TITLE: LAW IN THE SOVIET WORKPLACE:  
THE LAWYER'S PERSPECTIVE

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Summary

This study of the application of administrative, economic and labor law by Soviet legal advisors (iuriskonsults) and arbitrators (arbitry) is based on a unique body of data -- interviews with twenty-five Soviet emigre lawyers in the United States, Canada and Israel -- as well as on Soviet and western writings on these legal specialties. Iuriskonsults are the lawyers employed on a full or part-time basis by ministries, local enterprises, educational and medical institutions. Among the most important of their numerous responsibilities are: ensuring that the law is upheld in all spheres of organizational operations; improving the economic indicators or the enterprise; and providing legal assistance to employees of their organization and its trade union. Arbitry or arbitrators are the judges who decide economic disputes between enterprises.

The Principal Conclusions of this study are:

1) Lawyers are mediators between the individual, the institution and the established power structure. By finding loopholes, they make the encompassing legal system less rigid.

2) There is no absolute rule of codified law in the USSR. The force of individuals is more important than the established legal structure. Lawyers in institutions are the individuals who shape the law to the needs of managers and workers.

3) Lawyers can become important problem-solvers for their
organization by -- increasing the economic efficiency of the organization; increasing financial gains for the workers; and by improving labor relations within organizations.

4) The importance of law in the workplace has increased in the past decade as Soviet authorities have realized the economic and social gains achievable through law.

5) Economic law will never assume the importance that it does in western societies because Soviet citizens have become too accustomed to evading the law. The law is observed when only the state's financial interests are at stake. Workers and management gain too many financial advantages by violating the economic law for them to curb their illegal activities significantly in the future.

6) The manager of an organization determines the role law assumes in his institution. Competent legal advisors are found almost solely in institutions where the director realizes the important benefits that observance of the law can provide for his institution. The director who runs his organization as a personal fiefdom hires submissive and even corruptible iuriskonsults.

7) The iuriskonsult provides his greatest service to the workers of his organization who seek counsel on their most pressing daily problems. The ready, responsive and free legal assistance that employees receive at their workplace on such work-related problems as pensions and vacation leave as well as such personal problems as divorce, child support,
inheritance and housing problems is one of the major benefits of the Soviet system.

8) The services provided by legal advisors contribute to the stability of the Soviet system. Since many Soviet citizens find solutions to their legal problems as a result of the iuriskonsult's assistance, many workers are convinced of the justness of the Soviet system of civil law.
This study of the application of administrative, economic
and labor law by Soviet legal advisors (iuriskonsults) and
arbitrators (arbitry) is based on a unique body of data--inter-
views with twenty-five Soviet emigre lawyers in the United States,
Canada and Israel--as well as on Soviet and western writings on
these legal specialties. The iuriskonsults and arbitrators
interviewed are worthy of more than the minimal attention paid
them by western and Soviet scholars. As individuals with
professional exposure to the intricacies of the operations of
Soviet enterprises and as lawyers trained in attention to detail,
they are excellent sources of information on their own work as
well as on the administration and operation of Soviet organizations
that influence the daily lives of most of the Soviet population.

Iuriskonsults are the lawyers employed on a full or part-time
basis by ministries, local Soviet enterprises, educational and
medical institutions. Among the most important of their numerous
responsibilities are: ensuring that the law is upheld in all
spheres of organizational operations; improving the economic
indicators of their enterprise; and providing legal assistance
to employees of their organization and its trade union. The
other group of lawyers interviewed, arbitry, henceforth known
as arbitrators, perform a very different function from that
of western arbitrators. They act as judges in "a system of
economic courts with powers of both a judicial and administrative
caracter." It is to them that iuriskonsults must turn
to resolve all economic disputes concerning their organization.
The imperfections of the centralized state planning apparatus make economic disputes between enterprises frequent. Arbitration is not a court of last resort but a central component of the economic life of a Soviet enterprise. As iuriskonsults and arbitrators are involved with all elements of the social and economic life of the Soviet workplace, an analysis of their work provides insights into such central areas of Soviet society as industrial production, the operation of enterprises, labor relations, the first and second economies\(^4\) (the second being the illegal economy) and the daily life of the Soviet workplace population.

Lawyers are mediators between the individual, the institution and the established power structure. They make the Soviet system more personal, they humanize the contacts individuals have with the established order and find loopholes that make the encompassing legal system less rigid. Not all lawyers succeed in personalizing the Soviet legal system because they lack either the personal perquisites or are not given the necessary latitude by their administrators. But the successful lawyer "the problem solver" is the individual who succeeds in molding personal and institutional needs by the force of his own intelligence and character.

This study of a limited professional group has implications that transcend the experiences of the twenty-five individuals included in this study. The role that these lawyers assume as the personalizers of authority is not unique but has a tradition in Russian history. For example, the third section and the corps of gendarmes in the reign of Nicholas I assumed such a role. This historical precedent as well as other later
examples from Russian history suggest that there has been no absolute rule of codified law in Russia or the Soviet period as in the European tradition. Not only has the Russian and Soviet leadership often chosen to disobey the law but those responsible for enforcing and upholding the law have acquired a force of their own independent of the institutions they represent. Individuals have become more important than legal institutions and the successful operation of an institution and an individual's fate often depend on the personality of the individual responsible for the enforcement of the law rather than on an established system of legal norms and procedures.

The personalized approach to law described in this report exists because Russian and Soviet society unlike Western Europe do not have a deeply engrained respect for the written law. In the European context, institutions are more important than individuals but in the USSR individual personalities have prevailed over the force of law.

This study is one of the first to make use of the information available from the third way of emigration from the USSR which started on a large scale in the early 1970's and continues at a reduced rate today. The research, conducted between May 1980 and April 1981, involved a selected group of lawyers as several hundred former Soviet lawyers now reside in the West out of a total emigre population of approximately 250,000-300,000 persons.

The principal conclusions of this research are that the lawyers who assume an active role on the job become important problem-solvers in their enterprises. They become indispensable to the director and provide important financial gains for the workers. These effective lawyers also help improve labor relations and the economic efficiency of their organization. Unfortunately,
too many lawyers take a purely bureaucratic approach to their work and are not involved in the operations of their enterprise. But the last decade has seen a greater appreciation by the Soviet leadership and by the legal profession of the services that lawyers can provide to their enterprises. Soviet authorities have awakened to the fact that economic and administrative law can assume a vital rather than a merely formalistic role. The widespread habit of evading the law by Soviet citizens, however, makes it difficult for law to realize its potential role in Soviet society even though the long-range benefits of its greater observance would probably be advantageous for both Soviet managers and workers.

Management, lawyers and workers usually obey the letter of the law when governmental interests are at stake. When personal financial or career interests are at stake, all participants in the workplace, including even on occasion the enterprise iuriskonsult, may evade the law. The nearly universal reaction to the over-regulation of Soviet society has been to find creative solutions to circumvent the law. The valued lawyer, like his counterpart in the West, is the individual who finds legal loopholes for his employer. But as all Soviet enterprises are state-owned, finding the legal loophole only sometimes works to the financial advantage of the state organization but often to the benefit of individuals who manage or are employed by the enterprise. As most Soviet citizens fail to identify with the interests of the state, circumvention rather than observance of the law all too often remains the norm in the Soviet workplace.

The Interviews

I interviewed emigre iuriskonsults and arbitrators in several cities in the United States, Canada and Israel. The demographics of the emigration from the Soviet Union have produced very
different immigration populations on the two continents. Baltic, Central Asian and Caucasian Jews go primarily to Israel while immigrants from other parts of the USSR have emigrated more recently to the United States and Canada. To obtain, therefore, a full picture of the operation of administrative and economic law in all areas of the USSR it was necessary to conduct interviews in both North America and Israel. The interviews were conducted in a variety of settings: either a private home of friends or family, their home, a hotel room or an office.

Prior to the interview, almost all the lawyers completed a biographical questionnaire which solicited information on their age, nationality, social background, education, Komsomol and Party membership, marital status, their work experience, income and reasons for emigration. In addition to the questionnaire, most participants in the study received a lengthy set of questions prior to the interview session to prepare them for the 1 1/2 to 3 hour interview. The list of questions informed the interviewee that I was knowledgeable about Soviet society, administrative and economic law, thus forestalling the lawyer's desire to lecture about basics.

No meeting with the lawyers began immediately with the formal interview. In all cases the interview was preceded by some informal discussion about their lives in emigration, sometimes about their life in the USSR and about the nature of my research project and my residence in the USSR. Interviews were tape recorded after an agreement was signed that the participants in the research study were guaranteed anonymity and would allow
these tapes to be made available to the scholarly community upon receipt of my permission.

Few questions were asked during the interview session about the personal lives of the individuals as that information had been obtained from the written questionnaires. Instead, questions were asked about the nature of the workplace, the working conditions, the responsibilities and the problems of the iuriskonsult profession. Legal advisors were asked to describe their most common activities, their use of arbitration, the numbers of and successes of their suits, their relationship with management, salaries and illegal compensation and the extent and nature of economic crimes at enterprises where they had been employed. More specific questions yielded information on procuratorial supervision, treatment of workers' accidents, comrades' courts and collective agreements. Broader questions probed their role as an intermediary between management and workers. The possibilities of Party and secret police interference in their work were also pursued. An effort was made both directly and indirectly to ascertain the impact of the lawyer's work on the effectiveness and profitability of their organization.

Arbitrators were asked a narrower group of questions about their work conditions, job responsibilities and specialization, autonomy, Party influence on their work and the possible impact of corruption. They were also asked to comment on the competence of legal advisors and the impact they had on arbitrators' decision-making.
Questions were included in the interview session to test both the reliability and competence of the individual lawyers. These questions proved not to be as necessary as in studies where many individuals conduct interviews as I could judge much by closely observing the individual and listening carefully to his replies. The Soviet emigres who transcribed the tapes reached conclusions similar to mine as to the forthrightness and the ability of the individuals interviewed.

The individuals participating in the study were paid for the interview; the amount that they received was determined primarily by the length of the interview and the uniqueness of their experience. The payments generally ranged between $50 for a short interview in Israel to $175 for a lengthy interview in the United States. Interviewees were usually informed of their rate of compensation after the interview.

The reason that this level of compensation was established, higher than that usually given to most participants in interview studies, was that the iuriskonsults were treated as professional lawyers or project consultants. By instilling my informants with a sense of prestige that many of them had lacked, especially in the United States, since their departure from the Soviet Union, they were willing and eager to share their life's experiences. The participants in my study, in part because of the way I treated them during the interview and in part because of the payments, felt like co-investigators in the project. The interest that these co-investigators have felt in the project
has helped me to find other interesting individuals to interview, helped me establish rapport with my future informants who have been recommended to me by study participants and has allowed me to return to these individuals at a later time for more information or the clarification of ideas.

Choosing the Sample

The individuals selected for the study were located either by personal recommendations, through advertisements or through the files of the Program for Soviet Emigre Scholars (PSES), a placement service for emigre professionals. The initial group interviewed, located either by recommendations or through PSES, was quite different from the iuriskonsults and arbitrators met later in the project. The first lawyers interviewed came primarily from major cities such as Moscow and Leningrad. They had distinguished careers in the USSR that had brought them to the attention of American scholars or had enough self-esteem to publicize their presence in this country. Their residence and their workloads made them particularly unrepresentative of the average Soviet lawyer. I am aware that the nature of the immigration made it impossible to find typical Soviet lawyers, but I was eager to obtain a sample that was more representative than my initial interviewees. Further recommendations from those first interviewed, unfortunately, yielded only lawyers like themselves, as individuals from provincial cities were dismissed as "not worth speaking to."

I therefore placed an advertisement in Novoe Russkoe Slovo, a Soviet emigre newspaper, soliciting resumes from iuriskonsults
and arbitrators, informing them that an American professor in Washington, D.C. was doing research on the operation of Soviet law and would pay for interviews with emigre lawyers. The success of this advertisement led to a subsequent advertisement in an Israeli newspaper. The advertisements provided about half of the individuals interviewed for this study. There were several advantages in selecting interviewees from ad respondents. These individuals had taken the time to respond to the advertisement which meant they were interested in participating in the study. Whereas only two people I had approached through recommendations had refused to be interviewed for unexplained reasons, several lawyers I met through referrals planned to write about their own experiences. They were therefore not as forthcoming as the respondents to my advertisement who rarely had such literary plans.

The selection of interviewees from my large number of responses from both advertisements was a long and careful process. I eliminated from consideration those who responded carelessly, appeared motivated primarily by the prospect of financial remuneration or exaggerated their career accomplishments. Aware that I could not obtain a representative sample of iuriskonsults from the present emigration, I deliberately chose the most qualified lawyers. The criteria of career success were: employment in a major enterprise and retention of several positions simultaneously. Selections were also made on the basis of their areas of employment. I also chose
all individuals who had worked in arbitration and those with work experience dating back to the Stalinist period. Some young lawyers and women without broad experience were also selected to learn more about the impact of sex and length of employment on job performance.

No matter how careful I was in selecting my interviewees, I was still introducing bias into my study by using a sample of Jewish emigrees who had chosen three different destinations as their permanent homes. Significant differences were found between the lawyers who emigrated to the United States and those who had gone to Israel. More emigre lawyers in Israel were satisfied with their new lives and, therefore, did not need to aggrandize their past accomplishments in the USSR. The information obtained from the more contented lawyers was consequently more objective and provided a yardstick by which I could judge the statements of others whose bitterness might cloud their perceptions.

The fact that my sample was almost entirely Jewish introduced several specific biases. Soviet career opportunities were more limited. Fewer enterprises would hire Jews as iuriskonsults and arbitrators, and they had less chance of promotion to the pinnacle of their profession. Because Jews are under close scrutiny, more legal advisors were observers rather than participants in the machinations of their enterprise. The career limitations and the enforced circumspection of the lawyers affected my study in definite ways. I had to be aware that I was obtaining information about only a portion, however significant, of all Soviet enterprises. But their
general detachment from the second economy made it easier for them to discuss objectively the corruption that surrounded them.

The problems introduced into my analysis by the fact that my sample had chosen to emigrate from the USSR were more serious because their decision to leave was motivated, in part, by the hostility of many toward the Soviet system. Therefore, conclusions based on observations of only a limited section of the sample become especially tentative while those substantiated by a majority of this diverse group of lawyers must be presumed to have more validity. Faith in the validity of my findings is affirmed by the similarity of the responses of lawyers of different ages and from most republics of the USSR. The consistency of their responses with the information provided in published Soviet sources suggest that, despite their prejudices, the lawyers interviewed were providing a generally accurate portrayal of their work and the conditions of their workplace.

I interviewed twenty-five individuals who worked either full or part-time as iuriskonsults or arbitrators. Together these individuals had several hundred years of experience in almost all the republics of the Soviet Union, dating back to the early 1930's. All the Baltic and Slavic republics were represented in the sample as well as Moldavia, several republics in Central Asia and the Transcaucasus. Siberia and several autonomous republics were also included as well as such remote regions as Kamchatka, Magadan and Bilibino.
My sample was predominately male, but of the twenty-five individuals I interviewed ten were women. The individuals ranged in age from 27 to 77, with a full range between these two extremes. Although almost all of my sample was Jewish, I did have three non-Jewish iuriskonsults from the western parts of the USSR who had managed to emigrate because they were married to Jews. My sample had been employed in major cities, in towns and rural settlements. They had been employed in small organizations with only one lawyer and in major plants and industrial complexes with several in-house lawyers.

The lawyers had worked in many different kinds of organizations. They had been employed as legal advisors for an ispolkom (city government), for hospitals, educational institutions, orchestras, theatre companies, collective farms, voluntary public organizations (such as the union of writers, artists and composers), a labor camp factory, cooperative organizations, as well as ministries for heavy and light industry. The only kind of organizations that were absent from my sample were military, closed institutions that handled secret materials, and trade organizations that dealt with foreign countries. Only one lawyer, a non-Jew, had been employed primarily in ministries as few Jews were able to obtain jobs in ministries where regulations are developed that govern the operations of subordinate organizations. While certain types of organizations were represented by only one lawyer, the major categories of heavy and light industry were represented by enough lawyers to corroborate each other’s observations.
The working conditions of the iuriskonsults do not make their job attractive to ambitious young lawyers. Many spend much of their day behind a desk, at low pay with limited job security and few prospects of significant promotions. It is, therefore, not surprising that tens of thousands of jobs for iuriskonsults remain unfilled throughout the USSR and that only one out of ten organizations has a iuriskonsult on its staff. Jobs that have the potential of providing a significant illegal income such as that of a lawyer at a bureau for the purchase and sale of homes are acquired only through connections and bribes.

Few lawyers begin iuriskonsult work with any prior training in the field of administrative, economic or labor law, the essential components of their job. These subjects have at best been a minor part of the law school curriculum and no orientation is provided on the job responsibilities of iuriskonsults. Without guidance or supervision, new iuriskonsults have significant problems in learning how to perform their responsibilities effectively. While they can receive help from the ministry that directs the operations of their organization or from experienced iuriskonsults and arbitrators, they do not obtain assistance in all fundamental aspects of their work. During their initiation period, many legal advisors make mistakes that have serious economic consequences for their enterprises. Whereas talented iuriskonsults, like many of those interviewed,
are able to overcome these initial obstacles, other legal
advisors never obtain the competence or confidence necessary
to provide their organizations with meaningful legal assistance.

The salary of most ordinary legal advisors is in the range
of 90 to 140 roubles ($125 to 185) a month, depending on the
size of the organization and the position of the lawyer. The
principal means by which lawyers supplement their incomes is
through sovmestitel'stvo or joint appointments. The practice of
allowing legal advisors to hold two jobs arose because lawyers
in small and medium-sized enterprises are poorly paid and often
do not have enough work to fill their time. While sovmestitel'stvo
is permissible only for younger service personnel, the practice
is very widespread among all categories of iuriskonsult because
of the shortage of lawyers and the inability of organizations
to compensate adequately their staff lawyers. Because of the
poor training of law school graduates in administrative-economic
law work, enterprises will often more readily hire an
experienced lawyer under a sovmestitel'stvo arrangement than hire
a young lawyer fresh out of law school full time. Fewer female
lawyers hold more than one iuriskonsult position because the
extra burdens of housework and child care drain them of the
energy necessary to assume a second job.

Job security is one of the great benefits of the Soviet
system. It is, therefore, surprising that lawyers in social
and economic organizations lack the security that is charac-
teristic of the society at large. Before the 1970's, legal
advisors were viewed as among the most dispensable of all
Soviet personnel. After 1970, iuriskonsults became nomenklatura personnel, the system by which the Party maintains control over the individuals filling key posts. As a nomenklatura employee, the lawyer has lost the right held by members of trade unions to appeal to the courts for reinstatement to a job from which he has been dismissed. In order to fire a iuriskonsult who antagonizes or confronts his director, a manager needs to request only the permission of the supervisory organization, a mere formality as the lawyer lacks the clout of his director.

The job responsibilities of the iuriskonsult also create conditions that may lead to his dismissal. As many managers see themselves as the ultimate arbiters of law in their institutions, they cannot understand or tolerate lawyers who fail to obtain the results they desire or question managerial authority to execute the law as they wish. A lawyer who cannot obtain the desired results in the courtroom, even if the wishes of the management are against the law, is viewed as incompetent, and such a lawyer is sometimes fired for producing a just resolution to a case.

Two of the fundamental responsibilities of the iuriskonsult also place him in a precarious position. He is required to ensure that all documents issued by his organization conform to the law and also to be a watchdog, reporting any illegalities that occur at his workplace. The lowly status of the lawyer within his organization makes it difficult for him to perform effectively either of these designated functions in organizations...
where the director has little respect for the law. The interviews established that lawyers are fired occasionally for confronting their directors for their failure to modify their actions in accordance with the law.

Although Soviet iuriskonsults are intended to be independent individuals who serve the needs of both management and employees of their organizations, most iuriskonsults interviewed saw themselves as part of the administration of their former organizations. Their job security, lack of independence, low pay and prestige as well as the remoteness of iuriskonsult work from the Party apparatus explain its lack of appeal and the large number of vacant positions for iuriskonsults.

Arbitrators, the other major group of lawyers included in this study of the Soviet workplace, had more favorable working conditions and higher occupational status than legal advisors. The arbitrators interviewed had worked in both systems of Soviet arbitration: Gosarbitrazh (State arbitration), the system subordinate to the Council of Ministers USSR that hears economic disputes between organizations belonging to different ministries; Vedomstvennyi arbitrazh (Department arbitration), the system under the general supervision of Gosarbitrazh that hears disputes between organizations that are subordinate to one ministry. 9

Arbitrators are respected not only by iuriskonsults but by other legal specialists for their legal expertise. Their precise approach to the law and their reputation for honesty account for much of their prestige. Comfortable working con-
ditions and their considerable salaries of 200 roubles a month confirm their image as professionals. Arbitration is one of the few legal specialties in the USSR whose employees are usually spared both Party interference and the idiosyncracies of their employers, features that make this solitary, sedentary work especially appealing to serious legal professionals. Arbitration work, however, is not idyllic; many arbitrators feel frustrated in their work because most of the problems they hear are not remediable, being caused by problems inherent in a centrally planned economy.

Law and the First Economy

Much of the work of iuriskonsults and arbitrators is concerned with the operation of the first or official Soviet economy. Law is more closely observed in this than in other areas because only governmental interests are at stake. The laws controlling contract negotiations and the initiation of suits and arbitration practices have been adopted to further the economic interests of Soviet organizations. Observance of these laws requires no personal sacrifice by management, workers or lawyers. Moreover, adherence to these laws may produce financial benefits for the organization and bonuses for its employees. The laws governing the operations of the official Soviet economy are, therefore, more closely observed by management than those governing labor or curtailing the second economy because their observance demands no loss of financial incentives or personal sacrifices.
The lawyer does not determine whether his organization fulfills or fails to fulfill its plan, but the lawyer can have a significant impact on the economic indicators of his organization. An organization can meet its economic goals if it obtains the necessary raw materials on time and in sufficient quantities, gets prompt service from the railroads, stems major losses of goods through spoilage and theft, and creates an environment in which workers labor effectively. The lawyer can influence all these conditions that affect the plan. By suing suppliers and the railroad for their failure to supply needed goods or provide timely service, by helping to ensure punishment for those who violate the law and by promoting good labor relations, the lawyer is addressing the problems that may otherwise hinder the economic objective of his enterprise.

Soviet iuriskonsults may use other legal tools to provide economic benefits for their organizations. By closely monitoring the preparation of contracts, participating in pre-contract disputes, by successfully mediating disputes before they go to arbitration and by acquiring an encompassing knowledge of the legislation that affects the operation of their organizations, iuriskonsults can forestall suits or obtain the upper hand in many arbitration cases. If a lawyer observed that many suits for poor quality production were directed against one sector of the enterprise, the lawyer who viewed his role as prophylactic as well as remedial would analyze
with the chief of the technical control division the difficulties of the problem sector.

Several methods by which lawyers could forestall suits were provided by those interviewed. Some iuriskonsults used their knowledge of the law or of the production techniques of their organization while others relied on their skills as negotiators. One successful approach was never to miss a deadline for filing suit. As soon as anything failed to be delivered or an inadequate delivery was made, the trading partner was immediately notified and legal action was initiated. Conversely, when a claim was made against the organization careful attention was paid to the details of the case, including the regulations that might absolve the organization of responsibility. With consistent application of these methods, suppliers would more likely provide needed materials to the enterprise with the aggressive iuriskonsult and would shortchange an organization with a passive iusiksonsult.

Skillful negotiations might also forestall a damaging suit as the following example of a Ukrainian iuriskonsult shows. The iuriskonsult's factory received a claim (pretenziia) asserting that inferior wine had been shipped to a trade base in Riga. Because the fines faced by an organization for delivering substandard goods are especially stiff, the director of the wine factory asked his iuriskonsult to help resolve the conflict. The wine sent to Riga had some sediment because of a film left in the bottle from its previous contents. The wine in these bottles had no value and could not be sold. In
the words of the lawyer involved in the negotiations, "I went to Riga to convince them not to send us back the wine, but I had no hope of success. But in reality, all was much easier than I anticipated. I suggested to the trade base that the wine be sold in bulk and not by the bottle. They agreed... From this time, whenever some questions arose concerning the quality of our product, I always travelled to different cities and tried to resolve the conflicts."

Lawyers cannot always forestall suits. Most of the lawyers interviewed employed in the economic sector filed at least one or two suits a week and defended approximately the same number of claims. Most of these cases concerned deliveries of substandard, spoiled and insufficient goods. Many lawyers interviewed were able to win nearly 90% of their cases because they capitalized on the incompetence of their professional colleagues. The lawyer who can present clear legal arguments has a great advantage in arbitration. As an arbitrator explained, "The iuriskonsult comes to arbitration just to help the arbitrator." Whereas judges often decline to listen to the defense attorney's arguments, arbitrators who are trying to reach a sagacious decision, listen and learn from the arguments of skillful iuriskonsults. The most adept lawyers interviewed reported that their organizations amassed tens of thousands of roubles annually from the fines paid to the enterprise's fund as result of the legal suits initiated. The positive economic results achieved through the lawyer's work increase the standing of the enterprise director and often the financial compensation of employees of the organization.
As lawyers have been so successful in representing management's interests and administrators are occupied with daily operational concerns, most managers have ceded their role in arbitration to iuriskonsults. Therefore, lawyers usually are the sole representatives of their enterprises in most arbitration hearings. Only in cases of highly technical matters, those involving large sums of money or pre-contract disputes does a member of the administration accompany the lawyer to arbitration. But in some economic disputes where the source of the economic conflict is the system of centralized planning, neither the presence of management nor the iuriskonsult aids the organization's case.

The following case drawn from the experiences of a former arbitrator could as easily come out of a Voinovich novel or Catch-22 and shows the illogic of developing and enforcing a system of fines when the planning system is at fault.

Two organizations, a bread factory and a food base, are located next to each other. The base stores flour which it ships to the bread factory. Under the terms of their contract, the bread factory is required to return the flour sacks to the base. The two adjoining organizations are separated only by a wall and are linked to each other by a conveyor belt. The conveyor belt, however, works in only one direction. The flour sacks can easily be sent on this belt to the factory, but there is no way for the factory to return the large number of empty sacks. The factory has no truck and has only a small horse that can carry only a limited
number of sacks on its back. The ministry provides neither the money to buy a truck nor the loan of a vehicle to return the packing materials. The factory is forced to pay enormous fines to the base that totally frustrate its effort to meet its financial plan. Every quarter the arbitrator was forced to impose fines ranging from 28,000 to 37,000 roubles for which sum the factory could have purchased two or three trucks. But the ministry refused to grant the factory permission to buy a truck and fines were continuously imposed. This tragi-comedy provides a vivid illustration of the inability of arbitration to improve the efficiency of organizations when the cause of their problems is systemic rather than administrative.

Such preposterous situations that cannot be resolved through arbitration often cause managers to bypass the standard legal channels. The services of iuriskonsults are not then used, and the managers of enterprises settle their organizational differences by telephone or over meals in restaurants.

While managers avoid arbitration by not initiating legal cases, the Party structure needs to find other mechanisms to enforce its will when numerous complaints have been made against a particular arbitration decision. As the Party does not have the right to change the decision of an arbitrator, two strategies have been developed to overcome undesirable arbitration decisions. Party officials either summon the arbitrator and indicate that they do not want the decision that has been reached to be affirmed or they summon the director of the organization that has won the case and order him not to
demand payment of the fine. But Party interference in arbitration and the extralegal case resolution of managers are exceptional procedures: hundreds of thousands of cases are handled routinely by iuriskonsults and arbitrators annually. 11

Law, therefore, has an important role in the operation of the first economy as the immediate problems plaguing Soviet enterprises—short supply of goods, poor quality and inadequate assortment of materials—are resolved by legal tools. Moreover, the skillful handling of legal disputes by sophisticated iuriskonsults can do much not only to solve the immediate problems of their organization but can also yield solutions to the longer-term organizational problems that undermine the ability of enterprises to fulfill their plans.

Although the letter of the law governing the first economy is closely observed, it does not play a role comparable to that in the business sector of capitalist societies. The reason for this is that the impact of the law on the operations of Soviet enterprises is limited. Legal decisions cannot force organizations to correct deficiencies and do not severely penalize poorly run organizations; the economic system does not permit unprofitable enterprises to go bankrupt. Managers made aware of the deficiencies of their enterprises by perceptive iuriskonsults and arbitrators are frequently unable to introduce changes that would remedy these defects because the problems result from the system of centralized planning. Because the operation of organizations is
governed by the planner rather than by the law, observance of
the law remedies only operational conflicts but cannot affect
the central feature of the economic system.

Economic law in the Soviet workplace is peripheral
rather than central to the operation of an organization.
Observance of the laws governing the settlement of financial
disputes has no long-term consequences for the Soviet system.
Neither personal gain, governmental control over the labor
force, nor the Party interest in societal stability is limited
by the observance of most laws regulating the first economy.
The minimal personal and governmental costs of adherence to
administrative and economic law permit observance of the law
by both iuriskonsults and arbitrators. When the law can truly
affect people's lives or governmental control over the popu-
pation, as in the case of the second economy and labor law,
then individuals will engage in great risks to subvert it and
the Party will intercede to achieve its will. As the next
two sections on the second economy and the worker and the
law will show, violations of the law are rife when individual
and societal goals are at stake. The observance of the laws
regulating the first economy by the legal profession and the
State ironically does not represent the triumph of the law
but instead affirms that economic and administrative laws are
not central to the needs of the State nor individuals.

Law and the Second Economy

The numerous forms of the second or illegal economy in-
volve all levels of employees of the Soviet workplace—workers,
management and the legal profession assigned responsibility for
upholding the law. Individuals participate in illegal economic
activity to promote their personal welfare. Managers engage
in unauthorized negotiations, conclude unofficial contracts for
the delivery of necessary commodities and resolve disputes with-
out recourse to arbitration. Workers divert materials for re-
sale. Gifts are made and favors are provided to arbitrators to
influence the decision-making process. The enterprise lawyer
has a complex relationship with the many manifestations of the
second economy. He is often at once a participant as well as
the individual charged with enforcing the law and recovering
financial damages. The lawyer cannot use his legal weapons to
control the extralegal actions of his director, but his activities
can reduce the financial losses incurred by his enterprise and
ensure future supplies of necessary goods. Whether the lawyer
provides such benefits for his organization is determined by his
personality.

Most iuriskonsults interviewed were observers rather
than participants in the second economy. Lawyers who refused
to violate legal norms, however, might encourage or tolerate
blatant criminal involvement of others in the parallel economy.
Some lawyers served as unofficial legal advisors to the major
beneficiaries of the second economy, their directors and enter-
prise management. More corrupt lawyers falsified reports to
camouflage the diversion of funds or materials from authorized
users, bought goods from the storeroom of state or cooperative
stores under their jurisdiction at reduced prices, accepted payments from individuals threatened by criminal charges, and paid large bribes to individuals who could provide jobs which would further enrich the office holder.

The biography of one of the most colorful iuriskonsults interviewed and surely the wealthiest illustrates the profits achievable by legal employment in areas of strong consumer demand. This Baltic lawyer first worked on a collective farm that produced canned and smoked fish. He obtained the desirable products of the collective farm in several ways. Fish products stolen from the collective farm warehouse were given to him by workers who sought legal advice on the evasion of criminal responsibility.

As the individual responsible for certifying the loss of inventory of the farm's warehouse, the lawyer approved inventory reports documenting non-existent losses. The lawyer, the manager of the warehouse and of the tsekh (factory shop) were able to divide the goods that were reported to have spoiled. The shop manager, out of gratitude to the iuriskonsult, would permit him to buy smoked fish at a cost one-eighth that charged in stores, a privilege accorded by law only to the director. While the iuriskonsult interviewed could enrich himself through these three schemes, his profits were limited by the amount he could obtain and the time required to resell the items. Therefore, as soon as he had amassed money to buy himself a more lucrative position, he left the collective farm.

The profits earned at the farm were used to acquire a legal position at the bureau for the purchase and sale of homes.
The iuriskonsult of the housing bureau approves all forms before they are notarized. This position lent itself to two methods of enrichment. Individuals seeking to buy and sell homes have usually spent months or even years searching for desirable housing arrangements. Many are willing to pay the lawyer responsible for approving the deal. These bribes are one important source of illegal income for the iuriskonsult, but even more money could be obtained if the lawyer himself entered the housing market. The iuriskonsult interviewed, like many American real estate agents, would look for housing bargains. If he found a house that was being sold cheaply, he would offer the seller more than he would be paid by the proposed purchaser. Then he would register the home in the name of friends or family, as it is illegal in the USSR to have more than one home, and renovate the house for resale. After he had completed the physical repair of the house, he would sell it at a tremendous profit as nothing in the USSR is in more demand than housing. Such activity could be deemed enterprising in the west, but in the USSR the iuriskonsult was violating many laws including those on misuse of positions of responsibility and speculation.

Although such blatant misuse of a iuriskonsult position is rare, courageous acts by iuriskonsults are also infrequent. Lawyers in many enterprises all too often decline to assist the victims of management's illicit schemes. The following case drawn from one principled lawyer's experience shows how lawyers can aid the workers of their organization,
but most decline to act, fearing management reprisal. The warehouse manager of a Ukrainian factory had stolen several thousand roubles worth of goods from his inventory, but when the loss was discovered he managed to transfer blame to a warehouse employee. The enterprise lawyer was instructed by his organization's management to sue the accused worker. If this suit were successful, hundreds or thousands of roubles would be deducted from the worker's salary to compensate the enterprise for its loss. The iuriskonsult, infuriated at the thought that an innocent worker would suffer irremediable financial harm while the culprit would not suffer for the crime, devised a strategy to help the worker. The iuriskonsult investigated the case and established that the documentation concerning the missing merchandise was so inadequate that the materials could have been damaged or stolen before they ever reached the warehouse. The courageous iuriskonsult recommended the worker to a skilled defense attorney and transmitted discreetly his collected evidence. The warehouse employee was rightfully absolved by the court of responsibility. But most enterprise lawyers would not dare protect an ordinary worker, fearing management's anger at their failure to recover roubles for the enterprise.

Neither the corrupt behavior of the employee of the Baltic housing project nor the principled actions of the iuriskonsult at the Ukrainian factory are typical as most legal advisors keep their avaricious or samaritan instincts in check. They intentionally remain purely bureaucratic functionaries.
removed from the second economy—neither participants in its schemes nor protectors of its victims. Detachment from the second economy has its own rewards. Lawyers guard their moral principles, avoid arrest and may gain rewards from managers appreciative of the lawyer's unseeing eye.

Iuriskonsults benefit less from illicit economic activity at the workplace than many other industrial and trade employees, yet much of their work day is spent dealing with the financial damages inflicted by employees of their enterprise, their trading partners and of the transport industry who participate in the second economy. By suing both organizations and individuals responsible for nedostachi (shortages), the iuriskonsult can recover significant sums from individuals and can receive goods and fines that aid the production, trade and profits of his enterprise. By assisting the enterprise comrades' court and the procuracy in their prosecution of employees who steal from the organization, the lawyer is helping to stem the flow of goods from the legal first to the illegal second economy.

Arbitration is the legal mechanism by which enterprise lawyers recover damages from other organizations for losses due to the operation of the second economy. Arbitrators, because of their personalities and their work assignments, are less subject to corruption than most other members of the legal profession. Yet, even while they are deciding on cases caused by the existence of the second economy and are informing the procuracy of evidence of corruption, many are themselves benefitting from the existence of the second economy. For
lawyers and managers will often provide arbitrators with small gifts to receive favorable treatment for their organization.

That only small scale corruption exists in arbitration testifies not only to the quality of personnel attracted to this field but to the powerlessness of this institution to have a significant impact on the operation of Soviet organizations. For if arbitration had an effect on enterprises comparable to that which the courts have on individuals, a different type of person would seek arbitration work. Individuals interested in receiving bribes would seek employment in these economic courts and managers would press Party officials to select individuals they could influence rather than lawyers competent to assess the intricacies of administrative and economic law. Managers of organizations would not limit their gifts to small items but would use the extensive financial resources at their disposal to obtain desirable results.

But little incentive now exists to influence the decision-making of arbitrators because so many decisions are purely formalistic and have little impact on the economic welfare of an organization. The small-scale corruption existing in arbitration does not have significant long-term consequences for any enterprise because the institution of arbitration does not affect the ability of an organization to accomplish its most important objective, the fulfillment of its plan. It merely affects costs and profits which lack the significance in the Soviet context that they have in Western capitalist societies. Ironically, the absence of large-scale corruption in arbitration
is the ultimate testimony that the decisions made by arbitrators are not of vital concern to the parties affected.

Management's reluctance to interfere in the arbitration process is further evidence that the laws regulating the first economy are more closely observed than those which curb the operation of the second. The second economy has survived and proliferated because it provides tangible benefits to millions of individuals; moreover, Soviet authorities have failed to use the legal weapons necessary to combat this major economic drain on the first economy. But as Soviet management and Party officials are the major beneficiaries of the second economy, they have resisted a more forceful legal presence in their organizations. Until Soviet management identifies its welfare with that of enterprises, law will remain an ineffective weapon against the second economy because juriskonsults and arbitrators will be permitted only to remedy the damage inflicted by the second economy rather than fight the second economy. Soviet officialdom has yet to recognize the benefits of economic and administrative law for Soviet society; until they do, the economic order and the welfare of individuals will suffer.

Law and the Employee

After reading of the role of law in the first and the second economies, skeptics may question whether the rule of law actually exists in Soviet society. Examination of the law affecting employees in the Soviet workplace provides evidence that there is a significant role for law in Soviet society. As many former juriskonsults have said during their interviews, "If there is anyone who needs and benefits from our
services, it is the worker at the workplace." Whereas manage-
ment can resolve many of its fundamental problems through the
Party apparatus, the ordinary individual without access to
this powerful body must depend on the law for his protection.
The law and the iuriskonsult are not unilaterally champions
of the worker, the iuriskonsult as a member of the administra-
tion of his organization must often represent the interests of
the director rather than of the employees.

As Soviet workplaces are more than just a place of
employment but institutions that often provide for the housing,
medical and recreational needs of their employees, it is only
natural that the workers will look to the staff of the organiza-
tion for the resolution of their problems. Therefore, the
enterprise iuriskonsult is often the individual to whom workers
and service personnel turn when they need assistance in both
their work-related and their personal problems. The frequency
with which workers take advantage of the available legal services
testifies to the fact that they realize the relevance and im-
portance of the law to their daily existence. Iuriskonsults
can often provide meaningful assistance to enterprise employees
because the problems that most often need resolution pertain
to those areas of law that are most closely observed by Soviet
authorities: civil, labor, family, land and inheritance law.
As worker concerns are in areas of minor interest to Party
officials, the chances of realizing one's objectives after
consultation with the iuriskonsult are good. This fact affirms
citizen faith in the force of the laws that govern their daily
existence.
The legal problems that men and women seek to solve differ. Women often seek legal advice on ways to combat physical abuse by husbands, initiate divorce, obtain alimony and provide for the non-financial needs of their children. Men rarely seek advice on divorce proceedings; their concerns are often work-related, pertaining to such matters as vacation leave and overtime pay. If these problems can be solved by the enterprise's commission on labor disputes, the lawyer might summon them to hear the problem, otherwise the initiation of judicial proceedings might be necessary. Other problems are presented by recent rural emigrants. As much of the Soviet working class population has only recently emigrated from the countryside, many workers face problems with the land and the family that they left behind. Therefore, many iuriskonsults need to advise workers on land law, the division of property among relatives and questions of inheritance. Many workers are concerned with their urban housing problems and request that the iuriskonsult write complaints and appeals to improve their residential situation. In labor camp, the problems encountered by the iuriskonsult are almost the same. The inmates are, however, restricted from discussing their work related problems with the labor camp factory iuriskonsult.

The legal consultation provided by iuriskonsults complement the legal service available from trade unions, the procuracy and the advokatura. These organizations that provide low cost legal service in the areas of law most respected by Soviet administrative and judicial authorities help ensure
citizen support for the Soviet system. While many workers still fear the operation of criminal courts, many have faith in the ability of Soviet civil and labor law to satisfy their daily needs.

The lawyer serves an educational as well as an advisory role in his organization. The lawyer is required to provide the workers of his enterprise with lectures on their legal rights. This function of the iuriskonsult is appreciated by Soviet workers because most former legal advisors reported that these talks were well attended, unlike those sponsored by the Party on ideological questions.

Iuriskonsults are often caught between the desires of management and the needs of workers. Many lawyers as members of the administration of their organization must enforce administrative actions that harm enterprise employees. The lawyer finds the enforcement role tolerable when worker misconduct forces him to initiate civil suits and criminal charges, but when the administrative action is self-serving the lawyer often performs this function unwillingly. Several lawyers described the reluctance with which they initiated suits to evict former workers from enterprise housing or wrote decrees forcing workers to donate a Saturday to their enterprise without financial compensation.

The lawyer also has a difficult role in the case of worker dismissals as he is often caught between his role as advisor to management and the trade union and his personal interest in aiding the worker. The iuriskonsult has no required role in the discussions preceding worker dismissal, but many lawyers
interviewed reported that management and the union often consulted them on the action that each should take. As unions and management are theoretically on opposing sides, the lawyer may sometimes assume the role of negotiator in the dismissal process. The interviews confirmed that it is extremely difficult to fire a worker, and an individual can easily be reinstated on his job if any legal procedures have been violated. The following story of a former iuriskonsult illustrates management's problems if it fails to obtain proper legal advice in a case of worker dismissal.

One young woman in a small community in a remote area of the Far East was fired by the communications office where she had worked. She was so lazy that even delivering telegrams in the very small community where she lived proved to be too much of an exertion. She, therefore, tore up half the telegrams and threw them away. She was fired on the grounds of nedoverija (unreliability) but this cause for dismissal is not recognized by the labor code. The woman appealed to the raion trade union office for assistance. The trade union lawyer prepared the documentation of the case on her behalf and pressured her supervisor to take her back on the job even though the raion trade union lawyer sided with the dismissed woman's supervisor. The communications administrator was not only forced to rehire her before he could fire her legally but was forced to pay her for the twenty days she did not work after her illegal dismissal. Because of such efforts by trade union organizations, many contested dismissals do not reach the courts.
The regional trade union organization can also proceed as illegally in worker dismissal cases as the director of an organization. One example of this was provided by a former iuriskonsult at a transport organization. The transport organization was trying to rid itself of a troublemaker with the assistance of the enterprise iuriskonsult. The trade union organization prior to the trial and during the trial used illegal tactics to force the administrator to rehire the individual in order to let him subsequently "resign of his own free will." The organization resisted, knowing that the worker would first agree to resign and would refuse once he had returned to work. After the investment of much effort, the transportation organization finally prevailed over the illegal pressure of the raion trade union organization.

The previous cases show that the force of law will often prevail when management is not intent on violating the law or when the trade union resorts to illegal means, but little protection is afforded the worker by labor law when administrators deliberately violate the law. One former iuriskonsult reported that his director, annoyed at a subordinate's conduct, had made an illegal and damaging entry in the worker's trudovaia knizhka (labor book) or permanent record of employment. The iuriskonsult informed the unfortunate employee of his rights to have this entry removed. The iuriskonsult's assistance helped neither of them as the legal advisor was dismissed and the negative comment remained on the labor book to limit the future professional life of the employee.
A juriskonsult formerly employed at a labor camp factory reported on even greater and more consistent violations of labor law. While the branch of the procuracy responsible for overseeing the enforcement of law in labor camps would intervene if the inmates were not given warm clothes in winter, they would not interfere for anything "so trivial" as a labor code violation. Inmates were often required to work seven rather than their usual six days because the manager of the labor camp factory wanted to fulfill the plan.

Managers sometimes try to intervene in judicial proceedings to obtain dismissals that they cannot obtain through other legal channels. A former judge recalled being summoned by the local Party organization which pressured him to find in the administrator's favor in an upcoming case of worker dismissal. The judge responded that he would decide the case on its merits; the worker was subsequently reinstated to the chagrin of the director. But all cases in which the Party interferes in judicial proceedings do not end as fairly for the worker. As the former judge pointed out, many judges are afraid to follow their principles when facing Party pressure, even when the pressure concerns labor law, one of the areas of law most respected by Party officials.

The courts generally observe the labor laws governing worker dismissals and industrial accidents. The observance of these laws ironically leads to many violations by management, not only in the previously discussed area of worker dismissals but even more frequently in the case of industrial accidents. Many managers try to hide the fact of an accident because
they know that the courts will impose criminal penalties on those deemed responsible and that organizations will be deprived of their prized place in the socialist competition which is the basis for the payment of bonuses. Because workers are aware that their rights are fully supported in this area, it is not in their interest to hide the fact of their injury. But if the physical damage is not permanent and the enterprise provides financial incentives that are greater than that which the worker could obtain if the fact of his injury were made public, the victim may often agree to an unofficial settlement in exchange for his silence. The arrangements concluded with the injured victim are strictly illegal and must be executed in such a way that they do not arouse the suspicions of the authorities. The lawyer is often pressured by management to lend his expertise to these negotiations as he is the only individual capable of concealing overt evasion of the law.

While all Soviet lawyers are not equally skilled in hiding industrial accidents, few are sufficiently principled to resist management pressures to participate in schemes to hide workers' injuries. Moreover, many lawyers justify their participation in such machinations by stating that the injured worker is well provided for and that the chances of the managerial personnel truly responsible for the accident being punished are slim.

Iuriskonsults are also forced to take management's side in housing cases. These cases either concern the distribution of housing or the eviction of former workers from enterprise apartments. Housing is distributed to enterprise employees in accordance
with eligibility lists. As management uses available housing as its bargaining card to retain desired personnel or bribe injured workers, it is not always in their interests to observe the priority lists. Because trade union representatives are not knowledgeable in the law, they are often ineffective guardians of the housing rights of employees. Since iuriskonsults are viewed as the right hand of management, many legal advisors are made to understand that their role is not to promote the equitable distribution of available apartments but to help management achieve its objective. Only in Estonia, "where Soviet law really exists," are the waiting lists for available apartments closely observed, and violators of these laws are punished.

While several iuriskonsults discussed cases in which they were forced to initiate legal proceedings to evict former workers from enterprise housing, they found that their hesitation to enforce these inhumane laws was shared by prosecutors and judges. The unwillingness of legal personnel to force people out of their apartments has meant that the laws have failed to achieve their desired result—to attract workers to enterprises that could not otherwise be competitive in a tight labor market. As wages are centrally established and uniform, the work conditions and perquisites offered by an organization are more important than the wage or position offered. Apartments, the most desirable of enterprise perquisites, have been a drawing card for workers. But the inability of iuriskonsults to ensure the eviction of former workers has made it impossible
for enterprises to retain the workers they have attracted. Whereas Party officials have been able to ensure the execution of state policy in criminal cases, they have not been as successful in the area of housing law. While Soviet legal personnel seem willing to enforce even the most inhumane of criminal laws if they believe that the individual is culpable, the executors of the law are not willing to impose harsh housing laws on working citizens. In the post-Stalinist period, the Party and the legal community have chosen not to "enserf" the working class population through their housing laws, a reflection of the lessening of societal controls.

The force of criminal law is felt not only in the court system but at the workplace. Petty criminal violations that occur at the work site are handled by the comrades' courts, a court of fellow workers which can impose penalties up to a 50 rouble fine. Almost all the iuriskonsults interviewed were involved with the comrades' court of their organization for as one lawyer explained, "Comrades' courts are not comprised of lawyers, but they must decide cases in accordance with the law when in fact they do not know the law. Therefore, they must turn frequently to the iuriskonsult for assistance." In some organizations the iuriskonsult headed the comrades' courts or wrote its decision concerning cases of drunkenness on the job, unwillingness to work, petty theft from the enterprise and violations of labor discipline.

Iuriskonsults in different republics had varying degrees of success with the comrades' courts. In a comment typical
of the RSFSR, one Moscow lawyer reported that the workers of his enterprise could not care less about the decisions made by this court. In Central Asia, the comrades' courts reach beyond the factory and often appeal to the spouse, the parents and the children for assistance in changing the individual's behavior. This outreach was successful in a community where the extended family is so important. In Estonia, the workers in the enterprise would take the errant worker in hand and try to change his behavior. The impact of the comrades' courts is influenced by the national character of the republic in which they operated.

Workers are required not only to help their fellow workers but to help in their rehabilitation. Inmates released early from penal institutions are sometimes sent to large industrial plants to acclimate them to the free work environment before the termination of their sentence. In other cases, convicted offenders serve their sentence at their place of work at reduced pay. In both situations workers of the enterprise are required to help the released offender establish law-abiding behavior. According to iuriskonsults employed in this effort at on-the-job rehabilitation, such efforts are generally futile because workers fail to assume this added responsibility. Only in Estonia, where a significant number of released convicts were settled in the late 1970's to promote Russification and provide an enlarged labor force for Olympic construction, was a different approach taken. Unfortunately, in Slavic areas, workers seem to lack the national self-interest that leads them to assist in the rehabilitation of co-workers.
Managers of Soviet enterprise determine the legal environment that is created for workers. The reason that the social, educational and cultural institutions discussed in the next chapter demonstrate more respect for the rights of their employees is that they are often headed by a manager more respectful of the force of law. It is regrettablly still true that the industrial manager rather than the judiciary is often the final arbiter of the law. The relationship between the enterprise iuriskonsult and the manager helps determine the extent to which the laws governing human conduct and the economic relations of a Soviet enterprise are observed.

Lawyers in Social and Cultural Organizations

Lawyers formerly employed in a voluntary society, a maternity hospital, a venereal disease clinic, an educational institution and an ispolkom were interviewed to learn about the operation of administrative, economic and labor law outside the economic sector. These interviews revealed that the lawyers' patterns of behavior and work environment are strikingly different from their counterparts employed in factories, trade organizations and many branches of light and heavy industry. In many respects, employment in these areas is more like that of a social worker than a lawyer and many of the iuriskonsults employed in these organizations considered that they made little use of their formal legal training. Whereas a significant proportion of the senior lawyers employed in major economic enterprises are male, a large share of the lawyers employed in social, cultural and educational work are female.
Like social workers and employees of social service agencies in the west, Soviet lawyers dedicated to human services are paid less and accorded less prestige than their counterparts employed in the enterprises of the industrial sector. In both capitalist and communist societies, less value apparently is placed on the individual who renders service to his fellow human beings than on those associated with the financial interests of society.

Most of the lawyers interviewed had worked at the same organization for a long period of time, an anomaly in a profession characterized by rapid turnover. Their length of service was not an indication of a lack of ambition or an absence of competence; rather it is indicative of conditions where lawyers could obtain a sense of personal accomplishment from their work and could work among professional people who shared their values. Unlike their counterparts in economic enterprises who were often forced to observe numerous violations of the law and themselves were often obliged to sacrifice the principles of their legal education and participate in the illegal activities of their co-workers, the iuriskonsults employed by social and cultural organizations experienced few such strains as the administrators and staff members of organizations outside the economic sector generally have greater respect for the law. While their iuriskonsults could not expect the legal and sometimes illegal rewards that are available to their counterparts in economic organizations, they could find personal satisfaction in using the law to help others solve their personal problems and in working
under conditions that did not force them to compromise their morality.

All five lawyers interviewed reported a greater adherence to the law in their organizations than in factories, trusts and trade bases because they were not under pressure to fulfill economic plans and increase productivity in order to win bonuses, prizes and the thirteenth salary for workers and managements. Economic incentives and pressures for the employees of cultural and social organizations are generally absent and the handicaps imposed by planners are also absent in organizations that have no tangible product. Exempt from many of the pressures that cause violations of the law in the economic sector, these organizations dealing in non-controversial areas have the luxury much of the time to observe both the intent and the specific provisions of the law.

The iuriskonsult who worked in the venereal disease clinic was part of an experimental program to increase the effectiveness of the campaign to combat these diseases in his western Ukrainian city. This lawyer explained the criminal consequences of resisting treatment to the patients referred to the clinic and prepared preliminary material for submission to the police for prosecution of individuals who refused treatment. The interviewed iuriskonsult, without the investment of significant effort, had through his counselling techniques been able to improve the police campaign against these diseases. This shows that the iurisonult can serve his community effectively by combining the skills of the lawyer with those of the social worker.
The lawyer employed at the maternity clinic addressed a wide variety of legal questions. She spent most of her time providing legal consultations to new mothers on their rights to maternity leave, the procedures for filing a paternity suit, their rights to augmented housing space as a consequence of the addition of another person to the household, and the procedures for obtaining child support in cases of paternal desertion. These and other complex questions pertaining to the family law code and other areas of the law perplexed many mothers who felt quite helpless in their new situation.

The interviewed lawyer had been able to provide the patients of the clinic with the appropriate legal counsel as well as with the solace and psychological support that many of them needed. Her ability to combine social work with legal assistance meant that the iuriskonsult aided the women in solving their long-term problems.

The services rendered by the iuriskonsult in the maternity clinic were invaluable because important information was provided to needy individuals and because the lawyer was working in an area where those who sought legal counsel had a very strong possibility of realizing their objectives. The interviewed iuriskonsult who performed her functions in a competent and legalistic fashion provided a major but unrecognized service to the patients of the hospital.

The lawyer employed by the medical institute exemplifies the responsibilities of iuriskonsults in educational institutions. She spent much time advising the employees of the organization but also fulfilled the traditional responsibilities of a lawyer
employed by any Soviet organization. She had to sign all
documents released by the institute; she had to represent
the organization in arbitration and courts and provide con-
sultations to the comrades' courts and the trade union.

Preparation for arbitration was a minor part of her work
because she had few economic disputes that needed resolution.
Most cases that needed to be resolved through arbitration con-
cerned the large-scale construction projects of the institute.
A broader range of questions was resolved in court. Housing
questions, the dismissal of workers and patent cases all required
the attention of the court, but these cases were infrequent
as few workers were discharged and many housing problems were
negotiated informally.

A large share of the lawyer's time was spent providing
consultations for the employees of the institute and for the
doctors who came from out of town to attend institute seminars.
As the visiting doctors had more faith in the legal expertise
of a lawyer trained and working in a big city than those in
their smaller communities, many availed themselves of the
opportunity to consult about the regulations concerning their
salary and working hours. Permanent employees of the institution
sought advice on questions of seniority and pensions as well
as on other problems pertaining to labor law. Individuals who
were better acquainted with the iuriskonsult might seek advice
on more personal problems such as divorce and child support,
but the lawyer discouraged such non-work related discussions.
The work of the lawyer in the voluntary society combined the functions and responsibilities of the lawyer in an economic enterprise with that of an individual employed by a social and cultural institute because the small group of organizations independent of government support are generally an amalgam of several types of institutions. Such voluntary societies as the composers and journalists unions and the All-Union Theater Society have numerous subordinate organizations. Many arbitration cases resolved disputes concerning the Society's factories, bookstore, restaurant, retirement home, resorts and sanatarium. Although many of these subordinate organizations had their own legal advisors, the supervising lawyer of the Society monitored their performance and travelled to the different subsidiary organizations throughout the country. In addition, a significant amount of the iuriskonsult's time was spent in personnel work—hiring new workers, briefing then on their rights and responsibilities and advising the permanent staff on their job-related and personal problems.

The lawyer employed by the voluntary society commanded the respect of her administrators because she provided not only social services to her organization but helped ensure the effectiveness of its economic operation. As an employee of an organization where the law was respected, she was able to work for over twenty years at the voluntary society without experiencing moral conflicts and while finding considerable personal satisfaction from her work.

The iuriskonsult employed by the ispolkom (ispolnitel'nyi komitet), the executive council of a city government subunit
similar to a ward, had work requirements that differed dramatically from those of the other lawyers discussed in this report. Her experiences are, however, generalizable to the legal employees of other ispolkoms in large cities who deal with the legal problems and legislation of local city government and its residents on a daily basis. Like the other 18 iuriskonsults employed by the other raispolkoms of this major Soviet city, her work was closely connected with the diverse operations of city government and the people of her community. Her job was a juggling act between the protection of the bureaucratic interests of the authorities who ran the ward and the needs of the people who appealed to her for assistance. As the power and financial resources of city government are limited, their abilities to affect needed changes demanded by their constituents are limited.

The ispolkom iuriskonsult attends the meeting that decide the life and operations of the local community. The presence of the lawyer is necessary at meetings on the allocation of housing, pensions and meetings concerning the operation of the diverse areas of city governmental activity to ensure that the decisions made conform to existing regulations. The iuriskonsult also helped prepare legislation that is adopted at the meetings of the urban raion soviet that occur once every two or three months. The iuriskonsult, by working with the deputies to the urban raion soviet to formulate answers to questions of paramount importance to the community, transcended the usual role of a iuriskonsult as an executor of the law and became a legislative assistant.
In the social and cultural organizations of Soviet society, the law frequently performs its intended function; the lawyers employed by these institutions are, therefore, spared the moral conflicts experienced by their counterparts in the economic sector. These lawyers need not devote their efforts to finding legal loopholes for their employers but may instead concentrate their efforts on providing social services to management and organizational employees. Outside the economic sector, where managers appreciate the role of law, Soviet economic, administrative and labor law approaches its potential.

Conclusions

Iuriskonsults who realize the potential of their position provide enormous benefits to their organizations by helping management achieve its economic objectives and by improving the quality of labor relations. Unfortunately, few lawyers provide significant benefits for their employers, in part, a consequence of their inadequate preparation for administrative and economic law work. But as the Soviet administrative apparatus appreciates the economic and social gains achievable through law, the responsibilities and training of iuriskonsults have been expanded. In the future, the majority of iuriskonsults may assume a more vital role in Soviet economic, social and cultural organizations. It is unlikely, however, that iuriskonsults will ever have the importance that corporate lawyers have in western societies because law is not as important in decision-making in the USSR as it is in the industrial democracies.
The manager of an organization determines the role law assumes in his institution. As the director sets the tone of his institution, competent legal advisors are hired by managers who understand the importance of law. But the director who runs his organization as a personal fiefdom, hires submissive and even corruptible iuriskonsults. In such institutions, little benefit is gained through the presence of a legal advisor.

The primary function of an enterprise lawyer is to improve the economic indicators of his organization. But the iuriskonsult's ability to achieve this objective is limited because economic law is peripheral rather than central to the operation of a Soviet organization. Laws are observed when state financial interests are at stake, but when personal financial interests are involved, violations of the law are frequent. Therefore, the laws concerning the first economy—suits, arbitration and the payment of fines—are closely observed. Laws that attempt to restrict individual profits at the expense of the state are violated by management, workers and even, on occasion, by the legal community. Adherence to the laws governing the first economy does not show the importance of law in Soviet society but only provides confirmation that these laws are important neither to the state nor individuals. Moreover, the pervasive second economy provides further evidence that economic law has not assumed a central role in Soviet society. Extensive violations of economic regulations for personal gain are symptomatic of a society where there are greater incentives to break than to observe the law.
The iuriskonsult provides his greatest service to the individual employee of his organization who seeks legal counsel about his most pressing daily problems. The ready, responsive and free legal assistance that the employee receives at his workplace on such work-related problems as pensions and vacation leave as well as such personal problems as divorce, child support and inheritance is one of the major benefits of the Soviet system. As labor law and laws concerning domestic life are closely observed by the judiciary, the individual's chances of realizing his objectives through the law are great. The responsiveness of the law to the individual increases citizen satisfaction with the Soviet system.

While many Soviet citizens may question the justness of the criminal justice system, few Soviet residents today need worry that they will ever needlessly stand trial. Their concerns are with the civil law--the concerns of everyday life. As Soviet workers can often obtain satisfactory legal assistance at their workplace, the faith of the ordinary citizen in the justness of their system is affirmed. The legal services provided by iuriskonsults contribute to the stability of the Soviet system.
Notes


8. Aristakov and Godes, pp.24-33.


11 Ibid., p.362.


