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National Personal Autonomy in the Ukrainian People's Republic as legislative and constitutional practice: Jewish Community Experience*

ABSTRACT

The article presents an overview of the participation of Jewish national personal autonomy institutions in legislative activity and constitution-making in Ukraine 1917–1918. The author recognises the leading role they played in drafting the law on national personal autonomy as well as in its further incorporation into the Constitutional text of the Ukrainian People's Republic. Therefore, the author assesses Ukrainian state-building and constitution-making in 1917–1918 as significantly determined by cooperation between Ukrainian democrats and national minorities, which undoubtedly influenced the constitution-making of the period. How agreement was sought on every particular subject of debate, as well as the heated discussions on the draft law between national minorities and Ukrainian democrats, gives us another argument for more broadly analysing law-making and constitution-making as part of social consensus building. The latter, in turn, became part of the basis and guarantees of the sovereignty of the Ukrainian People's Republic as a whole.

KEYWORDS:

National personal autonomy, Jewish, Ukrainian People's Republic, legislation, Constitution of Ukrainian People's Republic 1918

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Following the First World War and the February Revolution of 1917, which led to the abdication of Tsar Nicholas II and the establishment of the All-Russian Provisional Government, the Ukrainian national movement gained unprecedented momentum. On 17 March 1917,¹ the Ukrainian Central Rada was established in Kyiv as a representative body composed of political parties, cultural organizations, and civic groups. Under the leadership of historian Mykhailo Hrushevsky, the Central Rada evolved from a coalition of cultural and social activists into a political institution advocating for Ukrainian autonomy within a future federative Russian state. This demand for self-determination resonated widely across Ukraine, as evidenced by the overwhelming support for Ukrainian parties during the elections to the All-Russian Constituent Assembly in November 1917.

The relationship between the Central Rada and the Provisional Government in Petrograd was fraught with tension. The Central Rada's First Universal, issued on 23 June 1917, unilaterally proclaimed Ukraine's autonomy. However, this move was met with resistance from the Provisional Government under Alexander Kerensky, which rejected the declaration as separatist. The ensuing political crisis led to negotiations, culminating in the Second Universal on 16 July 1917. The Central Rada's General Secretariat was recognised as an administrative body for Ukraine and the question of autonomy for Ukraine was postponed until the All-Russian Constituent Assembly decided on federalism for Russia. Nevertheless, these compromises unravelled following the Bolshevik seizure of power in Petrograd in October 1917.

On 20 November 1917, in response to growing instability and Bolshevik aggression, the Central Rada issued its Third Universal, proclaiming the Ukrainian People's Republic (UPR) as an autonomous entity within a future federative Russia. However, escalating tensions with Bolshevik forces culminated in Ukraine's declaration of full independence and national sovereignty through the Fourth Universal on 2 January 1918. This shift from autonomy to sovereignty was driven by both political aspirations and practical concerns over defending Ukraine's territorial integrity against Bolshevik incursions.

National personal autonomy in Ukraine is noteworthy as the very first and promising experience of resolving the national minorities issue within a newly established or restored national state on the ruins

¹ In accordance with the calendar reform enacted by the Ukrainian government in early 1918, which replaced the Julian calendar with the Gregorian system, all dates in this article referring to events in Ukraine during the transitional period of 1917–1918 are presented in the New Style (Gregorian) format. Where relevant, the Old Style (Julian) dates are provided in parentheses to preserve historical accuracy and reflect the dual chronology used in contemporary Ukrainian documents of the time.

of the Russian Empire. The success of this venture can be attributed to the fact that the political interests of Ukrainians as a titular nation and those of national minorities at that critical juncture in history coincided. Another major factor is the very theory of national personal autonomy, which is primarily associated with the achievements of the Austro-Marxists. The conceptual similarity of this theory to the Ukrainian tradition of decentralization and self-governance as well as a respectful attitude to national rights – a philosophy developed by Mykhailo Drahomanov (1841–1895) and partially realized by the nobility parliamentarians at the Galician Sejm in the Habsburg Empire – played a crucial role in the effective adaptation and practical implementation of this idea within Ukrainian, particularly Western Ukrainian, political and cultural contexts.

Traditional historiography, especially Ukrainian, mostly delineates Ukrainian democrats and national minorities in 1917–1918 as primarily distinct political actors who were either antagonistic or collaborative in their interactions throughout the process of Ukrainian state-building.² Such a perspective is warranted, given the sometimes profound disparities in their political objectives or the specific strategies they used to achieve them, which significantly complicated the process of communication and cooperation between these actors. Notably, this encompasses, on the one hand, the generally adverse or equivocal stance of minority groups towards the declaration of Ukrainian state sovereignty and independence and, on the other hand, the unconcealable intention of the Ukrainian authorities to resolve the national minorities issue without any significant curtailing of their own powers and authority. Henry Abramson's *In a Prayer for the Government: Ukrainians and Jews in Revolutionary Times, 1917–1920* (1999) presents a novel approach, foregrounding the dynamics of cooperation between Ukrainian and Jewish statesmen. Abramson's work elucidates instances of collaboration across diverse political and societal spheres, though such alliances were often transient and achieved varying degrees of success. In our research, both in this study and prior works,³ we have sought to highlight the crucial contributions of Jewish activists to the formulation of the Ukrainian legislation regarding non-territorial autonomy for national minorities, especially the Law on National Personal Autonomy and the Constitution of the Ukrainian People's Republic. This interpretive framework initially encountered criticism from some Ukrainian

² George Liber, 'Ukrainian Nationalism and the 1918 Law on National Personal Autonomy', *Nationalities Papers*, 15,1 (1987), 22–42, ff.

³ Anastasiya Ivanova, 'Zakon UNR "Pro nacional'no-personal'nu avtonomiju" jak častyna Konstytuciji UNR: do istoriiji stvorenija', *Pravova deržava*, 31 (2020), 144–52.

historians but has since garnered support and undergone further development, particularly in Börries Kuzmany's recent fundamental research.⁴

Shifting the reference point to Ukrainian state-building and constitution-making makes it abundantly clear that, despite different political priorities and preferences, the Ukrainian People's Republic was proclaimed and established due to cooperation with national minorities as full-fledged political and legislative actors. Representatives of the latter made a significant contribution to the text of the Constitution of the Ukrainian Republic, although Ukrainian sources still mention neither their authorship nor their participation in the constitution-making and legislative process of 1917–1918 as a whole. Hence, Ukrainian governmental bodies, together with structures of national autonomy, acted as a unified political entity – the governmental body.

Such political practice contributed considerably to the newly formed national identity of *Ukraine as a political nation* and simultaneously influenced much legal tradition, determining its development towards national diversity, traditions of mutual communication, cooperation and collaboration with national minorities living in Ukraine.

It should be emphasized that the subject of this research is mostly Jews who managed to legalize and implement their right to national personal autonomy; when referring to national personal autonomy in this article, we first and foremost mean Jewish national personal autonomy. This choice of research subject can be explained by the factors illustrated below. It was the Jews who demonstrated exceptional dedication and preparedness in asserting their rights, surpassing other national minorities in Ukraine in 1917–1918. Namely, they were skilled and experienced in their self-organization through communities (kehiles or Ukr. *hromady*); they desired to reform their communities in light of revolutionary changes and to legitimize their self-governing *with respect* to Ukrainian state-building; and they had educated and proactive elites that possessed exceptional proficiency in jurisprudence and, therefore, were capable of ensuring legal (normative) and practical implementation of national minorities' rights.

⁴ Börries Kuzmany, *Vom Umgang mit nationaler Vielfalt. Eine Geschichte der nicht-territorialen Autonomie in Europa* (Berlin: De Gruyter, 2024).

I. INSTITUTIONAL BACKGROUND OF THE SECRETARIAT /MINISTRY FOR JEWISH AFFAIRS⁵

A few words are needed about the organization of the Secretariat (later – Ministry) for Nationality Affairs (Ukr. Sekretariat natsional'nykh spraw).⁶ The discussion within the Ukrainian Central Rada regarding augmentation of Ukrainian governmental bodies with delegates from national minorities commenced as early in March 1917. In accordance with the *principle of national proportional representation*, this replenishment would ensure that representatives of national minorities made up 30% of all the highest state authorities in Ukraine. The figure of 30% was presented by Ukrainian leaders based on their interpretation of existing statistics, such as the 1897 imperial census. The discussion resulted in determining this proportion of 30%, which generally corresponded with interpretations of existing statistics, such as the 1897 imperial census presented by historian professor Myron Korduba and Ukrainian politician, publisher, and sociologist Mykyta Shapoval. Namely, 46,012,000 people lived on the territory of *ethnographical Ukraine*, and 39,604,200 people lived on the territory of the Ukrainian guberniyas at that time, with Ukrainians accounting for 71% of the population in both regions.⁷ The data on the proportion of national minorities among the Ukrainian population of ethnographic Ukraine and that of the Ukrainian guberniyas show slight discrepancies. However, the overall ratio remains consistent: approximately 30% of the Ukrainian population consisted of non-Ukrainians. Thus, data are provided on the residence in Ukraine of 5,376,800 Russians (11.7%), 3,795,760 Jews (8.2%), 2,079,500 Poles (4.5%), 871,270 Germans (1.9%), 435,540 Vlachs (0.9%), 104,780 Greeks (0.2%), and 39,400 Armenians (0.1%).⁸

Subsequently, the official establishment of the post of Vice-Secretary for Jewish affairs was conclusively resolved during the convening of a special Parliamentary Commission on 27 July (14 July old style) 1917. Moisei

⁵ The institution was initially established as the Vice-Secretariat for Jewish Affairs, later reformed into the Secretariat General for Jewish Affairs, and subsequently into the Ministry of Jewish Affairs. In this publication, for the sake of consistency, we use the generalized name "Secretariat/Ministry of Jewish Affairs", although it officially received this title at a later stage.

⁶ Translating the name of the institution responsible for defining and implementing the Central Rada's ethnic and national policy presents certain challenges. The body was officially known as the Secretariat (later – Ministry) for Nationality Affairs (Ukr. Sekretariat natsional'nykh spraw), though other variants such as Secretariat (later – Ministry) for Nationalities' Affairs also appear in historiography. While these formulations may sound unusual in modern English, they reflect the conceptual framework of the time, namely the understanding of various national and ethnic groups not as minorities, but as equal national partners within the state structure of 1917. Although a contemporary equivalent might be Secretary for National Minorities' Affairs, period sources consistently refer to the institution as Secretary (General) for Nationality Affairs (see, for example, Internet Encyclopedia of Ukraine, hosted by the Canadian Institute of Ukrainian Studies, Abramson's *A Prayer for the Government*, Magocsi's *Ukraine Redux: On Statehood and National Identity, and Ukrainian Jewish Encounter*). This terminology more accurately conveys the political and ideological nuances of the era.

⁷ Myron Korduba, *Terytorija i naselennja Ukrayiny* (Viden': Vydannja 'Vistnyka polityky, literatury i žyttja', 1918), p. 22.

⁸ Mykyta Šapoval, *Velyka Revoljucija i Ukrajins'ka vyzvol'na Programa* (Praha, 1928), pp. 6–7.

Zilberfarb (Silberfarb) (1876–1934), United Jewish Socialist Workers Party, became the supported candidate for the position.

The Statute of the General Secretariat of 29 July (16 July old style), 1917,⁹ unofficially referred to as the first Constitution of Ukraine,¹⁰ instituted three Vice-Secretary positions within the Secretariat for Nationality Affairs, representing Russians, Jews, and Poles, i.e., the three largest national minorities in revolutionary Ukraine, each of which had the right to cast the deciding vote on national issues at meetings of the General Secretary. Salomon Goldelman assessed this as “the birthday of Jewish national autonomy in Ukraine”.¹¹ Subsequently, in November 1917, the Vice-Secretariat underwent reform and became the Secretariat General, which, as of mid-January 1918, was redesignated as the Ministry of Jewish Affairs. The entire competence and work of the Secretariat/Ministry of Jewish Affairs was divided among three departments: Education (headed by Abraham Strashun, Bund); Community and National Self-Government Affairs, which would deal with community affairs, except for those related to education (headed by Abraham Revusky [Revutsky], Poale Zion); and General Affairs, which would deal with the protection of Jewish rights and all other matters that were not included in the activities of the first two departments (headed by Isai Khurgin, ‘Farejnikte’). The Secretariat/Ministry also had an Economic and Statistical subdepartment, whose staff was constantly expanding and numbered about 100 people at the end of April 1918.¹²

However, before this, on 2 October 1917, the Provisional Jewish National Council (PJNC) was established.¹³ Although initially instituted as an advisory entity under the Vice-Secretariat, in practice the PJNC was integral to the decision-making process, with all major resolutions, including the draft laws of the Vice-Secretariat, requiring its concurrence. With the exception of Orthodox-conservative Jews, the PJNC included five representatives from each of the Jewish political factions in Ukraine: the Zionists, Volkspartei, the Jewish Social Democratic Party, Poale Zion, the United Jewish Socialist Party, and Bund.¹⁴

The national personal autonomy concept envisaged the establishment of a mini-state model. Therefore, alongside the executive body, an institution similar to a legislative representative body was deemed necessary. The Jewish National Assembly, as such a representative body, was

⁹ Nova Rada, 90 (18 July 1917).

¹⁰ Dmytro Dorošenko, *Istoriya Ukrayiny 1917–1923 rr.*, I (1923), p. 105.

¹¹ Solomon Gol'del'man, ‘Žydovs'ka nacional'na avtonomija v Ukrayini 1917–20’, *Zapysky NTŠ*, 182 (Mjunchen–Paryz–Jerusalym, 1967).

¹² Tetjana Batanova, ‘Do istoriji jevrejs'koho predstavnycvta v Ukrains'kij Central'nij Radi: dekil'ka dokumentiv Ministerstva z jevrejs'kych spraw’, *Pam'jatky: archeohrafičnyj ščoričnyk*, 11 (2010), 175–84 (p. 181).

¹³ Tsentral'nyj deržavnyj archiv vyščykh orhaniv vlady i upravlinnja Ukrayiny (Central State Archives of the Higher Authorities and Administration of Ukraine, hereafter TsDAVO), f. 1748, op. 1, spr. 1, ark. 7–8.

¹⁴ Ibid., ark. 7–9.

to be elected by a Jewish Constituent Assembly. Due to Hetman Pavlo Skoropadsky's coup on 29 April 1918, the full Assembly never gathered. Instead, the Small Jewish National Assembly¹⁵ was elected and acted from 30 December, 1918, as a provisional Jewish representative body in Ukraine. In correspondence with public organizations, it was referred to as the 'Vor-parlament' (pre-parliament),¹⁶ and, referring to the aforementioned mini-state model, it was functionally similar to the Ukrainian Little Rada.

The first documents developed by the Secretariat were its own Instruction (Regulations), which defined its powers and main principles of activity. At the first meetings of the Secretariat General for Nationality Affairs, Zilberfarb proposed the Instruction for the Vice-Secretary for Nationality Affairs, which was approved by Oleksandr Shul'hyn (1889–1960), the Secretary General for Nationality Affairs, on 22 July 1917. The Instruction encompassed nine salient points, specifically mandating that the Vice-Secretary's responsibilities included protecting the rights of Ukraine's national minorities and endorsing the autonomous development of their domestic cultural life. The Vice-Secretary was obligated to formulate and present legislative proposals and administrative drafts to the Secretary General for Nationality Affairs. The Secretary was an integral participant in the legislative process, possessing the right of legislative initiative. Moreover, no regulatory decision or order pertaining to the internal affairs of any national minority could be enacted without prior enhancement. The Vice-Secretary was required to communicate with various institutions representing national minorities exclusively in the respective minority's language. This linguistic protocol extended to ministerial documentation, as stipulated by the Instruction. Furthermore, each Vice-Secretary was responsible for establishing a National Council, tasked with addressing the most urgent and significant issues concerning the internal affairs of national minorities.

Minority representatives endeavoured to increase their powers, a development articulated by Shul'hyn during a Governmental Meeting and reflected in the aforementioned Instruction. Thus, the Statute of the General Secretariat established the position of Vice-Secretary for Nationality Affairs. Concurrently, the Instruction established not merely a post (position) but also the Vice-Secretariats for Nationality Affairs – a whole governmental organ created through the apportionment of the Secretariat General for Nationality Affairs. The Instruction further stipulated the maintenance of secretariat documentation in the minority language and necessitated an obligatory countersignature by the pertinent Vice-Secretary regarding laws of the Ukrainian People's Republic that affected the internal affairs of

¹⁵ TsDAVO, f. 1748, op. 1, spr. 8, ark. 63–65.

¹⁶ TsDAVO, f. 3295, op. 1, spr. 2; *Nova Rada*, 38 (21 March 1918).

national minorities. Procedurally, the Instruction required approvement by the General Secretariat. However, given that matters of language and countersignature exceeded its purview and demanded legal regulation, the General Secretariat, on 29 July 1917, refrained from endorsing the Instruction, opting instead to "take it into consideration". Instead, the same day the Commission of the Little Rada adopted a Resolution on replenishing the composition of the Central Rada with representatives of national minorities, in accordance with the principle of national proportional representation.¹⁷

The political situation and the diminution of the General Secretariat's authority by the Provisional Government in Petrograd led to two months of inattention to these issues. The competencies of the national Vice-Secretariats were broached again on 29 September 1917, when the Declaration of the General Secretariat enumerated the responsibilities of the Vice-Secretariats for Nationality Affairs. Representatives of national minority groups played a notable role in drafting the Declaration, with particular emphasis placed on the protection of their rights. The Declaration was deliberated upon at a session of the Little Rada on the same date, culminating in a vote of confidence in the General Secretariat.

Nonetheless, the governmental Declaration lacked legislative force and, as such, could not adjudicate the contentious issues of language and the requisite coordination of legislative acts of the Central Rada with the Secretariat, which necessitated legislative intervention.

Therefore, adhering to the Instructions issued by the Provisional Government, the Secretariat General for National Affairs crafted a Statute in an effort to augment the authority of the Vice-Secretariat. Its last editions were drawn up in the latter part of October 1917, after the October putsch in Petrograd that overthrew the Provisional Government and established Bolshevik rule in Russia. Interestingly, at the same time the Secretariat General of Internal Affairs justified the establishment of the position of Vice-Secretariat for Jewish Affairs by referring to the Provisional Government's Instruction of 4 August 1917, indirectly acknowledging and legitimizing its validity in this way. They instructed regional (Ukr. *huberns'kyj*) and district (Ukr. *povitovyj*) commissioners, as well as regional administrations and municipal authorities in Ukraine, to follow the guidance of the Vice-Secretary for Jewish Affairs regarding matters related to Jewish religious life, namely concerning box taxes (Ukr. *korobkovyj zbir*) and rabbis, and to seek their advice when relevant questions arose.¹⁸ Meanwhile, the political changes after the October putsch in Petrograd precipitated

¹⁷ *Ukrajins'ka Central'na rada: Dokumenty i materialy*, ed. by Valerij Smolij, Vladyslav Verstjuk, and others, 2 vols (Kyjiv: Naukova dumka, 1996), II, p. 207.

¹⁸ Batanova, 'Do istoriji jevrejs'koho predstavnycstva', p. 181.

a shift in the political and legal landscape, making approval of the Statute irrelevant for some time.

II. MAKING OF THE NATIONAL PERSONAL AUTONOMY LAW

Undoubtedly, the most prominent draft formulated by the Secretariat was the Law on National Personal Autonomy, a pioneering law of its kind globally.¹⁹ A specialized Law Commission, informally referred to as The Jewish Commission or Zilberfarb's Commission, was responsible for its preparation. The commission comprised Moisei Zilberfarb, his deputy Isai Khurgin (1887–1925), and the Secretariat's legal adviser Maks Shats-Anin (1885–1975). Its endeavours are predominantly documented through memoir sources and selected governmental minutes. In the few preserved sources in which the constitutional efforts of the Ukrainian Social Democrats are highlighted, this Law is referred to exclusively with reference to its development by the Ministry of Nationality Affairs or by the Special Commission and without detailed information on the future draft. Furthermore, despite its apparent integrity the draft Constitution, presented by Mykhailo Hrushevsky in December 1917 for a public discussion in *Narodna Volia*, did not contain the concept of national personal autonomy or any provisions on the protection of national minorities, while mentioning this idea overall.²⁰ The fact that the Ukrainian democrats simply did not have comprehensive knowledge of the draft, since they were not involved in its drafting, seems to be the only logical explanation for such secrecy and lack of transparency.

As Zilberfarb recalls, the law was drafted from scratch. The authors were challenged to turn blurred political demands and emotional party slogans into precise and strict legal terms, as well as to delineate the legal framework that would underpin the organization of national minorities, legal relationships between national organizations, and their interactions with the state apparatus.²¹

The complexity of the situation was exacerbated by its urgency. According to the Third Universal, declared on 7 (20) November 1917, the draft law on national personal autonomy was to be submitted to the Central Rada as a legislative proposal "in the nearest future". However, the parliament's jurisdiction was constrained to a mere few weeks,

¹⁹ Kuzmany, *Vom Umgang mit nationaler Vielfalt*, p. 390.

²⁰ Mychajlo Hruševs'kyj, 'Proekt Ukrains'koji Konstituciji', in *Hruševs'kyj M.S. Tvory*, ed. by Pavlo Sochan' and others, 50 vols (Lviv: Svit, 2002–), IV, bk. 1 (2007), pp. 69–73 (p. 69); *Narodna volia*, 154 7/20 November 1917, 1–2.

²¹ Moses Silberfarb, *The Jewish Ministry and Jewish National Autonomy in Ukraine. Kiev, 1918/19*, trans. by David H. Lincoln (New York: Aleph Press, 1993), pp. 65–66.

pending the Ukrainian Constituent Assembly, whose elections were slated for 27 December 1917, and the convocation was scheduled on 9 January 1918. The law draft was supposed to be submitted to the Constituent Assembly, alongside pivotal matters such as land reform and the Constitution of the Ukrainian People's Republic. Consequently, the initiators, cognizant of the significance and priority of these issues within the Ukrainian political agenda, endeavoured to articulate the legal norms in such a manner as to prevent or minimize potential deliberations that might impede or delay the adoption of this law. Meanwhile the establishment of non-territorial autonomies for national minorities had already incited significant contention within the Jewish community, not to mention at the national level.

It should be recalled that national personal autonomy in its classical Austro-Marxist understanding entails the establishment by national minorities of an autonomous system of self-governing entities, which are acknowledged by state authorities and integrated into the national governance framework and the state apparatus. This model resembles a ministate within the state, complete with its own representative and executive bodies, local authorities, the right to collect taxes, and even a kind of symbolic substitute of the territory, namely the national cadastre.²² Thus, national representatives and national self-governing bodies are vested with an extensive array of mutual rights and responsibilities, transitioning their legal relationships from a private level to the public domain. It is crucial that the minority self-government undergoes transformation into public administration. According to one of the authors of the concept, Otto Bauer, this was to guarantee national and personal autonomy from the arbitrariness of the state because, in this case, the state would destroy itself by destroying national self-government:

We can protect the nations without abandoning the advantages of the personality principle if we place public administration in their hands. The administrative apparatus is the living reality of the state. Without an administrative apparatus the modern state cannot exist, can neither summon its soldiers nor collect its taxes. The organic regulation of national relations makes the nations dependent on the instruments of power of the state, upon whose power their legal independence is based. However, if the state places administration in the hands of the nations, it will become dependent on the nations. The state secures national rights for the nations, and these

²² Anastasiia Ivanova, 'Jevrejs'ka nacional'na avtonomija v Ukrayini: Sproba jurydyčnoho analizu', in *Jevreji Ukrayiny: Revoljucija i pisljarevoljucijna modernizacija. Polityka. Kul'tura. Suspil'stvo: Žbirka statej*, ed. by Serhij Hirik (Kyiv: Laurus, 2018), pp. 27–36 (pp. 28–29).

rights are guaranteed on a continual basis and cannot be retracted, since if the state destroys national self-administration, it destroys its own administrative system and thus annihilates itself.²³

The draft law was traditionally considered firstly by the Provisional Jewish National Council, then, on 19 December 1917, by the General Secretariat. The Ukrainian Central Rada began considering the law on 30 December 1917 (12 January 1918), continued on 2 (15) January 1918, and finally adopted it on 9 (22) January.²⁴

Immediate opposition emerged at the meeting of the Jewish National Council. Strong objection was expressed by the Bundists against the point that "the scope of affairs within the competence of the National Union" should be determined by the Constituent Assembly of this nation and approved by the Constituent Assembly of the Ukrainian People's Republic or the Parliament (Article 7 of the draft). The Bund insisted on the elimination of the Jewish Constituent Assembly from this issue, adhering to its political Party Platform and its vision of national autonomy as exclusively cultural. The rejection of their proposal concerning the scope of competence and powers (sovereignty) of the National Union and its individual bodies meant the Bundists had to declare their opposition to the National Council's decision and to reserve their right to speak publicly against this decision in both the General Secretariat and the Central Rada. Later, they exercised this right repeatedly.

The issue of the extent of authority granted to the National Union, initially broached by the Bundists, emerged as a contentious topic in subsequent deliberations within the Ukrainian government. A compromise was reached by amending Article 7 of the Law on National-Personal Autonomy with a provision that disagreements concerning the jurisdictional boundaries between national minorities' institutions and Ukraine's national ones would be adjudicated by a bespoke Conciliation Commission, which would be composed of an equitable representation from both the concerned institutions. Nevertheless, there was no unity here either. The Ukrainian Social Democrats, who, according to Zilberfarb, opposed the concept of national autonomy and favoured a reduction in the purview of autonomous entities, advocated for a Conciliation Commission dominated by Ukrainian members rather than minority representatives. Ultimately, they acquiesced to a balanced representation from both sides.

²³ Otto Bauer, *The Question of Nationalities and Social Democracy* (Minneapolis: University of Minnesota Press, 2000), p. 284.

²⁴ Ukrains'ka Central'n'a rada: Dokumenty i materialy, II: 10 December 1917 – 29 April 1918.

The Ukrainian Social Democrats vehemently contested Article 6, which endowed the National Unions with the right to collect taxes, thereby diminishing the fiscal capacity of the Ukrainian state. National Unions were expected to be content with allocations from state and municipal budgets. Minority representatives deemed this stipulation completely unsatisfactory because state funding provided the state with a potent instrument for coercion, 'manual' management, and direct control over the National Unions. Nonetheless, it was crucial that the state's financial reserves remained unaffected by the National Unions, a stance Zilberfarb successfully advocated to the Central Rada and ultimately persuaded it to adopt.

A controversial issue turned out to be the right of free withdrawal from the National Unions. The Mensheviks challenged this provision, perceiving it as an avenue to form new parallel unions within the same nationality, potentially leading to further fragmentation upon the emergence of substantial ideological rifts or the imposition of additional taxes. This quandary was addressed by complicating the formal requirements associated with the withdrawal process from the National Union.²⁵

Besides, there was opposition to conferring legislative powers upon the National Unions, with a proposition that they be restricted to promulgating solely administrative directives. Proponents of autonomy argued that such a limitation would transform the very national autonomy into mere self-governance.

Eventually the law was adopted with minor amendments in the wording proposed by the Jewish Secretariat, excluding the only provision unconditionally rejected by the Central Rada. This provision sought to incorporate the Secretaries General, who represented the nations organized into unions, into the governmental Cabinet, thereby granting full Cabinet membership to emissaries of the Russian, Jewish, and Polish national minorities (Article 10).

Although certain provisions of the law led to intense debates among the factions, and memoirs contain references to the Central Rada members' profoundly adverse emotional reactions to the law's first formal presentation in the parliament,²⁶ not a single 'against' or 'abstained' vote were recorded when the law was voted on.²⁷

Multiple drafts of the law have been preserved. According to various sources the complete draft initially consisted of 12 or 13 articles. Ultimately, the law was adopted with 11 articles and officially published

²⁵ Silberfarb, *The Jewish Ministry and Jewish National Autonomy in Ukraine*, pp. 70–71.

²⁶ Iosef Šechtman, 'Evrejskaja obščestvennost' na Ukraine (1917–1919 g.g.), in *Kniga o russkom evrejstve: 1917–1967: SL*, ed. by Jakov Frumkin, Grigorij Aronson, and Aleksej Gol'denvejzer (N'ju Jork: Sojuz russkich evreev, 1968), pp. 22–43 (p. 25).

²⁷ Ukrains'ka Central'na rada, II, p. 98.

with 10.²⁸ During the Central Rada's session, the aforementioned Article 10 was excluded; upon the law's promulgation, the article enabling the National Unions to affiliate with their counterparts within the Russian Federal Republic was omitted. Noteworthily, the Law adopted on 9 January was published nearly three months later, on 2 April 1918. Thus, it was adopted before and published after the adoption of the Fourth Universal, which engendered a procedural legal collision. Specifically, the then Ministry of Justice Mykhailo Tkachenko (1879–1920) believed that the law should be changed by general legislative means, while his successor, Serhii Shelukhin (Sheluhyn) (1864–1938), emphasized that the General Secretary lacked the authority to delay official publication of the law. This conflict was resolved by discarding the article that regulated the legal link with federal Russia, which the Fourth Universal had nullified.²⁹

The comprehensive text of the Law was subsequently incorporated, verbatim, into the Constitution of the Ukrainian People's Republic, adopted on 29 April 1918. Comparison of the Law's texts with the relevant section of the 1918 Constitution reveals its near-identical content, barring a few editorial amendments. Consequently, we believe that there is a compelling case for replenishing the authorship of the 1918 Constitution with the names of the authors of the Law on National Personal Autonomy.

In the minutes of the Central Council and the General Assembly, no further references to work on the text of the Constitution were found until it was submitted to the Central Rada for consideration. According to periodicals, Arkadiy Stepanenko (a member of the Ukrainian Socialist-Revolutionary Party) reported after closed meetings of the Rada factions on the evening of 27 April that the commission was concluding its deliberations on the draft Constitution of the Ukrainian People's Republic. Stepanenko proposed expeditious discussion, leading to an emergency meeting scheduled for Monday, 29 April at 11.30 am. On the same day, Deputy-Minister of Jewish Affairs Khurgin's proposal to submit the draft law 'On the Jewish National Constituent Assembly', developed by the Ministry, was approved. Moreover, Dmitrii Odinets proposed submitting a draft prepared by the Ministry of Great Russian Affairs 'On the Convocation of the Great Russian Constituent Assembly', which was also approved. Urgently, Vsevolod Holubovych, Chairman of the Rada of People's Ministers, submitted a draft law on Ukrainian citizenship (to replace the current flawed law), requesting prompt consideration. Ultimately, only the Constitution was discussed and adopted during the Central Rada meeting on 29 April 1918.

²⁸ Ibid., p. 234.

²⁹ Ibid.

III. OTHER LEGISLATION BY THE SECRETARIAT/MINISTRY FOR JEWISH AFFAIRS

Among the laws drafted by the Secretariat, the Law on National Personal Autonomy was obviously the most resonant for Ukrainian democrats and most well known in modern historiographical discourse. Nevertheless, this law was not singular in its impact. The vigorous activity of the Ministry, concerning many spheres of Jewish life, accelerated the implementation of the right to autonomy prior to its actual proclamation and, in turn, necessitated effective and comprehensive normative regulation.

The Secretariat drafted a number of laws and regulations that affected legal relationships, as listed below:

- organizational and legal support for Jewish personal autonomy institutions at all levels (from the complex reorganization of Jewish communities to the Jewish National Council and the convening of the Provisional National Assembly);
- establishment of a network of educational institutions (Jewish teacher seminaries, new primary and secondary schools) the struggle for the rights of the Jewish language (starting with maintaining all the secretariat's documentation in Yiddish);
- the reform of the Jewish communities, namely kehiles, which were to become a foundation of the very Jewish national autonomy.

Thus, according to the archival documents, the following laws were drafted and submitted by the Ministry: a Provisional Law on Jewish Territorial Communities, a Law on Teachers' Seminaries, on the Management of Schools, on the Use of Languages of National Minorities, on the Provisional National Assembly, on the National Secretariat, on the Jewish National Register (kadaster), on the Jewish National Union in Ukraine and others.

In fact, the Codes on the Statute of the Jewish Community³⁰ and on Elections to the Jewish Public Self-government³¹ were elaborated. The latter encompassed the Law and Regulations on Community Governance, comprising seven chapters with 85 articles. These Acts appeared to be competently constructed in terms of legislative technique as they exhaustively regulated the management of community life, its bodies and institutions, legal status and powers, income and spending, issues of inheritance and legal responsibility, and many others. All this additionally testifies to the high degree of professionalism and expertise in the legislative practice of the Secretary/Ministry's and Commission's members.

³⁰ TsDAVO, f. 3295, op. 1, spr. 1, ark. 15.

³¹ Tsentral'nyj deržavnyj archiv hromads'kych ob'jednan' ta ukrajiniky, f. 41, spr. 9, l. 20–25.

The Jewish community was designated to become the foundational pillar of Jewish self-government. The reform of the kehiles centred around two key principles: 1) secularization of the community and education, and 2) modernization of the taxation system – a shift from a fixed 'box tax' (Ukr. *korobkovij podatok*) to a progressive income tax.

It was anticipated that implementation of the reform would not flow seamlessly, given both the decline of the communities themselves and different political forces' divergent visions of their future. This situation kept the Secretariat and the Jewish National Council, operating under its purview, from taking responsibility for addressing essential reform issues. Instead, these matters were left to the discretion of the Jewish National Assembly, which intended to become the constituent body of national non-territorial autonomy. Simultaneously, an urgent reset of the communities through elections necessitated a concise draft law. The draft law on the Formation of Jewish Councils and Elections to Them³² consisted of only seven articles and an appendix: Temporary Regulations on the Elections of Members of Jewish Public Councils. The primary focus of this draft was procedural guidelines for elections, while broader council reform was deferred until 1918. Finally, the Law on the Establishment of Jewish Public Councils and the Elections of Members of These Councils was discussed at the Little Rada session on 2 December 1917, and published in the official gazette.³³ The discussion was sketched in its minutes: "Again a very interesting meeting. The enormous gathering overflowed into the galleries. Among them were almost the majority of Zionists, who were brought here by a summons to discuss the Law on Jewish Public Council".³⁴

Despite its temporality, this Law provided a legal foundation for holding elections to the councils (Ukr. *rady*) of modern democratic Jewish communities. Nevertheless, the peculiarities of wartime predestined the elections to be held not simultaneously and everywhere. The Decree of the Ministry of Jewish Affairs on the Term of Elections stipulated elections to Jewish communities to be held before 1 February 1918. The Temporary Regulations on the Elections of Members of Jewish Community Councils of 2 December 1917, referring to the future Statute of the Jewish Community, stated the right to participate in these elections to citizens of Jewish nationality over the age of 20, regardless of sex.

Some numbers should be mentioned when talking about the elections. The Census of 1897 recorded 472 Jewish communities in Ukraine; the apparatus of the Ministry of Jewish Affairs noted 600 communities

³² TsDAVO, f. 1854, op.1, spr. 20, ark. 12.

³³ Visnyk General'noho Sekretariatu UNR, 6 (1917), p. 1.

³⁴ Ukrains'ka Central'na rada, ed. by Valerij Smolij, Vladyslav Verstjuk, and others (Kyiv: Nauk. dumka, 1996), I.

in 1917. At the same time, according to the same ministry, elections were held in 250 communities: in the Poltava province, elections were held in 114 communities; in the Kyiv guberniya, in 106 communities; in the Taurida guberniya, in 10 communities, including Berdiansk, Melitopol, Orikhiv, Kakhovka. However, before the liquidation of the Ministry, it managed to process and approve election results in 194 communities.³⁵

The elections to the Kyiv 'metropolitan' Jewish community, which took place on 31 December 1917, and 1 January 1918, are recalled by the jurist, writer, publisher, public figure, and member of the Ukrainian Central Rada (April 1918) Aleksei Gol'denveizer (1890–1979) in his memoirs:

The proportional system again appeared in them [elections] in all its specific features. As a result, as expected, the Zionists received the greatest representation in the new community. Together with the Orthodox factions, they had a guaranteed majority. Socialist parties gained about 30% of the votes. The leader of the Zionists, N.S. Sirkin, was elected Chairman of the Community Council; the community administration was composed of representatives of Zionism and Orthodoxy. For the first time since the revolution, the socialist wing was in the opposition minority.³⁶

Instead, the socialists adopted a separate Resolution on the Community (March 1918) in which they called for "vigorous struggle against all attempts to turn the modern community into the old-fashioned 'economic government' and set out their own vision of the basic principles of the organization of such a modern reformed community".

The main document determining the legal status of Jewish communities and regulating the principles of their activities was to be the above-mentioned Law on Jewish Community Administration³⁷ (another name Statute of the Jewish Community), the complete draft of which is preserved in the archives.

Under the Law, community councils and boards were responsible for local Jewish communities. These local authorities were legally defined as public legal bodies of Jewish national self-government that were entrusted with overseeing all economic and administrative matters within their respective communities. Specifically, the community council served as the elected decision-making body, addressing substantive issues, while

³⁵ Tamara Makarenko, 'Polityka Ukrains'koji Central'noji Rady ščodo nacional'nych mens'yn (berezen' 1917 – kviten' 1918 rr.)' (unpublished doctoral dissertation, Berdjansk'kyj deržavnyj pedahohičnyj universitet, 2008).

³⁶ Aleksei Gol'denveizer, 'Iz kievs'kikh vospominanij (1917–1920 gg)', in *Archiv russkoj revoljucii, izdavaemiy I.V. Gessenom* (Berlin, 1922–1937), V (1922), pp. 161–303 (p. 200).

³⁷ TsDAVO, f. 3295, op. 1, spr. 1, ark. 15.

the community administration acted as the executive branch. The formation of the community council followed a proportional representation principle according to the population size of the relevant territorial community. For instance, in communities with over 10,000 inhabitants (such as Odesa, Kyiv, and Ekaterinoslav), approximately 38 council members were planned, adhering to the ratio of one council member for every 2,000 residents. Unfortunately, the Ukrainian government did not manage to adopt this bill, which was crucial for the Jewish community, leaving it unrealized due to following shifts in the state's overarching policy on national autonomies.³⁸

Another significant legislative development was the enactment of the bill concerning the Jewish Teachers' Seminary in Kyiv. Adopted during the Little Rada session on 11 April 1918, the Statute of the Kyiv Jewish Teachers' Seminary focused on education reform that transferred the seminary to the jurisdiction of the Ministry of Jewish Affairs.³⁹ The seminary was established in order to educate and prepare 'teachers' for primary Jewish schools in the Ukrainian People's Republic and was expected to open on 1 July 1918. Additionally, discussions revolved around establishing ten similar full Jewish teacher seminaries and teacher institutes across Ukraine. The same legislative initiative included funding proposals for various educational programs, namely 5-week summer courses for teachers at Jewish public schools in Kyiv, Odesa, and Yekaterinoslav, 3-month courses for secondary school teachers etc. As with all projects requiring state budget financing, the Committee of Legislative Amendments submitted this draft law to the Central Rada, along with the course program, cost estimates, and a proposal for funding the publication of textbooks. Notably, the Kyiv Seminary's situation was somewhat exceptional as educational matters typically fell under the competence of local self-government, and seminaries were generally financed by local self-governing bodies. Initially it was planned that the establishment of a seminary in Kyiv would serve as a certain guidepost for the regions. However, the priority decision to establish the Jewish Teachers' Seminary in Zhytomyr was made by Volhynia Provincial Council (Ukr. *Zemstvo*).⁴⁰

Language considerations received significant attention during this period. Teaching in Russian was closely associated with Russification policies and met with disapproval from pro-Ukrainian circles. On the other hand, Ukrainian, while less known and less popular among Jewish communities, did not emerge as a viable language of instruction. Consequently,

³⁸ Ibid.

³⁹ *Vistnyk Rady Narodnykh Ministriv UNR*, 26 (1918), p. 1.

⁴⁰ Silberfarb, *The Jewish Ministry and Jewish National Autonomy in Ukraine*, p. 49.

Yiddish took over the role previously held by Russian, driven by not only cultural and national factors but also political considerations.⁴¹

The language of instruction at the Jewish teachers' seminary became a subject of parliamentary debate. The central question was which authority would decide between Yiddish and Hebrew as the seminary's language – the Jewish National Council as the governing body of national autonomy, or the Little Rada through a special law. Noteworthily, during these discussions, Deputy Minister Khurgin made history by speaking Ukrainian – an unprecedented occurrence in the Central Rada that is sketched in the minutes as "the first time in the Central Rada when a Jew spoke Ukrainian". Subsequently, efforts were made to resolve the language issue through legislation. A proposed law titled *On the Use of Languages of National Minorities* sought to regulate language policy; however, despite discussions, the matter never advanced beyond the planning stage.

Moreover, the Jewish Vice-Secretariat drafted several laws to define institutional and organizational frameworks for national personal autonomy. These drafts addressed key issues, including *On the Provisional National Assembly*, *On the National Secretariat*, *On the Jewish National Register*, *On the Jewish National Union in Ukraine*.

IV. HUMAN DIMENSION OF THE AUTONOMY

This vigorous legislative effort was led by highly professional lawyers serving on the special Law Commission of the Secretary/Ministry of Jewish Affairs. We have already mentioned three of them who were responsible for the Law on National Personal Autonomy drafting. Vice-Secretary and later Minister Zilberfarb held a law degree and obtained his doctorate in law from the University of Bern in 1911.⁴² His inaugural dissertation, titled *Die Verwaltung der jüdischen Gemeinden in Russland, historisch und dogmatisch dargestellt* (The Administration of Jewish Communities in Russia: Historical and Dogmatic Perspectives),⁴³ was published in 1911 in Pressburg (modern Bratislava).

Another key legal advisor of the Jewish Ministry was Maks Urievich Shats-Anin (1885–1975), who also possessed a doctorate in law. His

⁴¹ Ibid.

⁴² In certain instances, Zilberfarb's doctorate is erroneously attributed to earlier dates, along with the assertion that he held a medical degree (as seen, for instance, in the German National Library catalogue). However, this confusion likely arises from the fact that his sister, Malka Zilberfarb, obtained her medical doctorate in Bern one year prior.

⁴³ Moses Silberfarb, *Die Verwaltung der jüdischen Gemeinden in Russland. Historisch und Dogmatisch dargestellt. Inaugural-Dissertation zur Erlangung der Doktorwürde der hohen Juristischen Fakultät der Universität Bern* (Prefšburg: Adolf Alkaly & Sohn, 1911).

dissertation, 'Zur Nationalitaetenfrage' (On the National Question), was completed at the University of Bern in 1910 and resulted in a monograph called 'Die Nationalitätenproblem der Gegenwart: eine staatsrechtlich-politische Studie' (The nationalities problem of the present: a study in constitutional law and politics), published in Riga in 1910 under the name Maxim Anin.⁴⁴ In his memoirs, Shats-Anin recalls defending his dissertation again in 1913 at the Demidov Lyceum in Yaroslavl in the Russian empire, focusing on 'The Solution of the National Question in Austria-Hungary', and subsequently receiving the degree of 'Candidate of Laws' (equivalent Master of Law) – this degree was required in the Russian empire for the practice of law.⁴⁵

Khurgin, another key member of the Law Commission responsible for drafting legislation on national-personal autonomy, also contributed to this field. However, detailed information about his activities remains scarce.

There is also evidence of other highly qualified professionals being members of the Law Commission of the Jewish Ministry. This refers to prominent Kyivan attorneys Semen Ratner (1880–1938) and Stanislav Korn-gold (1884–1938), both of whom were later repressed and executed by the Bolshevik regime, and other legal practitioners, namely Moisei Mazor, Moisei Yudin, Elisaveta Weinstein, as well as politicians and public figures, namely Marin Gindes, Iakov Aleshkovskyi, David Levin and some others.

Specialists within the Secretariat also worked to enhance legal education. For instance, another Law Commission member, Vice-Director Iosef Khersonskyi, had access to the Law Seminary at St. Vladimir Kiev University (an analogue of modern doctoral studies) and utilized university library resources for the Secretariat's needs.⁴⁶

Thus, human resources were instrumental in defining the normative framework of the principle of national-personal autonomy. The Secretary/Ministry of Jewish Affairs' rule-making and legislative activities were integral to the broader Ukrainian constitutional process in the early twentieth century, particularly in shaping Jewish non-territorial autonomy in Ukraine.

* * *

To summarize, firstly, modern Ukrainian historiography traditionally attributes the adoption of the Law on National Personal Autonomy exclusively to Ukrainian democratic and socialist circles. Indeed, one can agree that

⁴⁴ Maxim Anin, *Die Nationalitätenproblem der Gegenwart: eine staatsrechtlich-politische Studie* (Riga: Schnackenburg, 1910).

⁴⁵ Ruta Šac-Mar'jaš, *Byl', jav' i mečta: kniga ob otce* (Riga, 1995), p. 63.

⁴⁶ TsDAVO, f. 1748, op. 1, spr. 5, ark. 8.

the decentralization of power and the protection of the rights of national minorities are prominent features that distinguish the Ukrainian legal tradition from the Russian Imperial one, which for the most part nurtured ethnocentrism and intolerance.⁴⁷ Simultaneously, there are various forms of protection of national minorities and their cultural rights. The institution of national personal autonomy is a specific form and an acknowledged intellectual achievement of the Austro-Marxists Otto Bauer and Karl Renner. Ukrainian politicians preferred *national territorial autonomy* in 1917 for themselves, when they as a national minority fought with Petrograd for their rights and for national territorial autonomy for Ukrainians. Later, in the role of authorities they considered a non-territorial approach and *national proportional representation* sufficient for protection of non-Ukrainian minorities' rights. Without diminishing the role of the Ukrainian socialists and democrats in voting and final approval of the law during the legislative process, I note that this law – as well as the very idea of organizing the life of national minorities in Ukraine as *national personal autonomy*, which is distinctly different from other non-territorial forms – was a major result of the Jewish community's activities. They gradually brought the Law to the highest legislative level due to 1) a coincidence of political interests and 2) instrumentally ensured national proportional representation of national minorities in public authorities – in the Ukrainian Central Rada as the parliamentary body, and in the General Secretariat as the governmental body.

Secondly, the members of the Law Commission of the Secretary/Ministry of Jewish Affairs who were involved in the Law On National Personal Autonomy drafting may be considered architects and co-authors of the Constitution of Ukraine, since this law was fully incorporated into its final text as a separate integral section with minor changes of a purely editorial nature. This is one more argument in a favour of if not a lack of interest in the national personal autonomy, then loyalty to it (this idea was more tolerated than promoted by the Ukrainian authorities) and trust in national minorities, alongside a tendency to delegate and decentralize power as a whole.

⁴⁷ George Liber, 'Ukrainian Nationalism and the 1918 Law on National-Personal Autonomy', *Nationalities Papers: The Journal of Nationalism and Ethnicity*, 15 (1987), 22–44.

Thirdly, national personal autonomy in the Ukrainian People's Republic was not only a pioneering approach to resolving the national minorities issue, but also one of the first such efforts among the states that were restored or emerged from the ruins of the Russian Empire. It was also a unique case of combining two progressive concepts of that time: *national personal autonomy* and *national proportional representation*. This synthesis made it possible to enact comprehensive legislation for the protection of minority rights and to establish local autonomous authorities tasked with ensuring that protection. Incorporation of these authorities' bodies into the state apparatus, where the Secretary/Ministry of Jewish Affairs simultaneously represented both Jewish personal autonomy and the Ukrainian state apparatus, was aimed to safeguard Jewish autonomy from undesirable state interference.

Thus, the Secretary/Ministry of Jewish Affairs as a Ukrainian governmental body implemented this autonomy for national communities in Ukraine. Moisei Zilberfarb recalls that during his term of office, "in fact, the minister himself represented the missing institutions: he performed the functions of the executive body simultaneously with the representation of the nation". Later, the institutions of autonomy were also marked by the transitional and temporary nature of their legally defined forms, as well as the vigorous legislative and other activities of autonomous bodies. Thus, the Ministry of Jewish Affairs, the Provisional National Assembly, and the Little National Council took over the functions associated with national-personal autonomy and energetically worked to implement it while facing many practical challenges along the way. During the following period of the Directory, the functions of the Parliament or National Assembly were performed by the Provisional National Assembly, and, in the period between sessions, by the Small National Assembly, a body similar to the Ukrainian Little Rada. The dominance of such temporary and provisional forms and institutions reflects a common pattern in contexts of weak institutional development – an inherent feature of transitional nation-states, such as Ukrainian statehood in 1917–1921.

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