name and in accordance with his orders.”
“assumed it would cause Russia to disintegrate.”

However, would the Tsar not have been worried about popular representation causing disintegration even before a representative system was installed? By the time Nicholas II took the throne, Russia was becoming heavily divided ideologically, including groups who were conservative as well as anti-tsarist and socialist. Knowing that some of these groups believed in revolution and an abolition of the monarchy, the Tsar would not want to give the people representation. He wanted to avoid giving them a vehicle to gather support and create legislation to achieve their goals.

In addition, if the Tsar was not afraid of establishing a representative body and giving up his authority, why would he have felt the need to use such strong language in the opening section of the Fundamental Law? If he was comfortable with the idea of a co-ruling council, his language would have been more positive about its creation, and there would have been no reaffirmation of the autocracy. Nicholas II feared the power of the people and the concept of a constitutional monarchy. His language in the Fundamental Law showed that the Duma was to remain inferior to the Tsar rather than ruling equally with him.

The Tsar’s language in the Fundamental Law showed the blatant disregard he had for the Duma and the role it was supposed to play as the representative body of the Russian citizens. He declared that he would determine “the degree of authority of subordinate branches and officials who act in his name and in accordance with his orders,” and that he would dictate “the scope of activity of all state officials in accordance

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30 Kivelson and Suny, Russia’s Empires, 223-225.
with the needs of the state.”31 This left a lot of leeway for the Tsar to do as he wanted. It allowed him the possibility to decrease the authority of the Duma, as well as decrease their responsibilities and abilities. In effect, these provisions would keep him secure at the top of the government hierarchy.

The Tsar did not even go about these obvious limitations discreetly. Before the Duma met for the first time on April 27, 1906, just four days following the birth of the Fundamental Law, one visitor to Russia quoted the Tsar as saying, “I believe Russia can run for twenty years more without a parliament, and I intend to do all I can to guide my country back to where we were before the October Manifesto.” The visitor, an American named Kellogg Durland, then commented that “the Czar had already determined upon his policy before the Duma had met at all.”32 Even to outsiders, it was obvious that the Tsar wanted to keep the country under the same form of rule that it had been for generations. Nicholas believed in the autocracy and feared the potential power of the Duma. For him, “calling a constituent assembly…would have acknowledged revolution [and] that was exactly what he sought to avoid.”33 The Tsar made another remark shortly before the Duma’s first meeting, saying, “I understand perfectly well that I am creating an enemy not an ally.”34 The Tsar was wary of power in the hands of the people due to his certainty in supreme autocracy. He believed it to be the natural order of governance. However, he could not ignore the uprisings and unrest that existed in the country. He created the

32 Kellogg Durland was an American social worker. He worked as a coal miner in Scotland to study mining conditions, and in 1906 he spent the year travelling through European Russia, Poland, the Caucasus, and part of western Siberia. He wrote about his experience, commenting on the “mere shell” that was the Duma, but commending the men who were a part of it. Kellogg Durland, The Red Reign: The True Story of an Adventurous Year in Russia, (New York: The Century Co, 1907), 178-181.
33 Sellin, European Monarchies From 1814 to 1906, 104.
34 Oldenburg, Last Tsar, 196.
Fundamental Law hoping to erase the tension and reunite the people to hold the Russian Empire together.

The Tsar furthered the ideal of autocracy by laying out the rights and obligations of Russian citizens in the next section of the Fundamental Law in an attempt to show that he had their best interests at heart. The Tsar saw himself as the ‘little father’ of his people and believed that his people would continue to be loyal if he showed that he was protecting them. However, he also believed that his subjects had obligations to protect the autocracy and the nation in return. He first declared that “the defense of the Throne and the Fatherland is a sacred obligation of every Russian subject,” and that “Russian subjects are obliged to pay legally instituted taxes and dues.” The Tsar was willing to create a constitutional monarchy by law and grant the people some of the basic rights they wanted, but he made sure that his subjects understood that he expected something in return.

Following these obligations, the Law began to outline the rights of all Russian subjects. The Tsar first stated that “no one can be tried and punished other than for criminal acts considered under the existing criminal laws.” The next right given to the Russian people was the inviolability of private property. They were allowed to freely choose where they lived, their profession, and they were free to “travel abroad without any hindrance.” This was a worthwhile right for the Russian people in light of their

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37 The specificity of the criminal laws will be discussed in the next section. Therefore, it will not be addressed here. Svod” Zakonov” Rossiiskoi Imperii, Vol. I, Chap. II, pt. 30-32.
38 The provisions about land rights also included the note that forcible seizure of property was prohibited and “permissible only upon just and decent compensation.” Svod” Zakonov” Rossiiskoi Imperii, Vol. I, Chap. II, pt. 33-35.
history of serfdom, which tied peasants down to the land to work it for landlords. While the serfs had been emancipated by Tsar Alexander II’s Emancipation Manifesto in 1861, these provisions by Tsar Nicholas II were probably done with the intention to show the people that the monarchy would continue to support their rights as it had in the past.

The next rights given to the Russian people provided for freedom of conscience and thought. The Tsar gave the people the “right to organize meetings that are peaceful, unarmed, and not contrary to the law.” However, “the law [would determine] the conditions of meetings, rules governing their termination, as well as limitations on places of meetings.” The law also set forth that “within the limits determined by law, everyone can express his thoughts orally or in writing, as well as distribute these thoughts through publication or other means,” and everyone in the Empire, including foreigners, was allowed to profess whatever religion they chose. Once again, the Tsar sought to give the people what they wanted while simultaneously protecting his authority as reigning autocrat. He did this by encompassing the rights of the people within the law, the area where his authority had final say according to the new constitution.

Chapter three of the Fundamental Law is entitled, ‘Laws,’ and dictates how laws come into being. The first principle of chapter three states that “the Russian Empire is governed by firmly established laws that have been properly enacted,” as well as that “every law is valid for the future.” Once those ground rules were established, the Tsar declared that laws “shall not be legally binding without the approval of the Sovereign

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39 Kivelson and Suny, *Russia’s Empires*, 188.
Emperor,” even if they have the approval of the State Council and the State Duma.\textsuperscript{43} Once more the Tsar protected the supremacy of his right to rule. While he probably hoped to quickly grant these small concessions to please the people and reunite them under his ‘divine rule,’ their newly established rights meant little to them when the Tsar still controlled how they functioned. The Fundamental Law established the supremacy of the monarch despite the people’s desire for representation through elected government bodies. It set forth the belief of unity and order under the autocrat which was to be preserved by law.

\textbf{The 1903 Criminal Code of Tsarist Russia}

Before addressing the actual content of the Tsarist Criminal Code, it is important to note that the Tsar did not release a new legal code after his new constitution in 1906. This is telling because it suggests Nicholas was not looking to completely change the state structure. He had plenty of officials who could have produced a new code in a matter of weeks or months if that is what he had commanded, but he did not. He probably preferred to keep the Code the way it was because it preserved the image of the supreme autocracy that he reaffirmed in the 1906 Constitution.

The 1903 Criminal Code supported the absolute autocracy of the Tsar that Nicholas II wanted to preserve. The power to define law was under the Tsar’s jurisdiction. It allowed the Tsar to dictate what was just by giving him power to define crime and determine the proper punishments. In the Fundamental Law, the Tsar declared that “justice is administered in the name of the Sovereign Emperor in courts legally

\textsuperscript{43} \textit{Svod” Zakonov” Rossiiskoi Imperii}, Vol. I, Chap. III, pt. 44.
constituted, and its execution is also carried out in the name of His Imperial Majesty.”

The Tsar was the one who dictated the administration of justice. This is an important fact to remember because the ideology of the autocracy was grounded in the belief that the Tsar ruled by divine right, and therefore was second only to God. Whatever he declared to be just, and therefore whatever he determined to be crime, was the law.

The first principle that the 1903 Criminal Code supported from the 1906 Constitution was the Tsar’s desire for the people to be united under his law. In the opening decree of the Criminal Code, the Tsar hoped the Code would “reinforce a feeling of legality in people, which should become a constant guide of every person and entity, as well as aggregate composition of all titles and societies.”

After the uproar and chaos that followed Bloody Sunday, and the pressure on the Tsar to create a new constitution, this was an important principle to keep in the Criminal Code. The Tsar wrote a new constitution and outlined a constitutional monarchy with the hopes of keeping the people united under a single sovereign. He wanted them to unite under law, specifically his laws. His focus on unity was further stressed as he defined treason against the state. Chapter four dictated that a citizen was guilty of treason if they were found “guilty in aiding or being in favor with an enemy in their military or any other hostile actions against Russia.”

Influence by outside forces could potentially oppose the Tsar’s autocratic authority, which would weaken the monarchy further. The Tsar wanted the people to be united in belief and in law.

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44 The Fundamental Law also dictated the rights of the Sovereign when administering justice. He had the right to “pardon the accused, to mitigate the sentence, and even to completely forgive transgressions.” He also had the “right to commute the official penalty and to generally pardon all exceptional cases that are not subject to general laws, provided such actions do not infringe upon civil rights or the legally protected interests of others.” Svod “Zakonov” Rossiiskoi Imperii, vol. I, chapter 1, pt. 22-23.
45 Ugolovnoe Ulozhenie, Saint Petersburg, 1903, Ukaz “Pravitel’stvuushchemu Senatu, pg. 1.
46 Ugolovnoe Ulozhenie, Chap. IV, pt. 108.
Chapter one of the Criminal Code defined crime and dictated acceptable punishments for criminal actions. Section one said that “a deed is considered criminal when it is forbidden by law, under fear of punishment, at the time of the committed crime.” This wording indicates that the law established which acts were criminal. While this may seem obvious, it is important to note after reading the 1906 Constitution. Chapter three in the Constitution stated that laws needed the approval of the Tsar before they were legally binding. If the Tsar is the one who had the final say in what became law, then this appears to confirm that the Tsar determined the definition of a crime as well.

The next part of Section one dictated which punishments were meted out for criminal actions. The first punishment listed was capital punishment, which was considered the “highest form of punishment” for actions determined to be “serious crimes.” Other punishments listed included “hard labor, exile, imprisonment in a correctional facility, arrest, and monetary penalty.” Capital punishment is an important punishment listed here, not only because it was the first, but because it was among the list of punishments applied to “serious crimes.” One of the serious crimes the Tsar’s Criminal Code included was a crime against the state, or, in other words, a crime against the power of the supreme sovereign.

A crime against the sovereign was punished severely. A person who was guilty of threatening the “life, health, freedom or…sanctity of a Sacred Person of a Ruling

48 Ugolovnoe Ulozhenie, Chap. I, Section I, pt. 2.
49 Ugolovnoe Ulozhenie, Chap. I, Section I, pt. 2.
50 The Code declared that crimes punishable by capital punishment, hard labor, and exile were ‘serious crimes.’ Crimes punishable by imprisonment in a correctional facility were categorized as ‘crimes.’ Those punishable by arrest or monetary penalty were called ‘misdemeanors.’ Ugolovnoe Ulozhenie, Chap. I, Section I, pt. 3.
Emperor, Empress, or Heir to the Throne, or in trying to overthrow a Ruling Emperor of the Throne,” was given the death penalty. One also received the sentence of capital punishment if they “tried to take away or limit the rights of [the Tsar’s] Supreme Power.” Capital punishment had been used by the Russian Tsars as punishment dating back to the fourteenth century. Some had abolished it during their reigns, but it was reestablished by the 1833 Code. Tsar Nicholas would have found the use of capital punishment necessary to make an example of those in opposition to his supreme authority, and his legal code reiterated that.

The Tsar’s belief in the monarchy was evident in the protection he gave its continuation in his criminal code. Not only is any attempt on his life a crime, but also any attempt on the life of his heir, the one he hopes to replace him and carry on the monarchial line. He probably hoped to preserve it for generations to come. His belief in supreme autocracy is also evident in the wording of this provision. The Tsar wanted to protect his supreme authority. He made it a crime for anyone to try and take away or limit that authority. Based on what he established in the Constitution of 1906, he believed he had a right to this authority and protected it legally.

51 Crimes against the sovereign and his power comprise the entirety of chapter three. Ugolovnoe Ulozhenie, Chap. III, pt. 99.
52 Some Tsars chose to limit the use of the death penalty. They decided to advocate other punishments, particularly exile or hard labor. Tsars such as Elizabeth Petrovna and Catherine the Great went so far as to abolish the death penalty during their reigns. Executions increased following the Revolution of 1905. Will Adams, “Capital Punishment in Imperial and Soviet Criminal Law,” The American Journal of Comparative Law 18, no. 3 (Summer 1970): 575.
53 1908, two years after the Tsar ratified the 1906 Constitution, “went down in the books as one of the most brutal in Russian history before 1917” when “1340 executions were carried out.” Nethercott, Russian Legal Culture Before and After Communism, 119.
54 The law continued by declaring anyone guilty who tried to make “any change in Russia or on any part of the established...way of governing or the order of inheriting the Throne. Those guilty of these crimes were punished by “immediate hard labor exile.” Ugolovnoe Ulozhenie, Chap. III, pt. 100.
The Tsar also protected his authority by punishing any plot discovered against him. The law declared that anyone “guilty in preparing for a serious crime” would be punished by “capital punishment.” If they were guilty in preparing for the serious crime of violating the established order of governance, they received hard labor exile instead. Not only was the deed itself against the law, but the mere act of preparation for it was severely punished, too. The Tsar expounded on this principle by declaring that anyone “guilty in participating in a circle that was formed for a purpose of committing a serious crime,” would be punished with “hard labor exile.” This is an interesting note because it fits the principles the Tsar laid forth in the 1906 Constitution. He gave the people the right to meet and gather in groups, but only if they were not against the established laws. His provisions declaring what violated these rights in the Criminal Code support the standards he set forth in the Constitution.

The Criminal Code further supported the existence of the autocracy by making it a crime to even insult the Tsar. Chapter three continued by declaring that any “insult of a Ruling Emperor, Empress, or Heir to the Throne, or in a threat to their Person, or in abuse of Their image of any kind,” would be punished by hard labor exile, but “for a period of not more than eight years.” If it “showed disrespect toward Their person, or…[tried] to overthrow a Ruling Emperor of the Throne,” the punishment was the same. No matter how the “insult” occurred, whether by “distribution or public display,” or “an essay or

56 The amount of time spent in exile was determined by what weapons the group was preparing to use in their attack, and whether they were seeking to kill the Tsar or a member of the royal family, or whether they were attacking the Tsar’s right to rule. The thought to conspire “to form a circle for the purpose of committing a serious crime” was also punished by exile. Ugolovnoe Ulozhenie, Chap. III, pt. 102.
58 Ugolovnoe Ulozhenie, Chap. III, pt. 103.
59 Ugolovnoe Ulozhenie, Chap. III, pt. 103.
image that [was] offensive to Their dignity,” it was against the law.\textsuperscript{60} At first glance, these provisions may seem to violate the freedom of speech and the press the Tsar extended in the 1906 Constitution. However, they do not according to the Constitution’s principles. The Tsar declared in his Constitution that those liberties existed “within the limits of the law.”\textsuperscript{61} Therefore, the law, established by the Tsar himself, declared that those rights did not apply to anything written or said that went against the pride or rights of the autocracy.

Chapter three concluded with yet another provision meant to protect the legitimacy of the autocracy. Provision 107 stated that anyone “guilty of insulting the memory of a deceased Formerly Ruling Grandfather, Father, or a Predecessor of a Ruling Emperor” was punished with imprisonment, regardless of the form that insult took.\textsuperscript{62} In this part of the law, slandering the memory of a previous Tsar was forbidden. This was meant to preserve the image of the autocracy. If the people were allowed to speak against the previous regimes, they would probably find fault in the current one. Nicholas wanted to preserve the image of the supreme autocracy, and to do so he needed to preserve the autocracy’s entire legacy by dictating what people could say about it.

The 1924 Constitution of the Union of Soviet Socialist Republics

The beginning of Bolshevik rule did not go peacefully. The party did not have considerable popular support, and there were still many anti-Bolsheviks. A civil war

\textsuperscript{60} Ugolovnoe Ulozhenie, Chap. III, pt. 103.
\textsuperscript{61} Svod” Zakonov” Rossiiskoi Imperii, Vol. I, Chap. IV, pt. 79.
\textsuperscript{62} The length of imprisonment was not to be more than three years. The “insult” fit the law if it was “committed publicly or in the distributed or publicly displayed products of print, letter, or images.” Ugolovnoe Ulozhenie, Chap. III, pt. 107.
broke out between the Bolsheviks and their opponents shortly after the revolution, but the Bolsheviks claimed victory in the end thanks in part to the success of their ideology among the people. On July 10, 1918, the first constitution of the Russian Soviet Federated Socialist Republic (RSFSR) state was implemented. This Soviet Constitution was necessary to set out the principles that would dictate how the new government would operate. In 1924, a new constitution (konstitutsia) was ratified, forming the Union of Soviet Socialist Republics (Soûz Sovetskikh Soûsialisticheskikh Respublik).

When the Bolsheviks began their struggle against the Tsar, they advocated for a decentralized state to undermine his power. They supported nationalist movements outside of Russia and “recognized the independence of Poland, Finland...Estonia, Lithuania, and Latvia.” During the Civil War between the Reds and the Whites, they gathered the support of Georgia, Armenia, and Azerbaijan by creating policies that depicted the Whites as “hopeless Great Russian nationalists.” Once the Civil War ended, though, Lenin and the Bolsheviks reconquered some of this territory. They

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63 The Bolsheviks were known during the revolution as “the Reds.” They consisted of “revolutionary intellectuals…who had suffered repression during the tsarist regime and were committed to change on the basis of their deeply held Marxist beliefs.” The other side of the revolution was known as “the Whites.” This side consisted of army officers “who envisaged military solutions to most problems [and] felt it necessary to combat the Bolsheviks, for they believed that communist rule would bring only evil to the fatherland.” Peter Kenez, A History of the Soviet Union from the Beginning to the End, (Cambridge: Cambridge University Press, 1999), 34.

64 The Constitution of 1924 was built on the same principles of the Constitution of 1918. The 1918 document was the Constitution for the Russian Republic, which was the first socialist state, and therefore focus will be on the 1918 document to show the impact of the Soviet ideology on the following Criminal Code of 1922. However, the 1924 Constitution will still be mentioned because it was the Constitution for the entire USSR.

65 The first constitution reiterated the Declaration of the Rights of the Toiling and Exploited Peoples. This declaration “spoke of a federation [of the soviets] but…this was…only a theoretical matter—the government in Petrograd hardly controlled Russian territories. The declaration was more an announcement of intentions than a policy document.” The first constitution of 1918 outlined the principles upon which the republic would be governed, as well as established the hierarchy of authority and electoral rights.

Kenez, A History of the Soviet Union, 57.


believed the whole world would eventually become Communist and therefore it was their responsibility to start gathering people together. Diplomacy was conducted between the Russian republic and the new republics “by treatises...[to preserve] the appearance of sovereignty,” but that changed with the ratification of the 1924 Constitution.  

The creation of the 1924 Constitution was necessary for several reasons. The Constitution of 1918 had only set forth the principles for governing the Russian socialist state, and by 1924 the other republics of Ukraine, Belarus, Georgia, Azerbaijan, and Armenia had been acquired. The new government needed to declare the formation of a new, stronger union, and give its creation legal legitimacy. The new constitution also needed to establish the ideology that would govern the new union. Vadim Medish states that Soviet constitutions are “propagandistic self-images...that cancel many important promises, rather than supreme legal instruments that are meant to be used.” In this view, the constitution needed to set forth the principles it expected its citizens to live by. It was more than the laws needed to establish order, but a declaration of ideology and what principles the people needed to believe in.

The beginning of the USSR’s Constitution set forth the ideology for the socialist state, focusing on the necessity of the working class to overthrow the bourgeoisie and establish their own regime. John Hazard, an American scholar of Soviet law, agrees with Medish in that the Soviet constitution was a “propaganda document,” but also says that the government had to be restructured to fit the class lines that the ideology of Marx and

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68 “The logic of a communist state demanded centralization” and that is what the 1924 Constitution established by creating the USSR. Kenez, A History of the Soviet Union, 57.
69 Medish, The Soviet Union, 33.
70 Medish, The Soviet Union, 130.
Engels required.\textsuperscript{71} The first line of the 1924 Constitution declared: “since the foundation of the Soviet Republics, the states of the world have been divided into two camps: the camp of capitalism and the camp of socialism.”\textsuperscript{72} The next few lines proceeded to define what each of these groups believed in. The capitalists are described as being filled of “hate and inequality, colonial slavery and chauvinism, national oppression and massacres, brutalities and imperialistic wars,” while the socialists have “reciprocal confidence and peace, national liberty and equality, the pacific co-existence and fraternal collaboration of peoples.”\textsuperscript{73} These statements are effective in painting a picture of two drastically opposed ideologies, depicting the socialist view as the ‘good’ and correct one.

To effectively establish their new ideology, the Soviet Constitution rejected the Tsar’s ideology of power residing within one supreme autocrat. The Soviet Constitution declared a new regime free from inequality and devoid of factions, something the Bolsheviks witnessed under Tsar Nicholas II’s rule and wanted to overcome in their own.\textsuperscript{74} Part one of the Constitution, the Declaration of the New Union (Deklaratsiya Novogo Soyuza), stated that it was due to the success of the proletariat that the “Soviet Republics [succeeded] in repulsing the imperialist attacks both internally and externally.”\textsuperscript{75} They also showed the cost of engaging in WWI, a decision of both the Tsar

\textsuperscript{71} Hazard also says that the reason Lenin took so long to have the 1918 constitution drafted after the Bolsheviks seized power in 1917 was because of disagreements between the Bolsheviks and their opponents, the Left Socialist Revolutionaries. The Socialist Revolutionaries “wanted a government of decentralized structure because they expected to dominate the local soviets in the provinces.” The Bolsheviks, in contrast, were centralizers, as mentioned previously. John Hazard, “The Evolution of the Soviet Constitution,” In \textit{The National Council For Soviet and East European Research: In Search of the Law-Governed State}, October 1991, 1-33, Lehigh University.

\textsuperscript{72} Konstitutsiya Soiuza Sovetskikh Sotsialisticheskikh Respublik, Part I: Declaration.

\textsuperscript{73} Konstitutsiya Soiuza Sovetskikh Sotsialisticheskikh Respublik, Part I: Declaration.

\textsuperscript{74} Not only did the Bolsheviks witness the division and inequality between the nobility and the peasantry, but they saw the formation of multiple political parties which split the populace and the Tsar’s Duma. The disharmony would have strengthened the Bolsheviks’ desire to structure government without a class system and unite the people under one political philosophy.

\textsuperscript{75} Konstitutsiya Soiuza Sovetskikh Sotsialisticheskikh Respublik, Part I: Declaration.
and the succeeding Provisional Government that the people, particularly the Bolsheviks, had so adamantly opposed. They focused on the depletion of economic resources that resulted from the “devastated fields” and “closed factories,” and how the war had caused the separate efforts of the republics to be inadequate. This reinforced the need for unity by calling on the failures of the previous governments. By showing the Tsar and Provisional governments as incompetent regimes that led to economic losses for the Russian people, the Bolsheviks strengthened their own legitimacy.

Section one of the 1918 Constitution established the supremacy of the working class and the Soviet councils, a stark contrast to the supremacy of a single monarch established in the Tsar’s Constitution. The Soviet regime declared that “the central and local authority is vested in [the] soviets.” They also established a “free union of free nations, a federation of national soviet republics.” For the Soviets, power had to be established among particular classes. This was their way to overcome the power the Tsar had given himself in the 1906 Constitution. It was also consistent with their socialist ideology. They declared that the aim of the Soviet Republic was the suppression of “all exploitation of man by man” and to “abolish the...division of society into classes.” However, it is also interesting to note the similar language between the Tsarist and the Soviet Constitutions. The Russian Soviet Constitution specifically states that the confiscation of private property and the creation of a citizens’ army is necessary to “secure the supremacy of the laboring masses and to guard against any possibility of the

76 Konstitutsiia Soiuza Sovetskikh Sovialisticheskikh Respublik, Part I: Declaration.
77 Konstitutsiia Rossiisko-Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section I, Chapter I, Point 1, Moscow: July 10, 1918.
78 Konstitutsiia Rossiisko-Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section I, Chap. I, pt. 2.
79 Konstitutsiia Rossiisko-Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section I, Chap. II, pt. 3.
restoration of the power of the exploiters.” The word ‘supremacy’ was used frequently by the Tsar in the 1906 Constitution to assert his own authority, and the Soviet Constitution used his words against him as they established their own Socialist regime.

In addition, the Soviet Constitution effectively refuted the politics and political decisions of the Tsar. In chapter three of section one, the Soviet Constitution criticized the first World War, calling it the “most criminal of all wars,” and declared its resolve to “deliver humanity from the claws of financial capital and imperialism” that caused the war by giving power to the people. People saw the war as a failure of the Tsar and the Provisional Government, and the new regime cemented that blame in their constitution to justify their takeover. The Bolsheviks also condemned the Tsarist supporters and other “exploiters” of the new regime by firmly stating that they “can have no place in any of the organs of power.” The Bolshevik regime showed through its founding document that it would not accept any interference in the new administration by those who had participated, or supported, the old. There would be no more looking backward, only ahead toward a new government driven solely by the workers.

While the 1918 Constitution established an ideology in complete contrast to the Tsar’s, it dictated some of the same rights for the people. Section two of the 1918

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80 Konstitutsia Rossiiskoi Softialisticheskoi Federativnoi Sovetskoi Respubliki, Section I, Chap. II, pt. 3.
81 Konstitutsia Rossiiskoi Softialisticheskoi Federativnoi Sovetskoi Respubliki, Section I, Chap. III, pt. 4.
82 The ‘organs of power’ refer to the Congress of Soviets, the Central Executive Committees of the Soviet Republics, the Supreme Court of the Union, and other governing bodies of the federation. These governing bodies were created for the Russian Republic in the 1918 Constitution, but the same bodies were created for the entire United Soviet Socialist Republic in the 1924 Constitution under Chapters III, IV, V, VI, and VII. Konstitutsia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section I, Chap. IV, pt. 7.
83 It is interesting to note that the 1924 Constitution of the Union of Soviet Socialist Republics did not include a list of rights for the citizens of the Union as a whole. This was probably because each republic was expected to have its own constitution and simply make changes to conform with the principles of the 1924 one, which mostly affected government bodies and hierarchy. “The Constitution of the U.S.S.R. 31 January 1924,” in Documents of Soviet History, ed. Rex A. Wade (Gulf Breeze, FL: Academic International Press, 1995), 149.
Constitution was titled ‘General Principles of the Constitution of the RSFSR,’ and included an entire page of the rights and duties of its citizens. The section began by stating once again the “principal object” of the Constitution: “the establishment of the dictatorship of the urban and rural proletariat and the poorest peasantry, in the form of the strong all-Russian soviet power…under which there shall be neither class division nor state authority.”84 The Bolsheviks restated the purpose of the Constitution before listing the citizens’ rights to emphasize that the people were in charge and therefore deserved the rights enumerated in the document. While they were listing many of the same rights the Tsar had in his constitution, they wanted to show that their constitution was superior because it was built upon the socialist ideology of power within the hands of the people.

The first rights mentioned in the 1918 Constitution are freedom of conscience and religion. The Constitution declared “the church is separated from the state” and “freedom of religious and anti-religious propaganda is acknowledged to be the right of all citizens.”85 Afterwards it declared the “laboring masses [have the] genuine freedom of expressing their opinion.”86 The government stated that it would “[hand] over…all the technical and material resources necessary for the publication of…all printed matter,” to the people, and “[guaranteed] their free circulation throughout the country.”87 These rights were also guaranteed by the Tsar in 1906, but the Bolsheviks take it a step further than the Tsar by saying that the rights are separate from the state authority. The church is separate from the state, and the masses will be in charge of the press. This agreed with

the state ideology that the proletariat, the common working people, would dictate the governance of the republic.

The next right given to the people was the freedom of assembly. The Constitution “[recognized] the right of the citizens… [to freely] organize meetings, processions, etc.” and “[placed] at the disposal of the workers and of the poor peasantry all premises fit for public gatherings.”\(^88\) Contrary to the Tsar’s guarantee of the right to assemble, the Bolshevik Constitution did not declare that the state established the conditions of citizen meetings. This was strategic on the part of the Bolsheviks because it conveyed the message that the citizens were freer under Bolshevik rule than they had been under the Tsar. The Constitution also promised “full liberty of association” and the government promised to “[lend] to workers and poor peasants all its material and moral assistance to help them to unite and to organize themselves.”\(^89\)

One way the Constitution supported this promise was its assurance of “complete, universal, and free education” to “the workers and poorest peasants.”\(^90\) This was not something the Tsar promised in his Constitution. In the Tsar’s mind, this was protection against liberal thinking. Education had the potential to open the way for new ideas and greater knowledge about the more democratic forms of government available in other countries. He did not want his citizens being tempted by such ideas when he was trying to regather them under the idea of a monarchy. Conversely, the Bolsheviks could promise education in their Constitution to show their commitment to the people’s right to freedom.

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\(^88\) Konstitutsia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section II, Chap. V, pt. 15.
\(^89\) The Constitution declared that the “full liberty of association” was insured by the state “after having destroyed the economic and political power of the propertied classes.” They blamed bourgeois society for blocking these rights earlier, saying that the right to assembly was only possible after the destruction of the bourgeoisie. Konstitutsia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section II, Chap. V, pt. 16.
\(^90\) Konstitutsia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section II, Chap. V, pt. 17.
of thought. It showed their dedication to lend “moral assistance” to the ability of the people to unite and discuss their ideas.

The right to vote was also given under the Bolshevik Constitution. This would enable citizens to take the knowledge they had gathered through education and use it to participate in their government. All citizens “irrespective of sex, religion, or nationality” were given “the right to vote and to be elected to the soviets.”\(^{91}\) Elections were “conducted according to established practice on dates fixed by the local soviets,” and the “details of electoral procedure” were “determined by the local soviets.”\(^{92}\) The right to vote was also given under the Tsarist Constitution. Russian citizens were responsible to elect members of the Duma.\(^{93}\) However, this right was overshadowed by the Tsar’s declarations of supremacy. The people’s votes did not mean much when the Duma was inferior to the Tsar. The assertions of supremacy in the autocrat outweighed the people’s right to have voice in their governance. Conversely, the Bolshevik state was built on a belief in the supremacy of the working class to create the idealistic society.\(^{94}\) The people had to have the right to vote to govern themselves and direct the state until this utopia was achieved. It was a vital tool until government was no longer necessary.

After enumerating the rights and privileges of citizens, the Soviet Constitution declared a citizen’s duties to the state. This is interesting because this is the opposite

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\(^{91}\) Konstitutsiia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section IV, Chap. XIII, pt. 64.

\(^{92}\) Konstitutsiia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki, Section IV, Chap. XIV, pt. 66-70.


\(^{94}\) True Communism believed that “all capitalist institutions would be destroyed and only one class of men would exist. In this classless society the state and its appendages would be unnecessary and so would vanish or wither away. Society would be ruled by the good will of men and the unity of conviction in the communist way.” Alexander Ludlow, “Crimes and Punishment: The Origins and Evolution of Soviet Criminal Law” (Brigham Young University, 2001), 14.
order from the Tsar’s Constitution. The Tsar established the duties of Russian citizens before dictating their rights. This supports the theory that the Tsar believed in protecting the state and his authority above the rights of the people. The wording of the Soviet Constitution, however, suggests that the people were more important. Nevertheless, the people still had certain obligations to fulfill to realize the Communist dream of a classless society.

First of all, the Constitution recognized “work to be the duty of all citizens.”95 This was expected in a regime where the working class was the governing authority. Without workers, this would not be possible. Another civil responsibility was that “all citizens of the republic [were] to defend the socialist fatherland,” but only the laboring masses were granted “the honor of bearing arms.”96 This mirrored the same obligation the Tsar put forth in the 1906 Constitution. Each regime was important unto itself and needed its citizens to stand up and defend it. The Bolsheviks only extended that responsibility to those who had been oppressed by the previous regimes, though, granting the proletariat the ability to show their patriotism for the new Soviet state.

The 1922 Criminal Code of the Union of Soviet Socialist Republics

The definition of crime slowly evolved following the establishment of the Russian Soviet Federated Socialist Republic.97 By 1924 and the new Constitution of the USSR it

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95 The Constitution also contained the phrase: “He who does not work shall not eat.” Konstitutsia Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoii Respubliki, Section II, Chap. V, pt. 18.
97 The Guiding Principles on Criminal Law of the Russian Socialist Federative Soviet Republic of 1919 was “the first document of some importance to deal with the very concept of crime.” It considered a crime to be every “socially dangerous act (action or omission) directed against the Soviet State or against the economic, social, and political system therein.” The 1920 Criminal Code did not define crime. The 1921 draft of the Code said that a person should not face punishment except for an act that was criminalized by
was officially understood to be “any action or inaction aimed against the Soviet regime, or disruptive to the existing order of law.”\(^98\) The definition included in the Criminal Code of 1922 was “any socially dangerous act or omission which threatens the foundations of the Soviet political structure and that system of law which has been established…for the period of transition to a Communist structure.”\(^99\) The Criminal Code solidified the importance of a state built on the groundwork of the proletariat, and emphasized Socialist belief that the law was merely a tool in creating the ideal Communist state.

Once a crime was committed, the next step was determining the necessary punishment. The first provision given in the Criminal Code to determine punishment was deciding whether the crime was committed “in the interests of a restoration of the power of the bourgeoisie.” The second was whether the crime was “directed against the State.”\(^100\) The first provision connected with the importance of the ideology defined in the 1924 Constitution. Because the proletariat was the foundation of the state, anything that went against that ideology needed to be rejected immediately to preserve the state’s legitimacy. The Code proceeded to illustrate two categories of crime. The first group was “crimes directed against the basic principles of the new system of law laid down by the Workers’ and Peasants’ Government, or crimes considered to be the most dangerous thereto.” The second group was bluntly defined as “all other crimes.”\(^101\) The fact that

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only crimes against the state were given a specific category shows how important a crime against the “dictatorship of the proletariat” was in the eyes of the new regime.

Punishment under the Soviet criminal code was to be a “measure of protection” for the state and its citizens. Under the Tsar, punishment was meant to be swift and remove dissenters immediately from harming the state. It was a matter of deterrence, retribution, and incapacitation. Under Soviet law, punishment was meant to “prevent the commission of further offences,” “adapt the offender to the conditions of social life by subjecting him to the influence of corrective labour,” and “deprive the offender of the possibility of committing further offences.” However, it is important to notice what forms of punishment were acceptable under the Code. Punishment could include:

“temporary or permanent banishment,…imprisonment with or without strict isolation; compulsory labour without custody;…confiscation of property, in whole or in part; fine;” or “forfeiture of rights.” The list does not include capital punishment or the death penalty as an appropriate punishment. In light of the ideology of the Soviet regime, this makes sense. The people were the foundation of the regime, and therefore killing them off would only hurt the state. It was better to rehabilitate them and teach them how to properly behave as citizens of the great Communist state.

Punishment could take many forms under the Soviet regime, but the first that stands out is the confiscation of personal property. The confiscation of property is an interesting punishment considering the Soviet Union believed property belonged to all its

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104 Other punishments included “conditional conviction;…dismissal from office; public censure,” or “the imposition of an obligation to make good the harm done.” *Ugolovnyi Kodeks Rossiiskoi Sotsialisticheskoi Federativnoi Sovetskoi Respubliki*, Art. IV, pt. 32.
citizens equally.\textsuperscript{105} If property did not belong to any one person, why would the state see its confiscation as being such a severe punishment? In fact, the confiscation of property is the primary punishment for committing state crimes, one of the most thoroughly outlined sections of the 1922 Criminal Code.\textsuperscript{106} However, the Code allowed the convicted to keep the “stock and tools required for small scale peasant industry or agricultural production,” and anything else the convicted needed for their occupation or means of survival for them and their family.\textsuperscript{107} The state had to keep functioning, so if a citizen could not do their job, then the state would not function based on their ideology of the working class running the means of production. Therefore, the confiscation of property as a punishment made sense because the ideology of the state was fundamentally economic in nature.

Another noteworthy form of punishment was the forfeiture of personal rights. The rights that could be revoked after committing a federal offense were the right to vote and the right to hold office.\textsuperscript{108} In a society governed by the elected soviets, this was an important right for the Russian people. Without this right it would not be possible to direct government, which was the duty of the people according to the 1924 Constitution. It was even more important after the Tsarist regime and the failures of the Russian Duma.\textsuperscript{109} The right to elect the representatives of a body that was given the supreme power in the land would be valued after time spent under an elected body that held no

\begin{footnotes}
\item[106] Ugolovnyi Kodeks Rossiiškoï Sotsialisticheskoï Federativnoi Sovetskoï Respubliki, Special Section, Chap. I, pt. 58.
\item[107] Ugolovnyi Kodeks Rossiiškoï Sotsialisticheskoï Federativnoi Sovetskoï Respubliki, Art. IV, pt. 38.
\item[108] Also remember that dismissal from office was a form of punishment. Ugolovnyi Kodeks Rossiiškoï Sotsialisticheskoï Federativnoi Sovetskoï Respubliki, Art. IV, pt. 40.
\item[109] The Russian Duma was viewed as a failure by the Russian people because it had no check on the Tsar’s authority. The Tsar could choose not to listen to the Duma, or not even open a session at all. The Duma’s creation was heralded as a new era of reform, but it lacked authority to challenge the Tsar’s. Badcock, “Autocracy in Crisis: Nicholas the last,” in \textit{Late imperial Russia: Problems and prospects}, 28-29.
\end{footnotes}
notable power. The right to hold office would similarly be esteemed, especially because the working class did not have the opportunity to hold office under the Tsar. That was a right reserved for the upper classes, the bourgeoisie, and so the working class, the proletariat, saw that right as something to be valued.

One similarity between the Tsarist Criminal Code and the Soviet Code is the inclusion of a section about state crimes. The 1922 Criminal Code dedicates an entire section to state crimes and the punishment of counter-revolutionary crimes. The code defined an act as ‘counter-revolutionary’ if it was “committed with the intention of overthrowing, undermining or weakening the authority of the Workers’ and Peasants’ Soviets [as] founded on the constitution of the Russian Socialist Federative Soviet Republic.” It also included any act intended to assist the bourgeoisie. This definition is significant because it showed that no action would be tolerated against the state. Like the Tsarist Criminal Code, it dictated that the ideology of the state, whether based on the divine right of a single autocrat or the right of the working class to rule, was supreme and therefore not to be usurped.

The State Crimes section of the Criminal Code included many provisions that mirrored those given by Nicholas II in the 1903 Tsarist Criminal Code. First of all, any “organization…[or] participation in any attempt…to seize power at the metropolis or in the provinces, or forcibly to detach from the Russian Socialist Federative Soviet Republic any portion of its territory,” was punished under the law. This highly resembled the

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110 An act was also counter-revolutionary if it “[endangered] the fundamental political or economic conquests of the proletarian revolution.” Ugolovnyi Kodeks Rossiišskoi Sotsialisticheskoï Federativnoï Sovetskoï Respubliki, Special Section, Chap. I, pt. 57.
111 Ugolovnyi Kodeks Rossiišskoi Sotsialisticheskoï Federativnoï Sovetskoï Respubliki, Special Section, Chap. I, pt. 58.
Tsar’s instruction that anyone who tried to forcibly take his power was to be punished according to the law. This is interesting because while the Tsar protected himself and his family specifically, there are not any provisions in the 1922 law which specifically protected Soviet or Communist Party officials. This makes sense because the people as a whole were deemed the governing authority, and therefore no one official was entitled to such protection. One would think that murder would consequently be a state crime, but it is not, although it is included in another section of the Code. The law continued by declaring “opposition to the normal operation of State institutions or undertakings” a crime as well. This was very similar to the Tsar’s provision that no one had the right to challenge the monarchy, or the way power was passed from generation to generation. Both regimes dedicated entire constitutions to establishing the supremacy of their ideologies, and both showed the importance of their ideology in their criminal codes by establishing provisions that protected the ruling system.

The 1922 Criminal Code also showed the importance of preserving the unity of the proletariat that was established through the 1924 Constitution. It forbade “agitation and propaganda of any kind whatsoever…exciting racial enmity and feud,” and also condemned “agitation or propaganda…conducted in time of war, [which] incited citizens to evade duties and obligations.” Differences over race needed to be ignored from the perspective of the Soviet state. Communist ideology taught that class and government would eventually disappear as the people reached a utopian society, and this was

112 Uголоный Кодекс Русскoй Союзной Советской Федеративной Республики, Chap. V, Section I.
113 Uголоный Кодекс Русскoй Союзной Советской Федеративной Республики, Special Section, Chap. I, pt. 63.
114 Uголоный Кодекс Русскoй Союзной Советской Федеративной Республики, Special Section, Chap. II, pt. 83.
probably the case for racial differences, as well. Therefore, promoting unity among the people of the Soviet Union was an important factor to tie into the Criminal Code. The Code also declared that “the insulting expression of disrespect towards the Russian Socialist Federative Soviet Republic, in the form of reviling the emblem or flag of the State, or a memorial of the revolution, is punishable with imprisonment.”\(^{115}\) This was another way for the regime to preserve unity among the people. If they could encourage respect for symbols of the revolution, then that would promote feelings of unity among the people. It would give them a reminder of what they fought so hard for: freedom from the oppression of the bourgeoisie.

The Soviet Criminal Code distinguished itself from the Tsarist Code through its renunciation of the Tsarist regime. Not only did it reject the legitimacy of a monarch, but there was a provision specifically against Tsarist officials who fought against the revolution. Provision 67 stated that, “active participation in the struggle against the laboring class and the revolutionary movement by officials of the Tsarist regime who were in responsible positions or in the special secret service” was a crime. It is also important to note that these convicts received the same penalties as those guilty of committing other state crimes.\(^{116}\) The Soviet Code not only rejected the government of the Tsar but made it a crime to have ever been associated with it. The ideology established in the 1918 and 1924 Constitutions translated into the 1922 Criminal Code by protecting government built on the proletariat and rejecting the former Tsarist government.

\(^{115}\) Ugolovnyĭ Kodeks Rossiĭskoĭ Sotsialisticheskoĭ Federativnoĭ Sovetskoĭ Respubliki, Special Section, Chap. II, pt. 87.
\(^{116}\) Ugolovnyĭ Kodeks Rossiiskoĭ Sotsialisticheskoĭ Federativnoĭ Sovetskoĭ Respubliki, Special Section, Chap. I, pt. 67.
Conclusions

The Tsarist and Soviet Constitutions established the supremacy of their forms of government. Those ideologies were then embodied within each regime’s respective Criminal Codes, showing the importance of the ideology and protecting it on legal grounds. The Tsarist Constitution of 1906 focused on preserving the belief of a supreme autocracy legitimized by God and by history. It disregarded the people’s call for a firm constitutional monarchy by weakening the power of the new legislative body and putting the rights of the monarchy ahead of the rights of the people. The 1903 Criminal Code supported the autocracy by defining harsh punishments for any crime committed against the sovereign and outlawed any action that hurt the autocracy’s image and legacy.

The Soviet Constitution of 1924 rejected the Tsar’s Constitution by building a new government upon the belief in the dictatorship of the proletariat. It established the supremacy of a government run by the masses rather than that of a single ruler. It envisioned a country that would eventually do away with government altogether because it would no longer be necessary, rejecting a society where government by a monarch had been idealized. The 1922 Criminal Code emphasized the hope for a utopia. Criminals were to be rehabilitated rather than killed and laws were created which emphasized unity and dedication to the state.

The Tsarist and Soviet regimes were built upon different ideologies, but there are similarities between the two that cannot be ignored. While the Bolsheviks wanted to show that they were a new regime separated from the corruption of the Tsar and the bourgeoisie, the language used in their constitution and criminal code bore strong resemblance to the Tsar’s. According to Alexander Ludlow, “the residue of historical
experiences no doubt affected the implementation of new legal policies and procedures. The leaders of the 1917 revolution had been educated in Tsarist philosophies and were, therefore, influenced by them, if only subconsciously.”

117 This is an interesting paradox. The language used in the Bolsheviks’ legal documents most resembled, particularly in the use of the word ‘supremacy,’ the very regime they wanted to separate themselves from.

The similarities between the legal language of the documents is not surprising when it is acknowledged that both regimes dealt with the same problems. They both needed to protect themselves against those who would question their rule. They needed to define opponents to their government and dictate the punishments that would be carried out for treasonous actions. They needed to unite the people under their respective regimes. They needed to preserve that unity as they sought to move forward and preserve the ideology they believed in. They each had the same concerns and motives. The supremacy of the ruling administration was the upmost priority.

While the Criminal Codes of Tsarist and Soviet Russia dictated certain expectations for society, the realization of those expectations is questionable and would be an interesting next step of inquiry with the research presented here. The Constitutions and Criminal Codes claimed to be responsive to the Russian people, but how important was that responsiveness to regimes who were more worried about preserving their supremacy? How were the principles of law implemented in practice? Which laws were enforced and which fell by the way side?

The Tsar’s words appear to be consistent with his actions. What about those of the Soviet regime? Their legal documents promote the image of a society on its way to

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perfection. It suggests a society grounded in the power of the people, where their rights and concerns come first and the power of the state is second. However, common knowledge today focuses on the Soviet Union as a harsh environment where the government ruled by terror, and where the dictatorship was not of the proletariat but rather the Communist Party officials. Did the Communist regime ever abide by the freedoms granted in their constitution, or were these privileges given in word only? Regardless of practice, these legal documents give insight into a time of transition in Russia’s political history and show the change, as well as the continuity, between the two eras.
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