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ARTÍCULO DE INVESTIGACIÓN

**Regulación del matrimonio y las relaciones familiares por los bolcheviques en
Ukrania en 1917-1926/DOI: 10.5281/zenodo.8319532**

Yurii Kozar*, Viktor Lazariev **, Roman Oleksenko***, Eduard Kliuienko**** y
Oksana Babak*****

Resumen

El objetivo del estudio es examinar la regulación del matrimonio y las relaciones familiares por parte de los bolcheviques en Ucrania en 1917-1926. Cuando los bolcheviques llegaron al poder, comenzaron a crear un sistema legislativo que regulaba el matrimonio y las relaciones familiares. En el plano normativo, se reconocieron las consecuencias jurídicas del divorcio y se definieron una serie de garantías para las mujeres y los niños. La Iglesia ucraniana, a diferencia de la Iglesia de la RSFSR, no se separó inmediatamente del Estado. Sólo se buscaron relaciones específicas entre ella y las autoridades, lo que planteó la cuestión de la importancia estatal de los actos eclesiásticos. Las decisiones preparadas por las autoridades estatales y las que ya se habían tomado debían liberar gradualmente a la iglesia de las funciones puramente civiles. Para ello fue necesaria una larga evolución de la conciencia eclesiástica de laicos y clérigos. La década de 1920 fue testigo de la formación de la institución del matrimonio y las relaciones familiares, acompañada de reformas en el ámbito familiar. Las fuertes tradiciones de formación familiar desempeñaron un papel importante en la formación de un nuevo enfoque del matrimonio y las relaciones familiares del "nuevo modelo."

Palabras clave: matrimonio; ley; religión; iglesia; ideología; actos normativos.

Abstract

**Regulation of marriage and family relations by the bolsheviks in the territory of
Ukraine in 1917-1926**

The study aims to review the regulation of marriage and family relations by the Bolsheviks in Ukraine in 1917-1926. With the coming to power of the Bolsheviks, a system of legislation that governs marriage and family relations began to be created. At the regulatory level, the legal consequences of divorce were recognized and a number of guarantees were defined for women and children. The Ukrainian church, unlike the church of the RSFSR, was not immediately separated from the state. Still, only a search was made for specific relations between it and the power structures, in which the question of the state significance of church acts was also raised. The decisions being prepared by state bodies and those that had already been adopted were supposed to free the church from purely civil functions gradually. This required a long-term evolution of the church consciousness of the laity and the clergy. During the 1920s, the institution of marriage and family relations was established, which was accompanied by reforms in the family sphere. An essential role in the formation of a new approach to marriage and family relations of the "new model" was played by stable traditions of family formation.

Keywords: marriage; law; religion; church; ideology; normative acts.

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*Uzhhorod National University, Ukraine. E-mail: vovo4ka23@ukr.net. ORCID ID: <https://orcid.org/0000-0002-6424-6419>

** Kharkiv National University of Internal Affairs, Ukraine. E-mail: judge2101@gmail.com .

ORCID ID: <https://orcid.org/0000-0001-9468-0497>

*** Volodymyr Vynnychenko Central Ukrainian State University, Kropyvnytskyi, Ukraine. E-mail: roman.xdsl@ukr.net . ORCID ID: <https://orcid.org/0000-0002-2171-514X>

**** Volodymyr Vynnychenko Central Ukrainian State University, Ukraine. E-mail: eduard.socio@gmail.com . ORCID ID: <https://orcid.org/0000-0002-9412-2281>

***** Volodymyr Vynnychenko Central Ukrainian State University, Ukraine. E-mail: o.babak1967@gmail.com ORCID ID: <https://orcid.org/0009-0003-9112-9327>

1.- Introduction

Marriage is one of the oldest institutions, constantly evolving and under the complete control of the state. Modern changes in the legal regulation of marriage and family relations point us to significant changes taking place in society. However, a full-fledged analysis of the contemporary realities of these relations is only possible with a proper study of the historical milestones of the establishment of this institution. In particular, given the rapidity of changes in approaches to understanding family values, we can see that similar events took place from 1917 to 1926.

At that time, revolutionary changes also affected marital and family relations in particular. That is why the study of this period of the formation of marriage and family relations will enable us to master modern changes better and avoid certain shortcomings that are inherent in any contemporary process.

2.- Analysis of recent research and publications

A significant number of scientific works are devoted to the study of the history of marital and family relations. In particular, at the dissertation level: Yu. Kachan (Kachan, 2018) paid attention to clarifying the peculiarities of marriage and family relations of the rural population when Ukraine was part of the Russian Empire in the period from the end of the 19th century to 1914; O. Kokhanova (Kokhanova, 2015) within the scope of her work paid attention to the evolution of the essence of the women's issue and ways of solving it in the conditions of revolutionary events and the formation of Soviet statehood in Ukraine (February 1917 - 1921), which included the issue of marriage and family relations.

Separate multifaceted scientific studies are also devoted to marital and family relations issues. In particular, I. Petrenko (2021) studied the issue of marriage and family relations in terms of bigamy. In addition, A. Morozova (Morozova, 2020), investigating the spread of the norms of Russian law on the territory of the Hetmanate, also touched on the regulation of marital and family relations. D. Riga (Riga, 2019) focused on extramarital relations in Chernihiv in the middle of the 19th and early 20th centuries: K. Ignatova and I. Pyatnytskova (Ignatova, 2019) comprehensively analyzed

the development of Soviet family legislation from 1917 to 1937. Yu. Kovalova (Kovalyova, 2015) characterized the process of formation and development of marriage and family relations in the Ukrainian village during the changes in Ukrainian statehood from the end of the 19th to the first quarter of the 20th century. She drew attention to the influence of the state and church positions on the marital and reproductive behavior of Ukrainians. O. Mikheeva (Mikheeva, 2013), based on publications within the framework of newspaper criminal chronicles of the 1920s, highlights the problems of marital relations, which were the consequences of Soviet innovations in the marriage and family law field.

3.- Results

The formation of marriage and family relations is a significant milestone in the history of humankind. These questions concerned and concern all countries of the modern world. They did not bypass Ukraine either. The formation of our independence went through a rather tricky path because Ukraine was part of several states during its historical development. Therefore, to clearly understand the researched issue, it is necessary to consider the formation of marital and family relations precisely from when Ukraine was part of the Russian Empire.

During the development of society in the former lands of the Russian Empire, the structure of marriage and family had a religious character and remained unchanged for many centuries. Therefore, when considering the approaches of the church to marital and family relations, one should pay attention to the fact that the spiritual and secular authorities in the pre-revolutionary period had certain defined norms of relations between them. Non-interference in each other's public life and citizens' private life is the principle both parties follow. This made it possible for marital and family relations, albeit with restrictions, but still without clearly expressed regulation by the church and the state, to maintain a measured rhythm of life (Lakhach, 2005, p. 78). It is also worth noting that, until 1917, a unique role was played by the church blessing of marriage, that is, the wedding ceremony. This statement is reflected in the fact that only marriages "formalized" in this way were protected at the regulatory level by the state (Mitrofanov).

Metric books were essential to marital and family relations at that time. It is worth noting that until the beginning of the 20th century in the Ukrainian lands of the former Russian Empire, the existence of metric books - a set of acts of church and civil registration, certifying the event of birth (baptism), marriage (wedding), death (burial) of specific persons in the form of entries in the relevant books - was an established tradition. In the presence of a legally established understanding of the term "act" as a specific normative document that established belonging to one or another state, they were common to all social strata of the population, as they recorded such state-wide events as marriage, birth, divorce, death (Lakhach, 2005, p. 79). Consequently, a number of researchers in this regard are of the opinion that these metrics were the only source of information about the state of the population of the lands of the Russian Empire.

The revolutionary events that took place on the territory of Ukraine in 1917 led to significant changes in all spheres of social life. This also applies to marital and family relations. After the Bolsheviks seized power, the Decrees were adopted: "On civil

marriage, on children and on keeping books of acts of state," "On dissolution of marriage," which were adopted at a meeting of the Central Committee of the RSFSR and published under the signatures of V. Lenin and Ya—Sverdlov, respectively 16 December 19, 1917. These Decrees abolished marriage and divorce according to religious rites. Only a marriage registered through state authorities - departments of records of marriages and births at the city (district, county, or parish) zemstvo administration received force. Divorce cases were removed from the knowledge of the church, and a free divorce was assumed at the request of the spouses or one of them (Lakhach, 2005, p. 80; Collection of laws, 1918, p. 163), which was supposed to fully transfer the management of marriage and family affairs to the state giving.

The decree "On civil marriage, children and on the introduction of books of acts of civil status" established that marriage manifests the free will of a man and a woman as two equal subjects. Furthermore, this normative act established that the rights and responsibilities of spouses can be fully revealed only after the official registration of marriage by the civil status registration authorities. The historical component of that time is that the authorities did not recognize marriages concluded by the church. However, one should take into account the fact that those marriages that the church concluded before the entry into force of this decree were recognized by the Bolshevik authorities. Furthermore, a fairly revolutionary approach introduced by the Decree was the establishment of marriage age limits: 18 for men, 16 for women (Family Law of Ukraine, 2018).

Thanks to such a policy in the USSR, one of the world's first emancipatory projects for women and children - the social security system - was created in practice. The emancipation of women was facilitated mainly by introducing a simplified divorce procedure. The decree of December 19, 1917, abolished the complicated process and introduced the freedom of dissolution of marriage under the control of the state. The request for its termination could come from the spouses or one of them. Then, it was submitted to the local people's court. The marriage was dissolved by the judge alone in the presence of the spouses without discussing the reasons. However, at the request of the spouses, the marriage and birth registration department made a record and issued the corresponding certificate. With the spouses' knowledge, the judge determined which parents had minor children and which of them, and to what extent, should bear the costs of maintaining the children. He also decided whether and how much the husband is obliged to provide maintenance to his ex-wife. These issues were resolved in a public order without agreement between the spouses. Implementing the provisions established by the decrees required a more complete and comprehensive regulation of marital and family relations. This necessitated the development of a detailed legislative act in this area. In September 1918, the first Code of Laws of the RSFSR on acts of civil status, marriage, family, and guardianship law was adopted, which confirmed all the main provisions of the decrees of 1917. The Code did not recognize de facto and church marriage — it had to be registered in the registry office. Illegitimate children have equal rights with children born in marriage.

The divorce procedure was simplified. Thus, divorce by mutual consent took place at the registry office, and at the request of one of the spouses, at the court. In addition, however, the court procedure was simplified: cases were heard without the participation

of judges, and in the absence of the spouses, the divorce case was heard in absentia (Kushnir, 2012, p. 179).

Therefore, the Soviet authorities finally eliminated church metrication in favor of the state. The new law looked at marriage as a voluntary union of a man and a woman, who had equal rights and responsibilities and entered into marriage only by voluntary consent. At the same time, the grounds for marriage were simplified. Only a few restrictions became the main requirements: reaching a certain age, not being in two marriages, and marrying close relatives (Lakhach, 2005, p. 80; Zheleznogorskyi, 1929, pp. 11-12), which expanded the possibilities of individuals before creating a new family.

Changes in the keeping of acts of civil status took place following the decree of the Soviet People's Committee of the RSFSR, "On the separation of the church from the state and the school from the church," dated January 23, 1918, which established that "acts of civil status are conducted exclusively by civil authorities: departments of registration of marriages and births" (Lakhach, 2005, p. 80). However, such changes did not take place in the Ukrainian state, which from 1918 to 1921, fought for the establishment of sovereignty in the wars of liberation. Therefore, unlike Bolshevik Russia, the Ukrainian church was not immediately separated from the state. However, only a search for specific relations between it and the power structures was carried out, in which the question of the state significance of church acts was also raised. The decisions that were prepared by state bodies and those that had already been adopted were supposed to gradually free the church from purely civil functions, which required a long-term evolution of the church consciousness of both the laity and the clergy itself (Lakhach, 2005, p. 80; Ulyanovsky, 1997, pp. 52, 98). However, due to several historical circumstances, we can trace that on the territory of modern Ukraine, the Bolshevik authorities could not immediately ban the church but were forced to put up with established traditions for a specific time.

Specifying the provisions of Article 8 of the decree of the Provisional Workers' and Peasants' Government of Ukraine, "On the Separation of the Church from the State and the School from the Church," dated January 23, 1919, on the conduct of acts of civil status "exclusively by the civil authorities," they reflected the established interests of the Russian Bolshevik regime in the implementation - simultaneously with separation of the church from the state, - "civil registration." This reform, one of the most important and most complex in the Bolshevik sense, carried the "revolutionary" consciousness into the deepest layers of people's lives and had to profoundly change views on all the habits of domestic use in marriage and family relations, which at the time were based on a "religious" worldview, all kinds of outdated habits and prohibitions (Lakhach, 2005, p. 80).

Following the decree of the People's Commissariat of the USSR of February 20, 1919, "On the organization of departments of records of civil status acts," the task of its implementation was entrusted to the Central Office of the People's Commissariat of Internal Affairs, to local (county, parish, city or district in large cities) and district sub-departments of records acts of civil status at the departments of internal affairs, and later - at the management departments of the executive committees of the councils (Lakhach, 2005, p. 80).

The following Decree regulating marriage and family relations was adopted on February 20, 1919. This normative act established the primary conditions for entering into marriage: freedom, voluntariness, the absence of religious restrictions before marriage, and the possibility of freely choosing a surname. In addition, a mandatory condition was the official registration of the marriage in the registry offices.

One of the areas of improvement of the said Decree is that it ignored the state's regulation of de facto marriage. At the same time, raising the issue of church marriages, Decrees recognized only those that were concluded before its publication and equated them to those that were officially registered.

It is worth noting that the family legislation of the Ukrainian SSR, although built based on decrees of the RSFSR, has several differences between them. In particular, the Ukrainian legislation did not define the status of illegitimate children in any way. At the same time, the RSFSR decree equated illegitimate children with the same rights as those born in marriage. In addition, the procedure for registering a newborn child was also progressive for that time. Paternity was registered based on the application of the father and mother, who were married. Registration of paternity of illegitimate children was carried out in court if the father of an illegitimate child refused or evaded applying paternity. This amendment in the legislation guaranteed the protection of the rights and freedoms of children born in marriage and those born out of wedlock.

As we can see, the peculiarities of regulating marital and family relations, which were determined by this Decree, played a significant role in regulating family relations. This led to the fact that the judicial and administrative practice of the Ukrainian SSR began to take this Decree as a basis and adhere to it (Family Law of Ukraine, 2018).

The decree on civil marriage states that church marriages are "the personal matter of those getting married" and can be concluded only after the state registration of the marriage in the RAGS bodies. The introduction of civil marriage and the abolition of the church form of marriage was carried out according to the principle of separation of the church from the state.

On February 20, 1919, the Ukrainian SSR "On Divorce" Decree was adopted. This Decree at the regulatory level established the right of individuals to divorce and regulated the procedure and procedure for its implementation. Also, this normative act recognized as null and void the divorce performed by the church.

The divorce procedure required applying to the local authorities of the State Statistics Service. However, since in the newly created state, these bodies could not fully cover the entire controlled territory, the divorce procedure provided for an alternative appeal to the people's courts to solve this problem.

In addition to the legally defined divorce procedure, the Decree determined the legal consequences of divorce:

- a) free choice of surname upon divorce;
- b) determination of the child's surname by the court;
- c) the possibility of resolving property issues upon divorce by mutual consent;

d) the possibility of applying to the people's court to resolve property and other disputes during divorce.

Normative regulation of marriage and family relations, determined by the Decrees of 1918 and 1919, was the first step towards creating a transparent system of family law institutions. These decrees proclaimed revolutionary principles for that time, which became the first step, the basis for creating the family law of Ukraine (Family Law of Ukraine, 2018).

It is characteristic that during the organization of the RAGS institutions in their documents, it was noted that this is happening for the second time in Ukraine since the books and records of the RAGS subdivisions were lost as a result of the "Denikin rule" here, which means all the data for evaluating the activities of the latter during the short first period of "civil registration," which lasted from March to June 1919. All this unwittingly involved the appeal of the newly created Ukrainian institutions of the State Statistics Service to the results of continuous two-year work on organizing "citizen registration" in neighboring Russia. Taking into account some lessons from "local" life, the experience of the Russian Republic, they had to take care of a careful attitude to everything that could facilitate the implementation of the corresponding reform in Ukraine (Lakhach, 2005, p. 81).

Further changes in the Ukrainian SSR's normative regulation of marital and family relations began to be traced in the twenties of the 20th century. This was because, in 1923, several issues related to family values began to be revised. These changes led to adopting of the Code of Laws on Family, Guardianship, Marriage, and Civil Status Acts of the Ukrainian SSR (May 30, 1926) (Humenyuk, 2016, p. 92), which became the first Family Code of Ukraine.

Analyzing the provisions of the Family Code of Ukraine, we can conclude that it was based on the same principles that were the basis of the first decrees: "On Marriage," "On Divorce."

An attempt was made to regulate marital and family relations in the Code. Based on this, it consisted of 3 books: "On acts of civil status," "On marriage and family," and "On guardianship" (Family Law of Ukraine, 2018).

Investigating the issue, it is also worth emphasizing that the formation of the regulatory framework that regulated marital and family relations in the Ukrainian SSR was significantly influenced by the legislation of the RSFSR. In particular, this can be traced to the fact that most Ukrainian-language sources, based on Russian-language publications, named this Code "Code of Laws on Family, Guardianship, Marriage, and Civil Status Acts." However, in the original Ukrainian text, the name of this Code was different - "Code of Laws on Family, Guardianship, Spouse and Civil Status Acts." Moreover, "family" and "marriage" were not used. The following words and phrases were used in the Code: "marriage" (Ukrainian variant of the Russian word "brachuyuschesya"), "marriage age," "payment of alimony," "impoverished mother," "impoverished children," "birth of a child," "premature termination," "exceptional cases," "does not work out," "mutual understanding," "does not exempt from maintenance charges," "legal representatives," "do not live together," "cannot rule based on evidence"

and other terms, which were unprofessionally translated into Ukrainian (Humenyuk, 2016, pp. 92-93).

In the Family Code of Ukraine of 1926, illegitimate children and children born in marriage were equalized at the normative level. Also, this act clearly defined the procedure for establishing paternity concerning illegitimate children.

An interesting approach in the 1926 Code was traced to de facto marriage. That is, one where the relationship of a man and a woman living together was not formalized in the RAGS bodies. As we can see, in 1926, the state recognized such a marriage, but it was necessary to go through a specific procedure. Thus, a de facto marriage could be recognized only through a court, where it was necessary to prove the circumstances of the actual existence of an unregistered marriage. Therefore, if disputes arose between a man and a woman who were in actual marriage, then the court had the duty to establish the presence or absence of such (marital) ties. In addition, the court must have considered that a de facto marriage meant a long-term relationship, not a temporary one.

In order to facilitate the work of the court in the field of recognition of a de facto marriage, several signs were worked out, which it had to meet: cohabitation; collaborative economy; the joint upbringing of children; appropriate age; lack of close relatives; monogamy) (Family Law of Ukraine, 2018).

A necessary amendment to the 1926 Code was the establishment, on the one hand, of the equality of rights and obligations of spouses and, on the other hand, the independence of spouses. At the same time, property components of family life are fixed at the regulatory level: personal property and the joint property of spouses.

Also, the Family Code enshrines new approaches to maintaining spouses in case of incapacity both during marriage and after divorce. Thus, at the regulatory level, such a social guarantee as spousal alimony appears (Family Law of Ukraine, 2018).

It should be noted that the Family Code of the Ukrainian SSR of 1926 established the basic principles of regulating marital and family relations at that time. Therefore, these rules have been fixed at the regulatory level for quite a long time, as this legislation has been in effect for over forty years.

4. Conclusions

In pre-revolutionary times, marriage and family relations in the territories of modern Ukraine were based exclusively on the ideological component controlled by the church since there was no proper normative regulation of marriage and family relations at that time. However, when the Bolsheviks came to power, a system of legislation began to be created that adequately regulated marital and family relations. Positive developments in this direction include the social security system for women and children and the possibility of a free and simplified divorce procedure. Also, at the regulatory level, the legal consequences of divorce were recognized, and several guarantees were defined for women and children.

It should be noted that the Ukrainian church, unlike the church of the RSFSR, was not immediately separated from the state. However, only a search was done for specific relations between it and the power structures, within which the question of the state significance of church acts was also raised. The decisions being prepared by state bodies and those already adopted were supposed to free the church from purely civil functions gradually. This required a long-term evolution of the church consciousness of the laity and the clergy. These features of state-church relations at that time resulted from the Ukrainian nation's liberation war for its independence and the Bolshevik authorities' inability to control Ukraine's entire territory fully.

During the 1920s, the institution of marriage and family relations was established, which was accompanied by reforms in the family sphere. An essential role in the formation of a new approach to marriage and family relations of the "new model" was played by stable traditions of family formation. Then, however, family relations were transferred entirely to state regulation and, under its influence, acquired an ideological color - the creation of a new type of family - "socialist." Thus, after getting rid of one church's ideological component, marital and family relations acquired another "socialist" ideological component.

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