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## ***Soviet Law and Soviet Society*, by George C. Guins (1954)**

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## BOOK REVIEWS

SOVIET LAW AND SOVIET SOCIETY, by George C. Guins, M. Nijhoff, The Hague, Netherlands, 1954. xv + 457 pp.

G. C. Guins is known in legal literature as the author of several scientific works: "Waterlaw and the Objects of Public Use," "New Ideas in Law" (two volumes), "Social Psychology," "On the Way to the State of the Future," "Law and Culture," "Entrepreneur," and others published in Russian at Harbin, Manchuria, where he was a professor at the Law College from 1920 to 1937. In his works he mainly discussed such legal problems connected with the modern development of the law as are on the border between public and private law.

The book under review may be characterized as a result of the author's lasting study of both modern European law and Soviet law as well as modern legal philosophy and legal problems in general. Having started his study of Soviet law in Harbin in connection with his teaching law at Harbin College, G. Guins devoted several years in this country to the special study of Soviet law in connection with the special course "Legal Order of a Communist State," which he gave at the University of California (Berkeley) up to his retirement in 1954. For a writer about the Soviet legal system, it is hardly possible to expect a better background.

The present work comprises Soviet Philosophy of Law, Land and Labor Law, State Law, Soviet Justice and also social structure (Soviet Society), International Law (principles and practice) and the legal order in the Soviet satellites. Application of the comparative method allows the author to describe all the differences between the legal system of the modern democratic nations and Soviet law. Owing to the analysis of both systems and their psychological and sociological effects, it becomes easier to understand what the Soviet legal system means for an individual and society, for national economy and morals. It is a new approach to the study of the two different legal systems, avoiding various details and uncovering the essentials of the Soviet legal system in a form understandable not only by specialists. It explains in a readable form why, according to the author, the Soviet legal system cannot secure either welfare or a sound basis for social life.

The author has used very rich material, original sources and literature, primarily Soviet legal literature. His references and bibliography (pp. 379-442) and two indices (pp. 445-457) can be of considerable help for a more detailed study of various problems and for quotations. The text is, therefore, well-documented and convincing. According to the author, ethical philosophy and economic system predetermine in the Soviet Union its state and administrative law, as well as land law, labor law, justice and principles of international law and policy. Each part of the Soviet legal system is closely connected with the other part, and present Soviet law may be characterized as a complete and stabilized system with a close interdependence of all of its parts.

Among the individual problems discussed in the book, the gradual transformation of Russian peasants, individual farmers and members of the village commune, in the State, workers of "Grain-factories" subject to the binding regulations and overloaded with the compulsory deliveries to the State, is well described (Chapter XII). Chapter XXV illustrates how different the principles of International Law in their Soviet interpretation are as compared with the principles of International Law in their understanding and application in the Western world. Chapter XXVI is not purely legal; it may be of use for the political scientists. It characterizes the development of law in the

Soviet satellites and the amazing similarity of the legal systems established in every individual satellite. According to the Soviet version, the only difference between Soviet law and the law of the satellites or the People's Democracies, as they are officially denominated, consists in the fact that the Soviet state is on the way "from socialism to communism" while the People's Democracies—on the way "from capitalism to socialism." The future of Czechoslovakia, Roumania, Hungary, etc. is thus predetermined in conformity with the Soviet pattern. One can imagine, at the same time, what fate awaits any other nation which falls under the political control of the Soviet Union.

All readers, but jurists especially, will find interesting the analysis of property rights, contracts and inheritance (Chapters IX-XI) in the system of Soviet law from the point of view of the consequences to an individual and the nation as a whole. Chapter XXIII characterizes Soviet penal law which punishes crime by analogy, prosecutes relatives of a criminal even when they did not know anything about his criminal intention, subjects children to hard punishments, and has some other peculiarities contradictory to the principles of the modern criminology. The Soviet Constitution and "constitutional rights" of Soviet citizens are presented (Chapter XV-XIX) without superfluous details but with emphasis on the economic dependence of every Soviet citizen upon the government because of the "universal monopoly" established by the Soviet legal order. This dependence was usually ignored by the authors of books concerning Soviet political power. The author emphasizes also that only a superficial reading of the Soviet constitution may suggest the wrong idea that this constitution is based on progressive principles and that only constitutional practice is wrong. His analysis makes it clear that all individual rights mentioned in the text of the constitution are but illusory.

Some of the arguments and conclusions of the author are certainly disputable, but it is hardly possible to ignore his arguments and not to acknowledge their scientific significance. Students of Soviet law will undoubtedly take them into consideration when looking for a definite understanding of the legal order of a communist state. It is also possible to make various remarks as regards some particular points and statements in this large work. We will make, however, only a few which will illustrate, at the same time, that they cannot decrease, in any degree, the general positive appraisal of the whole work.

According to the author (p. 15), "On the eve of the Revolution the [Russian] legal system awaited a new period of Great Reforms." He emphasized especially that the Code of Laws of 1832 had become obsolete and that the organization of justice for peasants and native tribes was defective. He had to mention, however, that the project of the new Penal Code was already approved and partly enforced and that only the supposed reform of the penitentiary system delayed the enforcement of the new code in whole. Special courts for peasants (and the peasantry comprised 80 per cent of the population) were unsatisfactory. But the courts for the remaining 20 per cent of the population were very good: the law of 1864 guaranteed independence and irremovability of judges, introduced public trial, oral proceeding and controversial principle in the proceeding, and established a jury. It is necessary to add that the jurisdiction of the special courts tried insignificant crimes only and civil claims, the value of the subject-matter up to 500 rubles. Consequently, the most significant crimes and civil claims were tried by the general courts for the whole population.

In his comments concerning the right of inheritance which is at present almost free of taxation in the Soviet Union, the author (pp. 126-27) pointed out that the Soviet inheritance law protects mostly the interests of the newly formed upper class, consisting of the high officials, engineers, managers, writers, etc., for only they receive such a high compensation that they can save money. It is possible and even probable that the elimination of progressive taxation on inheritance corresponded mostly to the interests

of the social stratum which plays an especially important role in the Soviet State. However, there were undoubtedly also more significant motives for the existing legislation concerning inheritance. The Soviet government is interested in raising efficiency of work and does not neglect any measures for accomplishing this task. Inheritance is an acknowledged and really efficient stimulus for working and saving, in so far as it guarantees the right to transfer property to one or all closest relatives. It is only natural that the Soviet government for that purpose protects the succession of peasants' ownership of domestic animals, poultry and implements; of artisans' ownership of his equipment; and every citizen, of his savings.

We want to note finally that the author's statement (p. 201) about a planned extermination of the prerevolutionary intelligentsia is hardly correct. The Soviet government could not, for example, plan the extermination of teachers when it introduced universal education, or—engineers and technicians, when its main goal was to "catch up and surpass America," and so on. Even the persecution of the commissioned officers of the imperial army and navy was stopped in 1920, because of the lack of a commanding staff in the Red army. Yet, as a matter of fact, the losses of intelligentsia were enormous. This may be explained as a result of the Soviet regime, whose victims were both the guilty and the suspected, not only sentenced for crimes but even for suspicion of disloyalty. No wonder that the intelligentsia bred in the democratic ideas could not reconcile themselves with the Soviet regime and its representatives and were therefore constantly under suspicion. Besides they could not adapt themselves to the hard conditions of life created by the Soviet system and died from hunger and cold.

It would be possible to continue such remarks concerning not quite exact or not sufficiently clear statements in the book of Prof. G. Guins, but they are all not very significant in comparison with the main content of this work. It may be recommended to all those who are interested in the field discussed and, in particular, to students of law whom it will help in a better understanding of both systems of law, Soviet law and the law of free economy and democratic order.

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