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A LEGAL ANALYSIS

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THE SOVIET ECONOMIC SYSTEM: A LEGAL ANALYSIS

EXECUTIVE SUMMARY

This Executive Summary recapitulates in a few pages the several dozen pages of our Final Report. That Report in turn is a condensation of the 700-page manuscript produced under the present contract. This manuscript is to be published as a book by Westview Press in 1987. In our research we considered four fundamental structural elements of the Soviet economic system: ownership, production, distribution, and exchange. We surveyed the branches of Soviet law that regulate these elements of the economic system, primarily civil and administrative law. We then considered the law of ownership, the legal organization of production, legal regulation of research and development, labor law, the law of distribution, the legal regulation of exchange, and the legal protection of the Soviet economic system.

The Soviet legal system is constantly changing. We have examined the reasons for this change, and the extent that further change may be expected. The main conclusion of this study is that the objective of the system of legal regulation of the Soviet economy is political rather than economic efficiency, political efficiency in the sense of preventing the appearance of any independent centers of power that might challenge the political authority of the top level of the Party. A second conclusion is
that economic efficiency is sought by continual legal reforms, whose effectiveness is limited however by the fact that they are stopped or reversed as soon as they reach the point of threatening political goals. To the extent we have been able to confirm these conclusions, we believe we have developed powerful tools for understanding and predicting the direction and extent of change in the legal structure of the Soviet economy.

The weakest point of the Soviet system revealed by the study is in the area of technological innovation. Unwilling to take the political risks involved in the degree of decentralization necessary to support technological innovation at the level found in advanced capitalist countries, the Soviet Union has been reduced to importing and copying Western technology, condemning it to a time lag that becomes ever more serious as the rate of technological change accelerates.

Our analysis has demonstrated that the legal structure of the economy is an integral part of the Soviet system as a regime based upon the political power of the ruling elite protected by this elite's economic monopoly. This monopoly is centrally managed, with the support of three factors: (1) unified state ownership; (2) highly centralized planning; and (3) economic discipline. Each of this factors is disguised by the official ideology. We devoted particular attention to distinguishing between those legal rules that are actually operative and those enacted for propaganda purposes, whose implementation in practice is quite different from that on the law books.
The formal provisions of the law of ownership distinguish between the right of state ownership, the right of collective farm/cooperative ownership, and the right of social ownership held by trade unions and other organizations. In fact, an analysis of the rights and duties of the different types of "owners" reveals that all these forms of ownership are equivalent to state ownership. Furthermore just as "collective farm ownership" is not really ownership by the members of the collective farm, so state ownership is not ownership by "all-the-people", who are, according to Soviet ideology, those represented and personified by the state. In both cases, the ultimate power of possession, use, and disposition rests in the same top Party authorities.

The economic planning system, officially an expression of democratic centralism, is far more central than democratic. Although the formal provisions of the law limit the comprehensiveness of planning and preserve various powers for lower level entities, these provisions are continually frustrated by the lack of effective legal procedures to enforce the purported "rights" of the lower level entities. Economic discipline, officially a means of maintaining an orderly operation of the economy becomes in fact a means for enforcing the authority of superior agencies over lower bodies.

A totally centralized economic system could not work. Therefore: (1) the unified ownership of the Soviet state is supplemented by the derivative operative administration of Soviet entities; (2) centralized planning leaves some room for initiative on the part of the performers of planned tasks; and (3) economic discipline directly affecting "vertical"
relations (between agencies of control and subordinate entities) is combined with certain economic discretion directly affecting "horizontal" relations (between the subordinate entities themselves). A detailed examination of the areas of decentralization reveals that the amount of decentralization allowed depends upon two factors: (1) the greater the political importance of an area of the economy, the greater the centralization; (2) the less the information available to the central authorities, the less the centralization. Examples of these principles are major construction projects which are totally centralized because of their political importance and amenability to direct control, and transportation services, which are largely decentralized, because of their lesser political significance, and the lack of information needed for detailed central planning.

Within the system there is constant experiment. There are experiments with further centralization, which pull back when economic disaster is threatened. There are experiments with decentralization, which pull back when political disaster is threatened. Where necessary emergency measures such as rationing and massive food imports are used to ensure a certain minimum standard of living for the Soviet people. Numerous legal controls make highly unlikely that the low standard of living will lead to unrest sufficient to pose any threat to the regime. While cumbersome, the system appears to support production and distribution at a level sufficient to ensure not only this minimum standard of living, but a continued growth of expenditures for internal security and military purposes.
THE SOVIET ECONOMIC SYSTEM: A LEGAL ANALYSIS

FINAL REPORT

INTRODUCTION

A 700-page manuscript embodying our full research findings will be published as a book by Westview Press in 1987. This "Final Report" is a condensation of our manuscript. In our research we considered four fundamental structural elements of the Soviet economic system: ownership, production, distribution, and exchange. We surveyed the branches of Soviet law that regulate these elements of the economic system, primarily civil and administrative law. We then considered the law of ownership, the legal organization of production, legal regulation of research and development, labor law, the law of distribution, the legal regulation of exchange, and the legal protection of the Soviet economic system.

In determining the operative legal rules, we considered both formal legislation and actual practice. We devoted particular attention to distinguishing between those legal rules that are operative in practice and those enacted for propaganda purposes, whose implementation in practice is quite different from that on the law books.

The Soviet legal system is constantly changing. We have examined the reasons for this change, and to extent that further change may be expected. The main hypothesis which this study has been designed to test is that the objective of the system of legal regulation of the Soviet economy is political rather than economic efficiency, political efficiency in the sense of preventing the appearance of any independent centers of power that might challenge the political authority of the top level of the
Party. A second hypothesis is that economic efficiency is sought by continual legal reforms, whose effectiveness is limited however by the fact that they are stopped or reversed as soon as they reach the point of threatening political goals. To the extent we have been able to verify these hypotheses, we believe we have developed powerful tools for understanding and predicting the direction and extent of change in the legal structure of the Soviet economy.

THE FUNDAMENTAL STRUCTURAL ELEMENTS OF THE SOVIET ECONOMIC SYSTEM

Ownership

Ownership as defined in the Soviet Constitution and ownership as it exists in actual fact in the USSR are quite different. The Constitution distinguishes two fundamental types of ownership, "socialist ownership" and "personal ownership." The Constitution lists three forms of socialist ownership: (1) state ownership, (2) collective farm/cooperative ownership and (3) ownership by trade unions and other organizations of society. In fact, the three forms of "socialist ownership" are all really variations of state ownership. An examination of the legislation reveals that the powers exercised by the state with respect to property theoretically held in collective farm/cooperative and trade union ownership are in fact equal to the powers exercised with respect to property held in formal state ownership. Only some of the technical legal rules governing how these powers are used differ. Furthermore, "socialist ownership" is not really "socialist," since it is used by a dominating bureaucracy for its own interest, not for the equal benefit of all the people.
The Constitution lists two forms of citizens' personal ownership: (1) that used to satisfy their individual needs and (2) that used in their individual labor activity. Personal ownership is somewhat broader in practice than the Constitutional definition would suggest. Under the Constitutional definition, cooperative apartments would be considered to be a form of cooperative and hence of socialist ownership. In fact, however, they are merely a different form of personal ownership of housing.

Production

The state owns all means of production of any importance. However, actual production requires human labor. This labor is obtained by a combination of incentive and coercion. The peasantry was forced into collective farms in the 1930s. Sufficient numbers of peasants have been kept on the land to provide a supply of agricultural labor through a combination of coercion, the residence permit system, and incentive, the allocation of plots of land for private farming to peasants actively working on the state land administered by the collective farm. Urban workers work because of the need to earn a living and because of the criminal penalties for living on private earnings without having a regular job.

The actual production process is supervised both in state enterprises and on collective farms by appointed managers. The collective farm manager is theoretically elected, but is actually appointed by higher farm administration authorities and local Party officials. Consumer cooperatives in rural areas, while formally membership organizations, are in fact run in the same manner as state retail stores.
Distribution

There is a complex flow of goods and money in the Soviet economy. Goods produced at state enterprises find their way to other enterprises for use in the production process or they may become part of capital stock, such as machine tools in a factory or tanks in the army. Consumer goods find their way through the retail network to the Soviet public. Farm produce is sold to state agricultural procurement agencies and then through state stores to the public. Money, in the form of profits of state enterprises and payments for productive assets moves to the state; wages are paid out to individual workers. Salaries are low, even for persons in relatively high positions. The low salaries are supplemented by benefits from public funds, such as low-cost housing and free medical care. This system of public allocation has a number of political advantages. It serves as an ideological justification for the low salaries. It masks the real differential between the standard of living of top bureaucrats and ordinary citizens. The former receive most of their compensation not in money but in directly allocated benefits, such as comfortable, virtually free housing, or access to special stores with low-priced high quality goods.

Exchange

Goods and services are provided by one state enterprise to another under a system of planned contracts. Goods are sold to the public under a system that combines free sale and rationing. Essential items, such as bread and public transportation to work are sold at subsidized prices well below cost. Luxuries, such as jewelry, furs, electronic equipment, and
vodka are sold at very high prices. The inadequate production of many items is dealt with in a number of ways. With luxury goods, prices are set high enough to balance supply and demand. Much food is sold at prices set by supply and demand in the "collective farm markets." Some goods, for instance meat, furniture, and cars, are distributed by a rationing system, either throughout the country or in localities where they are in short supply. Better quality goods are removed from the regular stores and diverted to special distribution channels for the Soviet elite.

THE SOVIET LEGAL SYSTEM IN CONNECTION WITH THE SOVIET ECONOMIC SYSTEM

General Structure of Soviet Legislation and the Soviet Legal System

It is impossible to develop a satisfying logical structure for Soviet legislation. The difficulty is that the legislative bodies sometimes pass laws codifying one part of the system of Soviet law; while at other times they pass legislation dealing with a particular social problem by applying the methods of a number of different branches of law. An example of the former approach is the Criminal Procedure Code which provides a comprehensive set of procedural rules for trying criminal cases in court. An example of the latter approach might be a law dealing with water pollution. It might well involve state law, creating new state agencies to deal with pollution; administrative law, putting potential polluters under a duty to obey cleanup orders from these agencies; finance law, providing funds for pollution control; civil law, allowing suits for damages for those injured by pollution; labor law, providing extra job benefits for pollution control workers; and criminal law, making water
pollution a crime. Since Soviet legislation thus follows a dual pattern, partly branch-of-law oriented and partly problem-oriented, the organizers of the Code of Laws of the USSR (prepared in the late 1970s and early 1980s, and published in the 1980s), faced a task for which there was no perfect solution. They adopted a largely pragmatic approach, generally placing each piece of legislation in a section devoted to the primary social problem dealt with by the legislation, or, where there were several problems, using a system of cross-references. However, they have had to deviate from their scheme to avoid splitting up the codified branches of Soviet law.

Soviet legal scholars generally divide the Soviet legal system into branches each with its own subject and method of legal regulation. Like their Western European colleagues, but unlike their counterparts in the United States, Soviet scholars believe that this division is based not on convenience but upon objective, scientific criteria. Because those involved in developing the legal system believe these divisions are important, they in fact become important. Typically these branches serve as the bases for organization of law school courses and for the coverage of textbooks. Often, but not always, the law for given branches is separately codified. The branches of law generally recognized by Soviet scholarship are: State Law, Administrative Law, Finance Law, Civil Law, Civil Procedure Law, Labor Law, Land Law, Collective Farm Law, Family Law, Criminal Law, and Criminal Procedure Law. Essentially this scheme includes the system of law recognized by Western European legal scholars of the nineteenth and early twentieth century and taken over by Russian
legal scholars. The traditional legal categories are augmented with the new category of Collective Farm Law to reflect an important aspect of Soviet reality.

State Law

State law establishes the structure and powers of state agencies, including those that deal with the economy. Since the 1920s, except for a short period under Khrushchev, important economic activities have been run by ministries, under the general direction of the State Planning Committee (Gosplan). More recent years have seen the formation of a number of state agencies with sweeping powers over these ministries, such as the State Committee on Science and Technology and, in the area of agriculture, Gosagroprom.

Administrative Law

Administrative law regulates the executive operations of government agencies, both in their relations with lower agencies and with individual citizens. In general a state agency may not give orders outside the administrative chain of command as specified by law. However, within the chain of command, the law provides no effective restraint upon the power of superior agencies over subordinates. Even where the substantive law on paper places some restrictions on superior agencies, there is generally no effective procedural means for the inferior agency to challenge excesses of power by the superior agency.

Finance Law

Finance law in the USSR has quite a different function from finance law in most Western countries. In these countries, finance law is used to
This investigation is performed by an investigator of the Procuracy, who has the right to hold suspects incommunicado for months. By isolating the main suspected conspirators, and offering each some leniency if he will confess and implicate the others, the investigator puts them in the classic "prisoner's dilemma" of game theory.

OWNERSHIP AND THE LAW OF OWNERSHIP

One must distinguish ownership as an economic category and the law of ownership. The interests of owners in the economic sense are protected not only by the law of ownership, but also by other areas of the law, such as labor law, which allows hiring employees to make productive use of property owned, and contract law, which allows selling property.

The State's Ownership Rights

In defining the rights of ownership that belong to the state, Soviet law divides things that may be owned into two groups. The first group consists of things that may be owned only by the state: land, its minerals, waters, and forests. These belong to the state, and they may not be purchased or sold. Others, whether individuals or collective farms, cooperatives, trade unions or other societal organizations, may act as users of plots of land, not as owners. The second group of objects of state ownership, which is not designated as "exclusive" by law, comprises "the basic means of production in industry, construction, and agriculture, means of transport and communications, banks, property of trade, municipal, and other enterprises organized by the state, the basic city housing fund, and also other property needed to carry out the tasks of the state." In fact, the vast majority of these means of production are
control the money supply by manipulation of interest rates and bank reserves, and thus to influence economic activity. However in the Soviet Union, economic activity is planned in physical terms by the State Planning Commission. Finance law serves essentially as a means for double checking that the physical plans are obeyed, by attaching various financial consequences to each transaction and monitoring these financial consequences.

**Civil Law**

Civil law regulates "horizontal" relations between citizens, between a citizen on one side and a Soviet organization on the other, and between Soviet organizations. Formula adversary procedures are generally, but not always available for settling civil law disputes. Disputes between state enterprises or agencies over their obligations or property rights are generally settled in the system of State Arbitrazh. Disputes involving at least one party that is not a state enterprise or agency are decided by the courts. The availability of adjudication lessens the ability of outside organizations to interfere with civil law relationships. For this reason, legal scholars who wish to limit state power and encourage greater legality generally argue for an expansion of the application of civil law and for impartial adjudication of civil law disputes.

**Civil Procedure Law**

Civil procedure law governs the settlement of civil law disputes. The vast majority of cases of significance for the economy are decided in the system of economic tribunals called "State Arbitrazh" (The Russian word "Arbitrazh" is sometimes translated as "Arbitration," but this
translation is misleading, since Arbitrazh, unlike an arbitration organization, has compulsory jurisdiction, permanently-appointed decision-makers, and full enforcement powers.)

**Labor Law**

Labor law regulates employer-employee relationships. With insignificant exceptions (e.g. priests and baby-sitters), the employee works for a state agency. Almost all the terms of the employer-employee relationship are defined by labor legislation, leaving no real room for bargaining.

**Land Law**

Land law regulates relationships involving the ownership and use of land. Like other means of production, all land belongs to the state. However, unlike other means of production, land is not part of the regular exchange economy. Land is neither bought nor sold, so their are no prices attached to particular pieces of land. Rather, it is allocated and reallocated by state agencies. The result is that land law is "vertical" in nature, since decisions on land use are made completely administratively.

**Collective Farm Law**

Collective farm law regulates the relationships of members of collective farms with the farms and some aspects of the relationships of the farms with state agencies. The collective farm is formally a cooperative, with farmers as members, but in fact is organized like a state enterprise, directed by a "Chairman" appointed by Party and agricultural administrative authorities.
Family Law

Soviet family law is in most respects identical to modern family legislation in those non-communist countries where secularism has replaced religion in determining the family policy of the state. Men and women are given equal rights. Divorce is relatively easy to obtain. Alimony is unavailable to spouses able to work. Earnings during marriage become community property. Abortions are legal.

Criminal Law and the Law of Administrative Violations

Two separate mechanisms are used for the creation and enforcement of general rules for the punishment of conduct dangerous to the Soviet economic system. Acts that present only a limited danger to the system are punished under the law on "administrative violations." Acts presenting a more serious danger are punished under the criminal law. Note that in the phrase "administrative violations," the word "administrative" is used not to denote an order from a superior to a subordinate, but rather a procedure for handling minor offenses expeditiously, but without the full safeguards of a formal criminal trial.

Criminal Procedure Law

Criminal procedure law regulates the court procedure for determining guilt or innocence and for sentencing. The structure of criminal procedure law gives a great advantage to the state in cases involving economic crimes. Often the more complex economic crimes involve a huge conspiracy, in which various officials of an enterprise or a group of enterprises have conspired to defraud the state of its property. The complexity of the crime makes necessary an equally complex investigation.
owned by the state or by "collective farms and cooperatives which are in fact administered as state organizations. Only minor amounts of means of production are owned by individuals (e.g., gardening implements) or by foreign companies doing business in the USSR (e.g., construction equipment temporarily imported into the USSR).

The state may acquire property by all the methods by which a private individual may acquire property: contracts, will, gift, etc. In addition, the state has open to it nationalization, compensated taking, confiscation, and foreign trade contracts as means of acquiring property. Nationalization was the basis by which the state acquired all of the land and mineral resources of the Soviet Union and the urban building stock at the time of the revolution. Since that time nationalization has been of less importance, having served only for the conversion of some collective farms and cooperatives into state farms and state enterprises. Compensated taking is used, for instance, when a highway has to be built through an area occupied by private houses. Confiscation is used rather extensively as a sanction for various types of violation of the law. However, the main mode by which the state acquires property is by the incorporation of the labor of its hired employees in the transformation of raw materials into valuable manufactured goods, for instance turning iron ore and sand into steel and concrete and then turning the steel and concrete into public buildings.

As in other countries, state ownership enjoys superior legal protection, not being subject to statutes of limitation or the rights of good faith purchasers.
In order to effectively exercise its ownership rights, the state must delegate some of them to operating entities. This is done by giving these entities the right of "operative administration" of state property. The holder of the right of operative administration is subject to a number of restrictions that makes it much less than a full owner. It must function in accordance with the purpose of its activity, planning tasks, and the purpose of the property. For instance a soft-drink factory cannot legally make alcoholic beverages, must use its equipment to fulfill its plan for soft-drink production, may only use equipment funds to buy equipment, and may only use wages funds to pay wages.

The property under operative administration is divided into various funds, each of which may be used only for its designated purpose. These include: (1) buildings and installations, which may be used, but may not in general be disposed of; (2) the charter fund consisting of basic assets (those worth over 100 rubles that last for over a year), which may be used and, under limited circumstances, may be disposed of and of circulating assets, which may be used and disposed of under somewhat more liberal terms. There are monetary funds, each restricted to a particular purpose such as capital investment, amortization, and incentives. There are three kinds of incentive funds: (1) the production development fund, earmarked for the introduction of new technology, the modernization of equipment, etc.; (2) the fund for social-cultural measures and housing construction, which may be employed by the economic entity in the erection of new apartment buildings, the reconstruction of old apartment buildings, the acquisition or building of health or vacation
facilities, etc.; and (3) the material incentive fund, which serves as the source for bonuses paid to workers and officials according to their personal achievements. All incentive funds are created and replenished by periodic transfers from profits, depending upon the fulfillment and overfulfillment of plans.

The tight legal restrictions on the use of the various funds means that "operative administration" fall far short of ownership. De facto ownership thus resides in those who have the real power of disposition, use, and control of enterprise property, those at the very top level of the Party who exercise the ultimate right of ownership in the name of the state. This means the Politburo or, as some political scientists think, the Politburo and the Secretariat of the Central Committee.

If one examines those types of "socialist" ownership that are not formally classified as state ownership under state law, for instance collective farm ownership, one finds that the actual rights of disposition, use, and control of the property are exercised through the same types of channels as for state property. Gosagroprom, the main central agricultural administrative agency exercises exactly the same types of powers over collective farms and the property allotted the collective farms as does an industrial ministry over the industry under its jurisdiction. A similar conclusion may be drawn with respect to the property formally allotted to consumer "cooperatives" and trade unions.

**Personal Ownership Rights**

Personal ownership is permitted rather broadly for consumption purposes, and under severe restrictions for production use. Even in the
area of consumption, there are various restrictions, designed to ensure that consumption items are not used for production of income. For instance, a Soviet family may not own more than one house, and this house may not have a floor area of more than 60 square meters. These restrictions are designed to prevent or limit the earning of rental income.

Individual labor activity in areas such as handicraft and service are limited by the requirement that special permits must be received from the local finance agency, and that such permits are not issued at all for many types of activity, for instance private taxi service.

Property in housing cooperatives is held in personal ownership in modified form. The individual cooperative member has rights that are in many ways similar to those of the owner of a private home. The member also personally bears most of the expenses of the building and maintaining of the cooperative. On the other hand, since the cooperative is considered to be "socialist" property, the state also has important residual rights.

Individuals may maintain savings in the form of cash, state bonds, or savings bank accounts. The total amount of such savings is very large and so adds substantially to the demand for consumer goods.

PRODUCTION: ITS LEGAL ORGANIZATION

General Principles

The prevailing principle of the organization of production in the Soviet Union is that of centralism. Production entities are subordinate directly or indirectly to the appropriate economic ministries or equivalent agencies and through these bodies to the ruling center of the
Soviet system. Agricultural organizations are similarly subordinated under Gosagroprom.

A major change under Brezhnev involved the replacement of enterprises by production associations as the lowest link of the economic system. Large enterprises were converted into production associations, while smaller enterprises were combined under the jurisdiction of a production association. The result was substantial centralization, since the combined enterprises lost many of their legal powers. An intermediate link, the industrial association, was created between the production associations and the ministry. However, in recent years most of these industrial associations have been abolished. At the same time a number of bureaus are being created, each superior to several ministries.

Agencies of Planning

There is no unified legislation regulating the planning process. The absence of clear legislative guidelines reflects the Party leadership's great freedom of action in making and changing plans.

Production is comprehensively planned by the central agencies of economic administration, while distribution and exchange remain partially unplanned. Planning acts may be classified as either general or direct. A general planning act is directed to an organizer of performance, for instance an industrial ministry. A direct planning act is directed to a performer itself, for instance a production association. Detailed annual planning is based upon long term plans and upon comprehensive plans governing the whole economy. Plans for particular branches are made on an annual bases. Sectors of the economy are coordinated with complex plans, for instance those for consumer goods or agriculture.
Information flows upward from the primary production agencies and is aggregated at the ministry level. These aggregated plans are not merely the sums of the plans suggested from lower levels. Ministerial officials, having risen through the ranks, are well aware of the tendency of operating organizations to understate their capacities and overstate their needs, so these officials make appropriate corrections in the aggregate plans. Subordinate organizations have no real legal rights at this point in the planning process, though some ministries have set up a procedure called "protection" that allows the production associations to defend their figures before the appropriate administrators.

On the basis of all the aggregated reports, the USSR State Planning Committee (Gosplan) compiles the drafts of all long term and annual economic plans. These drafts are sent to the Council of Ministers, which has and exercises the power to order changes in the plan. The plan is then sent for approval to the Politburo, which has the ultimate authority to approve or order changes in the plan. At this point the planning process is complete, requiring only ritualistic ratification by the Supreme Soviet. The plan as officially approved by the Supreme Soviet is stated only in broad outline. Details of the plan and changes in the plan are made by government decrees, most of which are secret.

Once the plan is made, Gosplan transmits planning tasks to each economic ministry or equivalent organization. These organizations elaborate their own operative plans with the necessary details.

Analogous procedures are used for planning matters of less importance that fall under the jurisdiction of the union republic or local governments.
Given the size and complexity of the Soviet economy, planning errors are inevitable. Some enterprises are certain to be given production quotas without the corresponding raw materials, or with no place to market their finished products. The economic ministries maintain reserve funds to deal with these difficulties and have the power, though not the legal duty, to pay compensation for harm done by planning errors.

The complexity of the planning task also means that plans are never ready until several months after the start of the plan year, during which time enterprises operate on the provisional basis of the previous year's plan, subject to later retroactive adjustment when the new plan is approved. 10

Another problem created by the complexity of the economy and the necessarily faulty nature of the plans is need for continual readjustments of the plans during the plan year. Such readjustments can cause substantial harm to enterprises, harm for which they have no legal recourse. They can only petition their superior agency to make some compensation from its limited reserve funds.

Agencies of Production

The form of organization of production agencies is characterized by khozraschet (economic accountability). Khozraschet has three features: (1) coverage of an entity's expenses with its own income; (2) exchange on the basis of equivalents (purchase of supplies and sale of goods and services produced); (3) profitability—a planned surplus of income over expenses. Organizations operated on the basis of khozraschet have the rights of legal personality. In particular each such organization has
property separately allocated to it for operative administration, the right to have property and other rights and duties in its own name, and the capacity to be plaintiff or defendant in court or Arbitrazh.

In practice, there are various deviations from the principle that production associations and independent enterprises should operate on the basis of khozraschet. Some enterprises of particular importance operate at a planned loss. Superior organizations and in some cases local Party authorities divert funds from "khozraschet" organizations to meet pressing needs. The state, as owner, takes residual profits at the end of the year. An important restriction of the sphere of operation of khozraschet came with the mass absorption of independent enterprises into production associations.

In addition to real khozraschet as described above, there are two other types of relationships which are called "khozraschet" in some Soviet legislation. One involves the maintenance of economic ministries by monetary payments from subordinate producers. Unlike real khozraschet, where an entity paying for services can take the provider of the services to court or arbitrazh if the services fall short of those required by law, plan, or contract, the enterprise paying for ministry "services" has no rights whatsoever. Another type of pseudo-khozraschet is "internal economic accountability." This is a form of bookkeeping under which an attempt is made to segregate the costs and profits applicable to a particular subdivision of an enterprise or production association. Again, unlike real khozraschet, there is a complete absence of any effective legal remedy for the subdivision if it is unfairly treated by the other parts of the organization.
The classification of these other institutions as khozraschet is of major political significance. To the extent that Soviet enterprises are deprived of their legal personality and their right to adjudication of their rights, and are transformed into mere bookkeeping entries, one of the few areas of decentralization in the Soviet system is being destroyed.

Production Associations

The degree of independence of production associations is determined by legislation setting their rights and duties in the areas of planning, capital construction, material and technical supply, finances, and credit.  

The production association drafts plans, based on planning tasks formulated by its superior agency. These planned tasks may be modified by the superior agency. The production association itself may amend the production plan where there are justified changes in the orders of trade enterprises for consumer goods. For most types of goods, a production association may manufacture goods above the plan if eventual sale of the additional products is certain. The production association has almost no independence in the planning of capital construction, but does have the right to plan its own repairs, using amortization funds.

In the area of material and technical supply the production associations are required to follow planned tasks, but have some discretion in the sale of surplus product, and some power to modify planned tasks by agreement with contract partners. The production association may refuse to buy unneeded supplies, and may refuse to sell goods that are not in its production plan.
The production association drafts its own plans showing needs for bank credit and applies for this credit to the bank.

Enterprises included in a production association may be independent, with the same rights as a production association or may be mere production units operating on "internal khozraschet." Such dependent units lack legal personality.

Collective farms also operate under a planning system that substantially limits their independence. The farms are included in district agricultural-industrial associations, which in turn are included in province agricultural-industrial associations. The hierarchy then extends upward to the republic gosagroproms and Gosagroprom of the USSR.

GENERAL PRINCIPLES

Innovation in the Soviet Union is largely forced from above. The lack of independent, risk-taking venture organizations and the lack of market competition make it impossible to rely upon innovation from below. In planning innovation, the Party leadership is greatly aided by the fact that the Soviet Union lags behind the advanced capitalist countries in most areas of technology. While the Soviet Union does have an institution that appears similar to the Western patent system, this institution plays a different and much smaller role than in capitalist countries.

PLANNING, FINANCING, AND ORGANIZATION OF RESEARCH AND DEVELOPMENT

Decisions on long-term programs to develop particular areas of technology are made by the Politburo. On the basis of these decisions, research, development and implementation programs are drafted for the
State Planning Committee by the State Committee on Science and Technology and the State Committee on Construction jointly with the Academy of Sciences of the USSR. The programs are comprehensive, starting with the scientific and technical research to be done, and continuing through the initial stages of production. These programs and other ongoing projects form the basis for five year and annual plans for research, development, and implementation.

Research and development plans are required to be subject to a formal cost/benefit analysis. This analysis can be made on relatively solid grounds when dealing with a proposal to replace a product or process by a more efficient product or process. The decision to introduce a completely new product is much more subjective, and appears to be made largely by study of products introduced or planned in capitalist countries.

There are three main types of financing of research and development: (1) budgetary financing; (2) organizational financing; (3) contract financing. Budgetary financing has declined somewhat but remains by far the most important source of funds for research and development. It is generally used for basic research, research of value to many different branches of the economy, and for very expensive research projects. The State Committee on Science and Technology and the State Planning Committee together make the detailed budgetary decisions. The major form of organizational financing is the "unified fund" created as the ministerial level for the financing of research and development. The fund is formed primarily from planned transfers from profits of organizations subordinate to the ministries. Amounts transferred are determined not by the
ministries but by Gosplan and the State Committee on Science and Technology.

To encourage some innovation from below and to provide some basic research, up to 20% of the assets of the unified fund of the ministry may be allotted to organizations subordinate to the ministry, for basic research and for funding of research proposals initiated by the staff of these subordinate organizations.

Another form of financing for the implementation stage is the allowance, under various decrees, of increased prices for new products. At the level of production units, there is a fund for the development of production formed from transfers to cover amortization of equipment, transfers from profits, and sales of unneeded equipment. This fund provides a substantial portion of the assets needed for investment in new higher-technology production equipment.

Implementation of scientific and technical programs is supervised by the ministries involved and also by the State Committee on Science and Technology.

Because the typical major scientific and technical program involves the cooperation of organizations subordinate to a number of different ministries, a coordinating body must be set up at a rather high level so that its decisions can be binding upon the respective ministries. This may be an independent organization or may be included in one of the Bureaus, whose operations cuts across several ministries, such as the Bureau of Energy of the USSR Council of Ministers.
Scientific-production associations are entities that combine research and development with start-up production of new products. Their work is planned with such detail that they cannot be considered to be entrepreneurial organizations. The scientific-production association serves as a research center for the ministry to which it is subordinate.

The Soviet Academy of Sciences conducts important research through its institutes both under its own budgetary-financed research plans and by planned and unplanned contracts with outside organizations. In contrast to the Academy of Sciences, higher educational institutions have played a much smaller role in research and development. A series of decrees starting in the late 1970s has been aimed at increasing the role of higher educational institutions. Many of these decrees seem to be aimed at duplicating in the Soviet Union the type of university scientific research environment found in the United States.

Some Soviet authors have argued for the creation of a "fourth system" of scientific research institutions (in addition to those of the industrial ministries, the Academy of Sciences, and the Ministry of Higher Education). They suggest that these additional institutes be subordinate to the State Committee on Science and Technology. A few such institutes do exist and are pointed to as models by the proponents of this scheme.

Contract Research and Development

A major change has been the transfer of a great deal of research and development to a system of economic accountability. Before the change, each research institution typically had a research plan, which served as
the basis for a research budget. The plan was expressed largely in terms
of expenditure of man-hours and equipment, not of results achieved.
Budgetary resources were doled out on a periodic schedule, in time to meet
payroll and equipment needs as expressed in the plan. The change
instituted a system of accounting and payment similar to that used for
organizations engaged in construction contracting. Instead of planning
man-hours to be spent, the planners specify results to be achieved. A
rewards system similar to that in other branches of the Soviet economy was
introduced, with bonus funds whose size depends upon success in meeting
planners' targets. In many cases, these results are to be achieved not in
the abstract, but for specific customers, with whom the research
organizations are to make contracts. Undoubtedly the leadership hopes
that these changes will allow more efficient use of funds for research and
development and more effective supervision of the research and development
process. At the same time, the reliance on contract research opens the
way for some lower level initiative, both in negotiating the details of
planned contracts and in concluding unplanned contracts, to the extent
that these are allowed.

Contract research by higher educational institutions is also being
facilitated by legislation which would encourage both planned and
unplanned contracts by these institutions. Incentives in terms of faculty
bonuses and institutional discretionary funds were included in this
legislation.

Enforcement and Encouragement

Performance of research development, and implementation plans is
monitored by Gosplan using detailed data gathered by the ministries and
the Central Statistical Administration. The State Committee on Science and Technology also plays a watchdog role. It sets up state commissions to verify the state of research. These commissions have access to research reports submitted to the All-Union Scientific Information Center. The State Committee on Construction monitors conformance of new plants to technological standards.

Another mechanism for monitoring performance is formal attestation of product quality. This often ineffective procedure provides a substitute for the ruthless quality control enforced by the marketplace in capitalist countries.

Rewards for innovation come through a system of incentive and bonus funds administered at the research organization and the ministry levels. Rewards also come through the inventor's certificate system, which provides recognition and cash awards to inventors, but does not give monopolies like those for the capitalist patent system.

The procedure for obtaining an inventor's certificate is similar to that for obtaining a patent in most other countries. There is a second scheme, "innovation proposals" to provide formal recognition and award for ideas that fall short of being full-fledged inventions. Soviet and foreign patent documentation is maintained by a well-organized system of library and reference points, to aid Soviet engineers in building upon the current world level of technology.

Other Legal Forms of Modernization

Because the Soviet Union lags in many areas of technology, it relies heavily upon imports. Technical information is imported through a network
of libraries of technical and patent literature. At present legal and practical measures are being set up for direct access to foreign technical data banks and for creation of technical data banks and data networks within the Soviet Union. Because it is far cheaper to find ready-made solutions than to develop the solutions "from scratch" and because technical information is of a non-political character, these computerized information systems can be expected to grow rapidly.

Technology is often imported by the purchase of whole assembly lines from abroad. In special cases, where Soviet needs are small, all necessary items of a particular high technology end product may be imported. Where export control laws forbid legal imports, extensive use is made of clandestine channels to fill Soviet technology needs. 15

Information

The All-Union Scientific-Technical Information Center provides a formal method for information exchange. Soviet organizations are forbidden to keep trade secrets from one another. They are required to register all research results with the Information Center so that these results may be available to other organizations. Legislation allows the conclusion of consulting contracts, whereby recipient organizations pay the out-of-pocket costs of information transfer from organizations that have developed it.

Conclusion

The system of scientific research and development has consistently been able to net a large number of goals of the Soviet leadership but at the cost of a multi-year lag in technology behind the most advanced
capitalist countries. These goals appear to include: limiting individual wealth; guaranteeing job security, restricting migration, keeping central control of prices and research activity, minimizing expenditures, and controlling contacts with foreigners and foreign ideology.

LABOR FORCE AND LABOR LAW

Introduction

Soviet labor law involves a combination of detailed government planning of labor allocation, including assignment of some workers to specific jobs, with a considerable amount of freedom of individuals in choosing jobs and of employers in choosing employees. The sources of Soviet labor law are numerous. At the USSR level, there are "Fundamental Principles of Labor Legislation." Each republic has its own "Code of Laws on Labor." In addition there are a huge number of administrative regulations dealing with labor matters. A recently published collection of some of these administrative regulations amounted to three volumes of 600 pages each.16

The major governmental agencies regulating labor are the State Committee on Labor and Social Problems and the All-Union Central Council of Trade Unions. Despite the words "trade unions" in the title of the latter, it is really a government agency performing functions that might be done by a ministry of labor in many countries. The "trade union" structure is an extensive administrative organization, with branches at the republic level and on down to the enterprise level. At the enterprise level, it performs many functions in personnel management, severely limiting the discretion of enterprise management in this area. Soviet
ministries have only a limited role in labor planning, because they have to function within strict limits on wages and number of personnel set by the State Planning Committee.

The Labor Planning Process

Legislation calls for the setting of three types of plan indicators related to labor for production associations and enterprises. These are: (1) a target for the growth of productivity of labor; (2) a maximum limit of the number of workers and office workers; (3) maximum allowably total wages payment ("the wages fund"). Local authorities may grant an enterprise a limited number of temporary residence permits for allocation to nonresident workers.

Hiring

With some exceptions, enterprises are free to hire (or not to hire) employees within the limits set by the plan. Likewise Soviet citizens, while under a legal duty to have some sort of productive job, in most (but by no means all) cases are free to choose the job they want.

Employers must give special preference in hiring to returning draftees, disabled veterans, and young entrants into the labor force. Collective farms by custom always admit children of members.

In a number of situations, which in total constitute a fairly high percentage of hiring, Soviet citizens have a duty to take a specific job. These include the military draft, convict labor, vocational education, patients in mental health, drug, and alcohol rehabilitation programs, and graduating students of higher educational institutions and technical schools.
Employer-Employee Relations During Employment

The provisions of the applicable labor code and other labor legislation govern employer-employee relations with such detail that there is very little left for individual negotiation. The "labor contract" between employer and employee has two essential terms, the type of work to be done and the wage to be paid. The wage to be paid for each type of work by a worker of particular qualifications is set by law, but an employer has some room to maneuver by choice of job classification, provided that the total wages is not exceeded. Other terms of employment, such as the length of the work week and the amount of vacation time are set by law. The law provides that the "trade union" negotiates a "collective contract" with the enterprise. However, this "contract" is really just a restatement of the terms of employment set by law and plan, which are in such detail that there is almost nothing for the "trade union" to negotiate.

Discipline is governed by "Rules of Internal Labor Order" based upon model rules established by legislation. Possible penalties for violation of disciplinary requirements include a warning, a reprimand, a severe reprimand, transfer to lower paid work or an inferior position for up to three months, discharge, reduction of seniority supplement for up to three months, reduction of annual leave, or deprivation of bonus payments. Disciplinary sanctions may be imposed directly by enterprise management, though in some cases, such as for discharge, "trade union" consent may be required. "Comrades' Courts," informal tribunals of enterprise employees may bring pressure to bear upon violators of labor discipline, by exposing
them to public humiliation before their fellow workers in the course of a "trial."

A rather elaborate legal structure exists governing the financial responsibility of the employee for damages caused to the employer. The cause of these damages may be intentional, as in the case of theft by the employee, negligent, as in the case of careless breakage of equipment, or unknown, as in the case of shortage in a cash register. Liability is limited for losses caused negligently, but employers are fully responsible for damage caused intentionally, while drunk, or by employees who have signed a contract to bear full liability. Such contracts are required from employees who have custody of cash or valuables. Recent steps to strengthen labor discipline have included increases in employee liability.

**Discharge and Quitting**

In general, employees are free to quit their jobs, but management is quite restricted in firing them. Except for employees who are compelled to work (e.g. labor camp inmates, recent graduates) and those who have contracted to work for a specific period, any employee may quit by giving two month's notice. Substantial gaps between jobs can cause reductions in social security benefits. Employers may only terminate a contract on one of the grounds listed in the labor code. Employees may be divided into three groups in terms of substantive grounds upon which they may be discharged: ordinary employees; those with special protection against discharge; and employees with special responsibilities who may be discharged on special grounds in addition to the ordinary grounds for discharge. The legal provisions are complex, but their effect is to make
it difficult to fire ordinary employees, and easy to fire management personnel, from the legal point of view. To fire an ordinary employee, in addition to having one of the grounds specified by labor legislation, the employer must obtain the consent of the “trade union.” To fire a management employee, the employer must obtain the consent of the appropriate Party authorities, a requirement not found in legislation but a key part of the “nomenklatura” system.

There is a Commission on Labor Disputes at each enterprise. Employees may bring grievances before this commission and if dissatisfied with its decision may take cases to court. While at one time the courts were highly favorable to employees, often reinstating them after they were discharged, the worker’s chances for court reinstatement have declined for two reasons. First, better legal training and availability of enterprise legal counsel have made it much more likely that enterprises will observe the legal technicalities upon discharge. Second, repeated campaigns by the top Party leadership for labor discipline have undoubtedly affected the attitude of the courts.

DISTRIBUTION AND ITS LEGAL FORMS

Planning of production, though of primary economic significance, is only the first stage of planning addressed to producers themselves. The plan also determines those entities that may acquire the producers' output, the quantity of products available to each potential acquirer, and the identity of the producer that will deal with each acquirer designated by planning agencies. Like production planning, distribution planning is done from the top, based upon information received from below. However,
distribution planning is less comprehensive than production planning. While production planning is unconditionally mandatory, distribution planning often binds only the producer, but not the planned recipient. While both production and distribution planning create vertical administrative relationships, distribution planning also creates horizontal civil law relationships between producers and customers.

**Planned Distribution**

The distribution of output of production of goods is, in principle, a function of three agencies: the State Planning Committee (Gosplan), the State Committee on Supply (Gossnab), and the USSR Ministry of Trade (Mintorg). Gosplan deals with the distribution only of a limited list of items in short supply or of critical importance. Entities needing these items must prepare applications to Gosplan, which is responsible for coordinating production plans with the distribution of these items, so that a ministry, for instance, receives applications of enough raw materials for its planned production. Gossnab distributes those items of too little importance to be distributed by Gosplan, with the exception of consumer goods. Gossnab's operations are more decentralized than those of Gosplan, since many types of goods of secondary importance are consumed in the localities where they are produced (e.g., building materials).

Mintorg plans the distribution of consumer goods, on the basis of information provided by trade enterprises, producers, and Gosplan. The discretion of Mintorg is limited by the requirement that certain areas (e.g., the city of Moscow) be given preference with respect to food supply, and by the need to provide a minimum survival quantity of food and
consumer goods to all localities. In emergencies, a "troika" (three-man committee) is created consisting of representatives from appropriate levels of the Ministry of Trade, the Party, and the government. This "troika" can override all plans to ensure that essential supplies are provided to localities with supply difficulties.

For the more important types of producer's goods, ministries receive allocation certificates (fondy) and on the basis of these certificates issue orders (nariady) addressed to potential purchasers and suppliers. For consumer goods and some producer goods, purchasers and suppliers are given plans of attachment (plan prikrepleniia). The purchaser then sends a purchase order (zakaz) to the supplier in accordance with the plan. For agriculture, planning works somewhat differently, with a procurement plan being elaborated and transmitted downward from USSR Gosagroprom.

Construction plans are prepared by Gosplan subject to confirmation by the Council of Ministers. There are two plans, one distributed to customers, indicating what is to be built, and one given to both customers and building contractors showing who is to do what building for whom. These plans are elaborated into "title lists" (titul'nye spiski) giving the details of construction projects. Financial resources are allocated, usually through the Construction Bank (Stroibank), which oversees construction, releasing funds only as specific targets are met.

Construction planning is extremely centralized, with a number of negative results. Often construction is planned that is unsuited to local conditions. The prospective customer of the construction project is often given little or no incentive to supervise the project and see that it is done right.
Planning of transport is done by the appropriate ministry, e.g. the Ministry of Railroad Transport. Plans are more general and flexible, since producers are unable to set precise schedules in advance for exact quantities to be shipped on given days. Details are negotiated at the local level.

**Unplanned Distribution**

A large portion of unplanned distribution takes place under long term relationships between supplier and purchaser. In these cases, the purchaser can break off purchasing at any time. However, if the supplier declines an order from the purchaser, the purchaser may bring an action before State Arbitrazh, which will decide if the supplier was justified in refusing the order.

**Administrative Distribution to Citizens**

There is a substantial amount of administrative distribution to citizens. Under this type of distribution, the supplier is obligated to sell to particular citizens or to a particular group of citizens while the citizens are authorized, but never required to purchase. Special distribution, based mainly upon secret regulations, provides better quality supply of goods and services to the Soviet elite. Special distribution is also used for a few classes of members of the Soviet public, such as war veterans. Goods such as automobiles and furniture are often distribution administratively to employees of privileged organizations (e.g. scientific research institutes). General distribution involves systems of rationing of supplies of goods in short supply to the general republic. In many communities, for instance, meat may be bought
in state stores only with ration coupons. Apartments in state-owned buildings are allocated through an elaborate waiting list system (with special privileges for the elite).

**EXCHANGE: ITS LEGAL REGULATION**

There are six major types of contractual relations that may be classified as "economic" contracts.¹⁷

The first group is composed of contracts concerning the alienation of property for a charge. These are, in particular, contracts for the delivery of products and consumer goods, state purchase of agricultural produce at collective and state farms, and supply contracts for gas, heat, and electricity. All of these contracts are either planned (planned delivery, planned state purchase of agricultural produce at collective farms and state farms, planned supply of gas, heat and electricity) or unplanned but having the same legal characteristics as these planned contracts (e.g. unplanned delivery or unplanned purchase of agricultural produce).

The second group includes contracts for the nongratuitous use of property. This group is limited to contracts for the planned lease of property (e.g. rental of means of transport), and it does not include unplanned property leases. Although the contractual terms of unplanned lease contracts are identical to those of planned contracts, the former can be executed not only between Soviet entities, but also between such entities and individuals or between individuals themselves.

The third group comprises contracts of production, for example construction contracts and contracts for the doing of project work for
scientific research, construction, or skilled construction work. All of these are planned contracts.

The fourth group includes contracts for transport services, for example contracts for carriage of goods, towage, and for the exploitation of railroad spur lines. The first two are characterized as economic contracts because of their planned nature; the last as a result of its application only in relations between Soviet entities and because of the legal requirement that every owner of a spur line enter into contract with the railroad enterprise in possession of the railroad to which the spur lines are connected.

The fifth group encompasses contracts for banking services. These include contracts for bank credit and the bank accounts of Soviet entities. A contract for the extension of bank credit to a Soviet entity is an economic contract because its execution is compulsory for all Soviet entities which have the rights of a juridical person.

The sixth group includes contracts concerning the performance of other services. These include, for example, contracts for freight forwarding and warehouse storage. The contract for freight forwarding is a planned contract. The contract of warehouse storage may be either planned or unplanned. But both are economic contracts as they are only applied in relationships between Soviet entities.

Some Soviet authors speak of a more general category than economic contracts, that of "economic obligations" in which they include not only contracts, but obligations from planned tasks and obligations within economic entities. This classification confuses contracts, which involve
goods-money relations and are legally enforceable by both sides through adjudication with administrative relationships, which do not involve goods-money relationships and are not subject to adjudication. It tends to weaken the position of contractual relationships, and thus to erect ideological and legal barriers to any move toward "market socialism."

Plan and Contract

Four types of contract-plan relationships may be distinguished: (1) planning acts require both parties to execute contracts; (2) planning acts require both parties to execute contracts, but one party may decline to execute a contract if certain conditions are established; (3) planning acts oblige both parties to execute a contract, however certain operations are performed on the basis of a plan, while other operations are to be done only after a contract is made; (4) planning acts oblige one party to conclude a contract, but the other party has the option to conclude or not conclude the contract.

Planning differs in degree of detail. However, usually at least some discretion is left to the parties, even for construction contracts, which are the most rigidly planned.

Central planners lack the information to plan most supply contracts in complete detail. Such matter as colors and sizes are typically left to negotiation by the parties (with State Arbitrazh available to settle disputes if negotiation fails). Contract terms may be of four types: (1) subject to no discretion of the parties (for instance, the specific articles and maximum quantity), (2) unconditionally subject to the parties' discretion (for instance, the specific dates of delivery), (3)
conditionally subject to the discretion of at least one of the parties (for instance, a complete or partial refusal to buy planned objects announced within the established period of time), or (4) subject to the parties' discretion to choose from among established alternatives.

Decrees on plan and contract procedures adopted in 1986 appear to make few significant changes in the areas of discretion and compulsion.

Contract discipline is maintained by measures that require payment of penalties by parties that fail to meet their contractual obligations. In general payment of penalties does not free the guilty party from the obligation to perform the contract.

Non-Economic Contracts

Economic entities also have a number of important contractual relations that do not fall within the category of economic contract. The most important types of these non-economic contracts involve relations between enterprises and private citizens, for instance sale of goods by retail stores, rental of apartments, or contracting for specific work to be done. The last category is strictly regulated to avoid creation of private entrepreneurs.

LEGAL PROTECTION OF THE SOVIET ECONOMIC SYSTEM

Legal protection of the Soviet economic system is designed both to deter conduct that threatens the system and to provide compensation for damage caused to the system. Legal protection is more necessary and more extensive in the Soviet system that in a capitalist legal system, because the very nature of the Soviet system creates more temptations and more possibilities for abusive conduct.
A number of important institutions devote much or even most of their time to protection of the economy. These include the Procuracy, the Ministry of Internal Affairs, the Committee on State Security, the People's Supervision Organization, the State Bank, safety organizations, and environmental protection agencies. The Procuracy has responsibility for pretrial investigation of economic crimes, for securing civil compensation for harm done to the economy (by civil lawsuits against those who intentionally or negligently cause the harm), and for general supervision of the legality of economic operations. This last function involves the making of formal protests or informal "representations" to organizations engaging in activities in violation of the law.

The Procuracy operates independently of local authorities. The Ministry of Internal Affairs is responsible for a variety of police functions, traffic control, and fire protection. The Committee on State Security (KGB), according to published legislation, is limited, in the economic area, to the investigation of smuggling. The People's Supervision system involves a small paid staff and a large number of volunteer inspectors, many of whom have "volunteered" under orders from Party agencies obligatory upon them as Party members. It conducts a variety of auditing functions and attempts to locate and suggest corrections for sources of inefficiency. The State Bank has an important regulatory role. All economic transactions must pass through the State Bank or another major bank, such as the construction bank. The Bank audits all such transactions before making payment. A variety of organizations engage in safety and environmental protection. However the
spread of these functions among a large number of weak agencies greatly reduces the effectiveness of both safety and environmental control. An example of the weakness of these agencies if the fact that the maximum fine that can be imposed by the State Committee of the USSR for Supervision of Safety of Work in Atomic Energy (Gosatomenergonadzor) is 100 rubles. Soviet authors have suggested a strengthening of environmental protection by the creation of a single State Committee on Environmental Protection with substantial investigation and enforcement powers, to absorb the present weak agencies. 18

The legal and bookkeeping departments of Soviet entities also have a supervisory function. Both the head accountant and the chief legal counsel are appointed from above the agency where they work. They are supposed to constantly audit agency actions to ensure their conformity to accounting standards and law.

Types of Protection

Both the Party discipline system and various branches of Soviet law are used to protect the Soviet economic system. The Party discipline system provides a flexible way to punish those whose actions threaten the economic system without exposing the fallibility of the Party membership to the public. Labor law provides a method for disciplining rank and file workers. Criminal law provides major sanctions for serious offenses. The law on administrative violations provides a streamlined method for imposing minor sanctions for minor offenses. The comrade's courts provide an alternative set of sanctions for minor offenses. Civil law allows recovery of harm caused by individuals to the economy. The economy is
protected not only against actions by individuals, but also against actions by state enterprises. Administrative and finance law are used to prevent improper action by enterprises. Civil law provides a means for recovery of damages caused by such improper actions. (Unlike the United States, where corporations may be convicted of crimes, in the Soviet Union, only individuals may be subject to criminal responsibility.)

The various methods of protection are used in combination to protect the economy against such problems as theft of state property, mismanagement of state property, and illegal private enterprise activity. Even together, these measures can only control, but not eliminate these problems, which are inherent in the Soviet economic system.

CONCLUSION

Our analysis has demonstrated that the legal structure of the economy is an integral part of the Soviet system as a regime based upon the political power of the ruling elite protected by this elite's economic monopoly. This monopoly is centrally managed, with the support of three factors: (1) unified state ownership; (2) highly centralized planning; and (3) economic discipline. Each of this factors is disguised by the official ideology.

The formal provisions of the law of ownership distinguish between the right of state ownership, the right of collective farm/cooperative ownership, and the right of social ownership held by trade unions and other organizations. In fact, an analysis of the rights and duties of the different types of "owners" reveals that all these forms of ownership are
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2. Ibid., Art. 13.
4. 1977 USSR Constitution, Art. 11.
7. Ibid.
9. Ibid.
in fact equivalent to state ownership. Furthermore just as "collective farm ownership" is not really ownership by the members of the collective farm, so state ownership is not ownership by "all-the-people", who are, according to Soviet ideology, those represented and personified by the state. In both cases, the ultimate power of possession, use, and disposition rests in the same top Party authorities.

The economic planning system, officially an expression of democratic centralism, is far more central than democratic. Although the formal provisions of the law limit the comprehensiveness of planning and preserve various powers for lower level entities, these provisions are continually frustrated by the lack of effective procedural remedies to enforce the purported "rights" of the lower level entities. Economic discipline, officially a means of maintaining an orderly operation of the economy, becomes in fact a means for enforcing the authority of superior agencies over lower bodies.

A totally centralized economic system could not work. Therefore: (1) the unified ownership of the Soviet state is supplemented by the derivative operative administration of Soviet entities; (2) centralized planning leaves some room for initiative on the part of the performers of planned tasks; and (3) economic discipline directly affecting "vertical" relations (between agencies of control and subordinate entities) is combined with certain economic discretion directly affecting "horizontal" relations (between the subordinate entities themselves). A detailed examination of the areas of decentralization reveals that the amount of decentralization allowed depends upon two factors: (1) the greater the
political importance of an area of the economy, the greater the centralization; (2) the less the information available to the central authorities, the less the centralization. Examples of these principles are major construction projects which are totally centralized because of their political importance and amenability to direct control, and transportation services, which are largely decentralized, because of their lesser political significance, and the lack of information needed for detailed central planning.

Within the system there is constant experiment. There are experiments with further centralization, which pull back when economic disaster is threatened. There are experiments with decentralization, which pull back when political disaster is threatened. Where necessary emergency measures such as rationing and massive food imports are used to ensure a certain minimum standard of living for the Soviet people. Numerous legal controls make highly unlikely that the low standard of living will lead to unrest sufficient to pose any threat to the regime. While cumbersome, the system appears to support production and distribution at a level sufficient to ensure not only this minimum standard of living, but a continued growth of expenditures for internal security and military purposes.

The weakest point of the Soviet system revealed by the study is in the area of technological innovation. Unwilling to take the political risks involved in the degree of decentralization necessary to support technological innovation at the level found in advanced capitalist countries, the Soviet Union has been reduced to importing and copying Western technology, condemning it to a time lag that becomes ever more serious as the rate of technological change accelerates.