

## Chapters from the Development of the Unification of Private Law

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The aim of the present article is to point out certain stages in the unification of private law. Understandably, the analysis starts with a discussion of Roman law as the basic source of law for mostly Continental private law. This is followed by the effect of natural law on modern codifications. The text then discusses some effects on post-war development, mainly in Eastern Europe, that eventually turned out to be a “blind alley”. The article forms a preliminary study for an extensive monograph that the authors are presently working on.

### 1. Roman law as the basic source of European private law

“Roman law is not the philosophers’ stone which is there to be found. European legal thinking cannot be understood merely by reading texts from Antiquity and admiring the juristic erudition of Roman lawyers. What also needs to be studied is what actually followed: without subsequent developments, Roman law would never be what it is today.”<sup>1</sup>

This is why it is necessary, when searching for the origins and points of departure of European legal culture, to start from historically attested sources. The actual term “private law” (*ius privatum*) appeared in one of the best-known legal documents of Antiquity – *Digests*. Their author – Domitius Ulpianus, one of the most significant Roman lawyers – defined the difference between private and public law by describing private law as affecting the protection of personal interests, while public law is oriented towards the Roman state and its activities (D, 1, 1, 1.2).<sup>2</sup> Ulpianus’s definition has been frequently invoked and cited until the present day (probably as often as it has been questioned, mainly by legal theorists). The fault that critics find with it is a simplification aiming towards the external markers of both terms rather than towards their

content. The fundamental objection typically raised against Ulpianus is his failure to define the fundamental difference between private and public law, namely the principle of the equality of subjects.

The real content of the terms of public and private law was, however, dealt with only much later. This occurred in the period when the modern civic society started to develop, i.e. at the age characterized by the formation of modern legal systems. The Middle Ages – as well as the medieval legal order – were based on quite different principles, and did not differentiate between private and public law. The notion of the differentiation between private and public law has become unequivocally accepted by the so-called “Continental legal system” (where it found its classic elaboration in 19<sup>th</sup>-century European jurisprudence), while Anglo-Saxon law has not, to a similar extent, taken this distinction into account.

When identifying the sources of European private law – or, as the case may be, European legal culture – emphasis will always be placed on the history of European Continental legal culture and Continental jurisprudence. This originated as early as the Middle Ages, when “legal jurisprudence” – in the general sense of the word – started developing, although its interest became focused, quite early, mostly on property law relations, i.e. an area typical for private law. The foundations of modern legal jurisprudence in Europe can, thus, mostly be understood as the foundations of the legal jurisprudence of modern private law. In other words, this science had a real European character; it was a supra-national science; and, in this sense, it was developing into a kind of general theory of law and, above all, private law. As a result, the history of private law in Europe is – as may be repeated once again – far more the history of this legal science and far less the history of individual legal regulations. This supra-national European legal jurisprudence – which was both

a legal science, in the general sense of the word, and a private law science – was a real force uniting the intellectual world of the past and forming, until the present day, the intellectual basis for the modern legal culture in civilized society.<sup>3</sup>

Clearly, the development of modern legal jurisprudence on the European Continent, though resting on medieval foundations and eventually reaching out mostly towards private law issues, was not straightforward. Although legal jurisprudence had its problems (as well as ups and downs) during various historical epochs, it has agreed – with respect to what has been mentioned before – on one basic idea: the basis of modern legal jurisprudence, and thus the modern European Continental legal system, needs to be unambiguously seen as a renewal of interest in Roman law. This renewal of interest can be traced back to as early as the 11<sup>th</sup> century and is evident in the immediately following centuries, notably in the Italian medieval schools of Roman law.

Another, although somewhat different, direction of European legal jurisprudence is “legal humanism”, which was typical mainly for the development of legal culture in France but also, among other, in the Netherlands. This was very soon joined by another significant influence: the rationalist natural law, where – according to the general opinion of legal historians – some points of contact can be identified with French legal humanism. On one hand, the legal/theoretical postulates taken from rationally conceived natural law did significantly affect the European legal jurisprudence of private law; on the other, they never entirely severed the connection with its Roman-law roots. Thus, natural law – passed on and applied in a rationalist way – was the decisive factor in forming a new legislative production whose tangible outcome consists in systematically conceived laws for the particular branches of law. These codifications, some of which occurred as early as the 18<sup>th</sup> century, represent the foundations of what is referred to as the “modern” – and frequently still valid – legal systems of present-day European countries. At the same time, however, there was a paradoxical outcome: the paths of European jurisprudence began to diverge permanently, while, until the 18<sup>th</sup> century (or, rather, the turn of the 18<sup>th</sup> and the 19<sup>th</sup> centuries), they still retained a relative unity. Nevertheless, once again the unifying force of common legal jurisprudence came to life: in Germany. The task there was to overcome the political and legal fragmentation of the country, with an important role being played by the branch of legal theory called “German pandects”. To somewhat simplify the situation, German pandects became somewhat a general theory of law, and might be considered as precursors of the legal positivism that became the crucial branch of legal theory in European legal culture in the 19<sup>th</sup> century.

It is generally acknowledged that the traditional civil codes of the Continental legal system that came into existence at the beginning of the 19<sup>th</sup> century (Code Civil and ABGB) have internal organizations different from codes arising from later periods (namely the Swiss ZGB, which does not even have a general part; and the German BGB). It is, however, evident that all these codes stem – in various ways – from various legal schools, and, consequently, from various methods extracted from Roman law. It seems that the internal structure of civil law (so common nowadays) has been directly inspired by Gaius’s traditional division of law (sometimes referred to as the “Gaius System”) into *personae – res – actiones*. Although, understandably, scholars of Roman law disagree on this matter,<sup>4</sup> this basic framework for the arrangement of private law in modern European codifications was offered by the above-mentioned German pandects from the beginning of the 19<sup>th</sup> century. This is also reflected, among others, in the common division of European civil codes into both a general part and sections dealing with real rights, rights of obligations, family (marital) law, and inheritance law. The author and the source of this division are both known to us: this organization of civil law, abstracted from pandect law, was first offered in 1807 by the German pandect scholar G.A. Heise, in his book *Grundriss eines Systeme des gemeinen Civilrechts zum Behufe von Pandektenvorlesungen*, and it was commonly accepted and acknowledged in his day.

The drafting and publishing of the Code Civil, however, predated Heise’s classification: his book was published three years after the publication of the Code Civil. Given its date of publication, in Austria the classification may have been known. However, since it did not affect ABGB, then either the pandect law was unknown or else it was impossible to take it into consideration during the final stage of the codification process (ABGB was passed on 1 June 1811). It is likewise possible that Zieller did not adopt Heise’s conception.<sup>5</sup>

The idea of the undoubted effect of Roman law (albeit in a recycled form) on civil law was not ruled out by any of the legal experts who had been researching this topic for years. Thus, for instance, Czech professor Krčmář writes: “The Civil Code is built (and there can be no doubt about it) on Roman law, although it is based on law that developed through the reception and transformation of Roman law north of the Alps, i.e. on the so-called *Usus Modernus Pandectarum*. As far as some of its parts are concerned (e.g. marital law), the code is based on canon law and some other features, cf. Lehnhooff, *Auflösung* p. 82. The basis for some of its institutes derives from modern sources, with Czech and Austrian law being used frequently. In this respect, the institution of public books needs to be pointed out. Other modern codifications are also taken into account, mostly the Prussian Landrecht, which served as the

model for some of the provisions. In addition, the civil code has some features that are not to be found in any older legal order, so one is justified here in talking about the authors' creativity ... These features, as well as the overall nature of the code, are the result of its authors; the leaders – first Martini, then Zieller – are true children and significant and highly educated representatives of the Enlightenment, being filled with the epoch's postulates and tendencies. The civil code reflects numerous ideas that were common in the then science of natural law, namely the conviction that all law stands on strong and unchangeable foundations, as well as the attempt for law to be just, i.e. to be the same for everybody, to meet the requirements of equity, to be appropriate for the country for which it is issued, and to be clear, intelligible, and complete – where completeness is the result not of case studies but of reductions to general and clear concepts.”<sup>6</sup>

On the other hand, not even a dogmatic adoption of a clearly “Roman-law understanding” of the system of law would have been acceptable. The perfection of and the thousands of years of tradition that provide the roots of European legal culture should be acknowledged. Yet, one must respect the subsequent historical development that has occurred in all areas of social life. In any case, the raising of doubts and the search for new possible arrangements of society – including the legal framework for its operation – are nothing new. The Continental legal system, which was unquestionably influenced by the Roman heritage, has never been a dogma and has not been considered as a cure-all for the imperfections of law as such. This is, once again, evidenced by the words of Prof. Krčmář: “As mentioned above, the Roman-law system cannot be considered as perfect when interpreting civil law. It is hardly possible to create any system free of faults. The matter is explained as follows: the suitability of the system may be judged from various perspectives; necessarily, the arrangement of the matter according to one perspective will manifest some faults when judged from another perspective. Where the majority sticks to the Roman law system, this may be justified only by stating that the system is probably more suitable in certain regards than to those which it omits. It is clear that new legal institutions that develop over the course of time will make the faults of the system appear more and more visible, since the original system did not have a suitable place for them.”<sup>7</sup>

## **2. The effect of natural law on the formation of modern European codes**

One of the decisive sources of private law was the theory of natural law, i.e. the belief that ideal law is independent of the state and arises from reason and human nature. The ideas regarding natural law have undergone a complex development. They first appeared

in Antiquity (Socrates, Plato). In the Middle Ages, natural law was considered a kind of divine law (Thomas Aquinas), but the heyday of this approach was the 17<sup>th</sup> and the 18<sup>th</sup> centuries, when it had a substantial effect on the codification processes in Europe. The old philosophy obtained a new form as a result of its rationalist conception.

The natural-law conception of principles as inalienable, with eternal rules that pre-exist valid law and arise from reason itself, is represented mainly by Thomas Hobbes. He dealt with the natural-law conception of law in his books *On the Citizen* and *Leviathan*, more than 300 years before Dworkin and Alexy formulated their theories. The notions of natural law and natural laws form the starting point of Hobbes' famous notion of social contract. Every human has the natural right to enjoy his or her powers of self-preservation. The right of self-preservation is connected with the right to the means of self-preservation, i.e. everybody has a right to everything and the claims of individual people inevitably clash. It is clear, however, that the eventual war of “all against all” will not ensure self-preservation. Therefore, natural law comes as “the prescription of good reason on what to do or what to refrain from in order to preserve life and limbs”. Hobbes arrives at all his approximately twenty natural laws by rational argumentation, derivation from some other law, or reduction ad absurdum. All natural laws can be, according to Hobbes, encapsulated in a single formula: “*Do as you would be done by*”. Natural laws are binding in one's consciousness: whoever follows them acts justly. They are binding in the outside world only when humans can obey them safely, otherwise they would find themselves in conflict with the natural law of self-preservation; people would not be reasonable if they followed the laws and ended up as the prey of the unjust. Natural laws as orders of one's reason are unchangeable and eternal, because it is impossible for war to preserve life and for peace to destroy it.

The reason for elaborating on Thomas Hobbes here is that his specific formulation of natural laws may, thanks to their content, also have some effect on modern readers. Logically, the first natural law urges us to “seek and preserve peace”. The way to peace, which Hobbes uses to construct the social contract, is indicated by the second law: “That a man be willing, when others are so too, as far-forth as for peace and defense of himself he shall think it necessary, to lay down this right to all things, and be contented with so much liberty against other men, as he would allow other men against himself.” The laying down, i.e. the giving up, of one's rights is actually constituted in the form of the contract, which is the subject of the third law: “Let people perform agreed contracts”, which is the source and reason of justice. The only injustice is a violation of the contract; where there is no contract, everybody has a natural right to everything in the world; and, as

a consequence, people cannot act in an unjust manner. These three laws are crucial.

Hobbes' natural laws may be understood as principles on which every system of positive law is based. Such a conception of legal principles grounded in natural laws has, however, become outdated.

The person whose work meant a crucial move towards the rationalist school of natural law was Hugo Grotius. In his opinion, the law and state are of terrestrial origin. The state is created on the basis of a social contract between people.

The school of natural law was programmatically oriented towards overcoming old law and creating new law. In reality, however, codifications based on natural law were not quite so new. What was new was the systematic character and general terms on which the relevant codes relied. Their particular institutes were derived from the heritage of Roman law.

The modern doctrine of natural law was prepared by Immanuel Kant – mainly in his work *Kritik der praktischen Vernunft* (1788) – who was himself strongly influenced by Jean Jacques Rousseau. Unlike the official doctrine of natural law (represented mainly by the above-mentioned Hugo Grotius, Pufendorf and Christian Wolf), the modern doctrine of natural law affords the axiom of unchangeability and eternity only to the fundamental leading principles, i.e. the ideal of justice, equality, and freedom limited by the purposes of society, and is strongly opposed to all natural-law attempts to assign the axiom of unchangeability and eternity to every single individual legal rule.

### 3. Post-war trends of integration

When power in Central and Eastern Europe passed into the hands of the Communists after the Second World War, the continuity of the Czechoslovak legal order was broken in a significant manner. The impulse for the change, however, did not primarily come from domestic developments, but came from the outside; and its effect on the legal orders of other countries resulted in the specific approximation of law in practically the whole Soviet bloc.

The new understanding of the role of the state and law in society affected the fundamental functions of the state, common law formation, the drafting of basic codes (or “codexes”, as they were then referred to under the Soviet model), as well as the application of law by courts and other bodies.

The official conception of the state and law stemmed from materialist teachings on the relationship between the economic base and the social superstructure. The economic base consisted of the economic order of society in a given stage of its development. The social superstructure included the political, legal, reli-

gious, artistic, and philosophical opinions of society and their corresponding political, legal, and other institutions. According to Marxist theory, the economic situation at any stage of development has a counterpart in a particular superstructure that changes in relation to changing economic conditions. In other words, the base is the determining factor, while the superstructure is derived from the base. Marxism, however, did not see the relationship between the base and the superstructure unilaterally, and did not consider the superstructure as merely the product of the base. The individual components of the superstructure are, on one hand, primarily determined by the degree of development of economic relations; but, on the other, they follow their own specific rules. They are, therefore, relatively autonomous and may – or must – have a retroactive effect on the base. This is actually what Marxism considered to be the main sense of the superstructure: to petrify the corresponding economic base. The relative autonomy is particularly noticeable in the following parts of the superstructure: religion, science, culture, and the arts. By contrast, a close link to the base – which is important in this context – is manifested by politics (represented by the state in its institutionalized form) and the law.

The most characteristic feature of this conception of the state and law consisted in emphasizing the class aspect in all spheres of social life. Law was considered to be the “expression of the will of the ruling class, whose content is determined by the material living conditions of this class” (the Reasoning Report to the Civil Code of 1950). Marxist theorists and politicians always pointed out that the state and law of the past always represented the interests of the ruling minority, serving as the tool for putting down the majority (without any rights or with just formally equal rights), while the socialist state and law were created by the working majority of society, headed by the working class, in order to protect their interests. That is why the state and law were supposed, in the interests of the ruling majority, to strengthen the new economic and social arrangement, to protect the working majority from members of the former ruling classes and other enemies who might try to subvert the socialist society, and to involve actively the working majority in the exercise of state power. Because similar social and economic relations existed in these so-called “People’s Democratic Countries” (or such similar relations were, at least, supposed to come into existence), it was considered natural that the law in such countries would also be very similar; namely that it would manifest features similar to those of the law of the Soviet Union, where the socialist “production base” had been under construction for more than three decades, and where the socialist law had been coming into existence derivatively from such a base.

The fundamental reason for the approximation of law in those countries that were within the sphere of the political influence of the Soviet Union was the conviction, derived from Marxist-Leninist teachings on the state and law, that the previously valid law was entirely unsuitable for the new social situation and that the only actually usable source was law in the Soviet Union. This also predetermined the Communists' relationship towards domestic law. On one hand, the Communists voiced declarations about "progressive national traditions"; but, on the other, they did not include the traditions of Czech law – save for a few rare exceptions – within such traditions. According to party ideologues, it was necessary to part with the previously valid ("bourgeois") law as well as the application approaches that had been more or less continually developing since the Enlightenment. A typical example of the refusal of the domestic "bourgeois" legal tradition was the discussions involving the introduction to the 1953 volume of the journal *Právník* [Lawyer], which partly discussed the journal's history,<sup>8</sup> as well as the discussions about the articles by Václav Vaněček and Viktor Knapp, which dealt with the history of Czech jurisprudence.<sup>9</sup> Although the introduction and the articles by these two authors criticized bourgeois law, they were themselves fiercely criticized for having found certain progressive features in it.

The belief in the incompatibility of "bourgeois" law and the law suitable for the period of the transition from capitalism to socialism caused a very quick reformation of Czechoslovak law. Though Soviet models were drawn from by the drafters of regulations during the period immediately following the change of power in February 1948, the main role in the reformatory process was played by regulations issued within the so-called "two-year legal plan" (1949-1950). Explicit mention needs to be made of the *Act on the Protection of the People's Democratic Republic* and the *Act on the Popularization of the Judiciary*.

The regulations adopted during the "two-year legal plan" were mainly drafted by the Ministry of Justice. The party representatives had two main objectives for the proclaimed reconstruction of the legal order: to form a uniform legal order in Czechoslovakia, and – what is crucial in this context – to create a new, socialist, "unexploitative" law inspired by the Soviet model. Its regulations were to express, in a legal form, the political and economic postulates of the "socialist reconstruction" as it was proclaimed by the Communists.

The "two-year legal plan" gave rise, as a result of an incentive by the party leadership, to uniform codes and other regulations that were to become the stepping stones of future Czechoslovak law. As early as 1949, the National Assembly passed an entirely new Family Code. The year after, six more codes followed (here listed chronologically): the Criminal Code and the Rules of Criminal Procedure, the Criminal Administra-

tive Code and the Rules of Criminal Administrative Procedure, the Civil Code and the Civil Rules of Court Procedure. While drafting these codes, special emphasis was placed on utilizing the Soviet experience, because "the so-called legal science and legal practice in capitalist countries has gotten into a blind alley", while "Soviet lawyers have elevated the issues of theory and practice of law to unrivalled heights, having enriched jurisprudence with important new findings" (quotes from a legislative training session in 1951). The persons recognized as the most acknowledged authorities included A. V. Venediktov, author of the book *State Socialist Ownership*, and the diplomat rector of Moscow University, A. J. Vyšinskij, who was also known as a notorious prosecutor. The extent of the uncritical adoption of Soviet models is attested by the statement of the Minister of Justice, Štefan Rais: "It is a smaller mistake to take over a Soviet legal regulation as is, than fail to take it over altogether."<sup>10</sup>

There were four professional committees within the codification department (one for substantive civil law, one for civil law procedure, one for criminal law, and one for special purposes, i.e. for the codification of the law of bills of exchange, law of cheques, stamps, samples, copyright law and business law), and a political committee. The codification committees were assisted by specialized departments. The coordination section worked to harmonize the codification work within the ministry, and oversaw cooperation with other ministries. The study section kept itself up-to-date on professional literature and law-making, mainly in the Soviet Union but also in other so-called "People's Democratic Countries", commissioning translations of scholarly studies, textbooks, and codes. The language committee was in charge of the grammatical, syntactic, and stylistic quality of drafted texts. In addition to the employees of the codification section, approximately five hundred people participated in the drafting of the codes; almost half of them did not have any education in law. The legal professions were represented by several university professors, more than a hundred judges and prosecutors, fewer than twenty attorneys, two notaries public, and numerous clerks.

The main tool for the take-over of experience from the Soviet Union and other countries became the publication of a book edition entitled *New Legal Order*. The Ministry of Justice began publishing this edition as early as 1949, launching the first issue with the declaration that it will "inform our public mainly of the Soviet law, which is becoming a great model and a rich source of experience to all people's democratic countries on their path to socialism,"<sup>11</sup> as well as of the formation of the new legal order in other people's democratic countries.

The new legal orders of the "People's Democracies" mostly came into existence as the result of the legislative efforts of the bodies of individual countries. A spe-

cific process that at first seemed to have good prospects with a view to the anticipated strengthening of the Soviet bloc but eventually failed to be implemented was apparent in the preparation of the act on family law. This consisted of direct international cooperation: the said act was drafted by Czechoslovak and Polish lawyers together. As a result, both countries had almost identical regulation of family law relations in the 1950s.

The Civil Code No. 141/1950 Sb. was – similar to the epoch in which it was drafted – full of paradoxes. What was emphasized in its conception of individual institutes was no longer the interest of an individual but the interest of society. Despite the forced sovietization of the Czech legal system, the code still retained a high legislative level. It distinguished between several kinds of ownership, preferring socialist ownership. This was social or communal ownership was afforded special protection. At the same time, the code respected private ownership to a significant degree, and regulated some types of contracts that were later consistently repressed. It did not formally distinguish regulation between citizens and organizations, but it already preferred socialist ownership. It was based on a significantly narrowed conception of ownership rights, because it did not incorporate provisions concerning family law, cooperative law, and employment law, which were regulated by special regulations. On the other hand, the Civil Code newly contained some provisions previously belonging to business law, e.g. the regulation of procurement, unfair competition, forwarding agency contracts, forwarding contracts and marginally also securities.

Soviet regulations also became the model for the drafting of the new Rules of Civil Procedure of 1950 (the Act No. 142/1950 Sb.): these were based on the civil code of procedure of RSFSR of 1923. It is indisputable that the new code was positive in removing legal dualism. It also replaced all the previously valid civil rules of procedure. As a result, the entire field of civil procedure (trial proceedings, execution proceedings, bankruptcy proceedings, also contentious and non-contentious proceedings in first instance trial proceedings), which had been previously fragmented among a whole range of regulations, came to be better organized.

The code essentially refused a distinction between contentious and non-contentious proceedings, but it failed to create totally unified proceedings. For this reason, the general provisions of the first part of the act were followed by a regulation of the individual special types of proceedings. The code substantially strengthened the position of prosecutors in civil proceedings. Prosecutors could enter into any case at any time; and, on the basis of a later amended text, even file a petition for the commencement of proceedings in any matter (this was possible only in certain issues, according to the original wording of the code). The rules of civil procedure were based – within the sense of the Act on

the Popularization of the Judiciary – on the principle of material truth as the fundamental principle affecting the content of other procedural principles that were traditional – at least in their name.

The drafters of the new Criminal Act No. 86/1950 Sb. and the Rules of Criminal Procedure No. 87/1950 Sb. partly drew on unfinished re-codification work from the period of the so-called “First Republic”. In this sense, they not only continued their former attempts to unify criminal law for the entire country, but also picked up the ideas about a uniform regulation of administrative criminal law, a unification of military criminal law and the general criminal law, and a unification of disciplinary law and law of transgressions. In spite of this, the drafters mostly used Soviet legal regulations as their model, which came to be reflected mainly in the regulation of some of the key provisions: the delimitation of the purpose of the criminal act, the conception of criminal liability, the definition of a crime, and the definition of the purpose of punishment (as well as numerous procedural institutes).

Also in 1950, the National Assembly – in reaction to the worsening international situation and in similarity to the legislative bodies of the other countries in the Soviet bloc – supplemented the criminal act with the Act for the Protection of Peace No. 165/1950 Sb. This act provided for a term of imprisonment for anybody “who attempts to subvert the peaceful coexistence of nations by enticing or promoting war in any way, or supporting military propaganda in some other way.”

The Soviet model also retained its strength in the years that followed. This can be attested, for instance, by the reactions of party bodies who justified the need to amend some of the unsuitable regulations – adopted during the “two-year legal plan” and requiring quick amendments – by claiming that the Soviet model had been applied insufficiently and without a creative approach.

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<sup>1</sup> Urfus, V.: *Historické základy novodobého práva soukromého* [Historical Roots of Modern Private Law], Praha, 1994.

<sup>2</sup> “... Publicum ius est, quod ad statum rei Romanae spectat, privatum quod singulorum utilitatem; sunt autem enim quaedam publicae utilia, quaedam privatim. Publicum ius in sacris, in sacerdotibus, in magistratibus consistit privatum ius tripartitum est: collectum etenim est ex naturalibus praeceptis aut gentium aut civilibus ...”

<sup>3</sup> Urfus, V.: *Historické základy novodobého práva soukromého* [Historical Roots of Modern Private Law], Praha, 1994, p. 2.

<sup>4</sup> Cf. e.g. GAIUS. *Učebnice práva ve čtyřech knihách. K vydání připravil, z latinského originálu přeložil a úvodní studii napsal Jaromír Kincl* [The Institutes of Law in Four Books], Brno, přetisk prvního vydání, 1981, p. 19.

<sup>5</sup> Knapp, V.: *Velké právní systémy* [Major Legal Systems], Praha, 1996, pp. 127-128.

<sup>6</sup> Krčmář, J.: *Právo občanské I. Výklady úvodní a část všeobecná* [Civil Law: I: Introduction and General Part], Praha, 1929, pp. 22-23.

<sup>7</sup> Krčmář, J.: *Právo občanské I. Výklady úvodní a část všeobecná* [Civil Law: I: Introduction and General Part], Praha, 1929, p. 38.

<sup>8</sup> Introduction, *Právník*, Vol. 92/1953, pp. 1-4.

<sup>9</sup> Vaněček, V.: "Představitelé české právní vědy v letech 1882–1900" ["Representatives of Czech Jurisprudence 1882-1900"]; Knapp, V.: "Vědecký vývoj Antonína Randy" ["The Scholarly Development of Antonín Randa"], *Právník*, vol. 92/1953, p. 28 and subsequent pages, and p. 45 and subsequent pages. Vaněček's article was a chapter from his book *České právnictví za kapitalismu* [Czech Law under Capitalism], Praha, Nakladatelství ČSAV, 1953.

<sup>10</sup> Cited from *O právu a jeho tvorbě* [On Law and Law-Making], Praha, 1951, p. 125.

<sup>11</sup> Serebrovskij, V. I., Svěrdlov, G. M.: *Tři studie o sovětském rodinném právu* [Three Studies on Soviet Family Law] Edice Nový právní řád, č. 1, Praha, Orbis 1949, unpaginated, p. 5.