

INTRODUCTION

The contributors to this volume are long-time associates of Dietrich André Loeber. They were invited to participate in a joint effort to honor their friend and colleague by writing essays in his chosen field of expertise, Soviet law. One could hardly have hoped for a more appropriate time to address this general topic. Like much else in Soviet life, law is influenced in a basic way by the style and tone of the political leadership. The repressive and secretive nature of the Stalin régime was reflected in legal and judicial practices, as was the impulsiveness and mildly reformist approach of Khrushchev. The torpidity and acceptance of corruption that characterized the last part of the Brezhnev era could be seen in some aspects of legal administration, and the apparent intention of Andropov to curb corruption, an objective left unrealized during his short period in power, was also manifested in part through the use of legal mechanisms.

But no recent Soviet régime has held out the prospect of such far-reaching societal changes as that which Mikhail Gorbachev and his associates have undertaken. And among the areas where significant developments are promised, law occupies a prominent place. At this point, proposals for legal change and authoritative statements that changes are coming are still far more in evidence than the changes themselves. Few now doubt the seriousness of Soviet intentions in this area, but concrete accomplishments are still largely in the future. The present volume, therefore, constitutes an early effort to assess the impact of the Gorbachev era on legal developments.

As the reader will see, all of the essays address either new legislation or new conditions which are arising in connection with the present Soviet régime's attempt to deal, through law, with emerging problems. Clearly not all such problems are considered here. Even covering the major ones would require a volume of much greater length. But there is sufficient coverage to indicate the areas where the Soviet authorities believe that legal mechanisms can be effective.

Both within and outside of the Soviet Union there is general agreement that many of the most important problems the USSR faces are economic in nature. It follows, therefore, that a number of the essays in this volume deal with issues that touch on both economics and law. In the brief discussion here of the essays that follow, these will be mentioned first.

In the broadest sense, economic management is the responsibility of the USSR Council of Ministers and its agencies, the subject of Ger van den Berg's essay. This chapter traces the evolution of the legal acts on which the structure and organization of ministry-level agencies are based, including the author's views on further developments that can be expected under Gorbachev. Several chapters by other contributors fit well under the general contours sketched by van den Berg and raise questions relevant to the new terminology of the Gorbachev era, words such as *perestroika* (restructuring), *novoe myshlenie* (new thinking), and *samoupravlenie* (self-management). John Hazard's essay on the administration of enterprises – the production units at the foundation of the economic ministry system – is one of these. Hazard pays particular attention to the place of worker collectives, a subject of much discussion under Brezhnev's successors, in future enterprise management. Gianmaria Ajani and Bernard Dutoit address long-standing legal-economic problems that have taken on new currency under the conditions of "restructuring". Ajani examines the actual property rights of trade unions and other social organizations and the various fictions used to reconcile reality and ideology. Dutoit analyzes the emerging legal status of international economic organizations in the USSR, those entities which have so far been created largely under CMEA auspices. While he is able to examine several pieces of recent Soviet law on the subject, he concludes that far from all of the practical problems of this emerging form of economic activity have been solved. Like Ajani, he believes that ideological considerations will soon have to give way to the need for greater flexibility.

Economic dispute settlement between Soviet enterprises is the subject of A.K.R. Kiralfy's contribution. He looks at the procedures used by *Gosarbitrazh*, based on the State Arbitration Rules adopted in 1980, and compares them with regular civil procedural rules. Zigurds L. Zile's "exploratory essay" examines the possibility that a law of product liability can be developed in the USSR. He finds that as a maturing consumer society, the Soviet Union is undoubtedly ready for legal developments in this area. But whether legal solutions can be fashioned from the existing premises of Soviet tort law and, just as important, whether the authorities could go along with such a scheme are questions that remain to be answered.

Two of the essays that deal with non-economic themes examine the place of the Communist Party of the Soviet Union in the legal system. Hiroshi Oda's analysis of the Party's overseeing of the Procuracy's activities has both historical and contemporary components. His empirical study of appointments to responsible procuratorial positions during the 1980s sheds light on an aspect of Party influence on which little concrete information has been available up to now. Boris Meissner's examination of the place of law in Party operations puts particular emphasis on the 1986-amendments in the Party

Statute and the changes in the position under law of the CPSU. Louise Shelley's essay on developments in criminal law since Brezhnev also deals in part with Party influence on law. She concludes that while modest checks on Party interference may be achieved, a legal system autonomous of the Party cannot be expected. Gorbachev's use of criminal law to promote his economic objectives is just one indicator of the continued importance of political input in legal administration.

Two other essays take up the general subject of human rights. Georg Brunner's contribution focuses on the internal regulation of the freedom of movement of the Soviet citizen in the light of the Soviet Union's international legal obligations. George Ginsburgs deals specifically with the rights of entry into and exit from the USSR on private business. The focus of his analysis is a decree on the subject adopted by the USSR Council of Ministers in 1986.

The essay by Donald Barry examines a little-studied aspect of the Soviet reward system: the awarding of honors. The apparent downturn in the volume of such awards since Brezhnev is speculated upon by the author. Serge L. Levitsky examines the Berne Convention on international copyright protection after one hundred years of its existence and explains why neither the Soviet Union nor the United States qualify for membership in it. Henn-Jüri Uibopuu compares university administration during tsarist times and in the Soviet period. He raises the question of whether the emphasis on *perestroika* during the Gorbachev period can lead to enhanced academic freedom, but sees little evidence of such a development so far.

The Editors