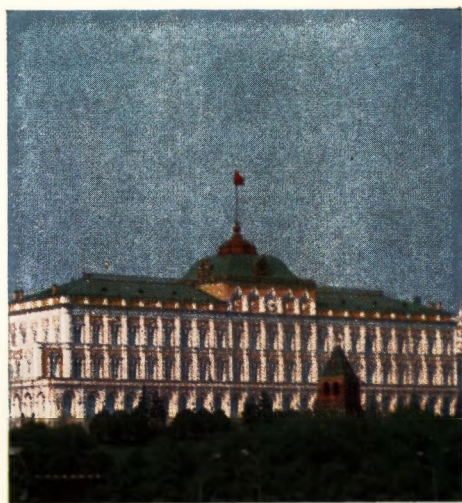




LEGISLATION
IN THE USSR

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BOOKS
ABOUT
THE
USSR



BOOKS ABOUT THE USSR

LEGISLATION IN THE USSR

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ЗАКОНОДАТЕЛЬНАЯ ДЕЯТЕЛЬНОСТЬ В СССР

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The laws of the Soviet state play an important role in the life of socialist society and in the fulfilment of the tasks of the building of communism. It is for that reason that in the USSR—a country which is putting into effect impressive plans for the creation of a communist society—the legislative functions of the supreme organs of state power have developed so extensively.

INTRODUCTION

Clearly drafted legislation is of great importance for the proper development of the social organism. Soviet laws express the will of the people and the main lines of the policy pursued by the Party and the state in generalised, concentrated form; they ensure the advance of society along the road which has been charted.

The Communist Party and the Soviet state have always paid great attention to problems of legislation.

The guns of the triumphant uprising of October 1917 were still echoing when the Second All-Russia Congress of Soviets of Workers' and Soldiers' Deputies, on the basis of Lenin's report, adopted the Decree on Peace and the Decree on Land. These historic acts marked the beginning of a new, socialist legislation. It was thus declared to the whole world that the proletarian revolution and the democracy born of it were indivisibly linked with socialist law and with socialist legality.

The young workers' and peasants' state carried out a broad legislative activity, making extensive use of the decrees of Soviet power as a most important means of carrying through the transformation of

society along socialist lines and of waging the struggle against the classes which had been overthrown.

The great Lenin stood at the source of Soviet legislation. He saw legislation as a powerful lever to be used in the socialist transformation of Russia and as a most important vehicle for the implementation of the policy of the Communist Party and the Soviet state.

Under Lenin's guidance and with his direct participation, a qualitatively new system of legislation based upon the firm foundation of the Marxist-Leninist theory of the state and law was created for the first time in history.

The Soviet state has accumulated substantial legislative experience. The purpose of the authors of the present volume is to sum up this experience. They have endeavoured to indicate the fundamental principles governing the legislative activity of the Soviet state, to describe the work of the supreme representative organs of power in the preparation and promulgation of legislation and to bring to light the practical experience gained in the development and improvement of legislation, which has been especially extensive during recent years.

Continuous attention is devoted in the Soviet Union to the question of improving legislation, strengthening legality, extending and protecting the rights of citizens. This shows the link between Soviet democracy and socialist legality. Strict observance of law and order, coupled with public discipline, is the essential condition for the implementation of the principles of socialist democratism and the freedom of the individual.

In the report of the CC CPSU to the 25th Party Congress, General Secretary of the CC CPSU L. I. Brezhnev said: "In our concern for the all-round development of the individual and of the rights of citizens, we have also given due attention to the problems of strengthening social discipline and fulfilment by all citizens of their duties to society. After all, democracy is inconceivable without discipline and a sound public order. It is a responsible approach by every citizen to his duties and to the people's

interests that constitutes the only reliable basis for the fullest embodiment of the principles of socialist democracy and true freedom for the individual."¹

The 25th CPSU Congress envisaged further improvements in Soviet legislation and a strengthening of socialist legality. Publication of the Code of Laws of the Soviet State, the Congress stressed, will enhance legal stability and bring the laws within the reach of all Soviet citizens.

¹ *Report of the CPSU Central Committee and the Immediate Tasks of the Party in Home and Foreign Policy*, Moscow, 1976, p. 101.

SOVIET LEGISLATION
AND ITS ROLE
IN THE DEVELOPMENT
OF SOCIALIST SOCIETY

1. SOVIET LEGISLATION AS THE EXPRESSION
OF THE WILL
AND INTERESTS OF THE ENTIRE PEOPLE

Soviet law is the type of law which corresponds to the objective requirements of a socialist society which is building communism, effecting a transition to a classless society having neither state nor law.

The true social purpose and essence of any law as the will of a dominant class enshrined in legislation—a will whose content is determined by the material conditions of the life of that class—was first indicated by Marx and Engels in the *Manifesto of the Communist Party*. They developed this view of law in a number of other works. They showed the complex, dialectical nature of its links with other social phenomena. Lenin, drawing upon the experience of the struggle of the working masses in the epoch of imperialism and proletarian revolution for the abolition of the bourgeois state and law and the creation of a new, socialist statehood and a new, socialist law, further enriched and developed the Marxist theory of state and law. Marx, Engels and Lenin demonstrated the objective necessity of law in a socialist society; they pointed to the fundamental features distinguishing this law from the law of societies based on exploitation; they charted the path for its development right up to the complete victory of communism.

Soviet socialist law is in its essence the will of the Soviet people headed by the working class (during the period of the building of socialism—of the working class and the working people led by it) enshrined in legislation, i.e., the *state will* of the Soviet people. It expresses the general interests of the people as a whole. Its purpose is to safeguard those interests.

During the period of the transition from capitalism to socialism, the Soviet state made extensive use of legislation to guide society, establish and develop socialist economic forms, abolish each and every form of exploitation, and regulate the measure of labour and the measure of the consumption of the products of social labour. It used legislation to create and improve the institutions of socialist democracy, to establish firm law and order, safeguard the social system and state security, and build socialism.

The role of legislation as a means of ensuring the planned guidance of political, economic and cultural development, of improving socialist democracy, strengthening law and order and safeguarding the rights and freedoms of the citizen and protecting the socialist achievements of the working people from external enemies continues to increase at the present stage of the development of socialist society.

Soviet legislation as a rule regulates the fundamental, definitive issues of the social and political life of the USSR and is expressed in legislative acts of the supreme organs of state power—the Supreme Soviet of the USSR and the Supreme Soviets of the Union and Autonomous Republics and their Presidiums.

Soviet legislation, embodying, like all Soviet socialist law of the present period, the will and interests of the people headed by the working class, has a definitive characteristic: it is the *direct* expression of the state will of the people. Legislation is the product of the legislative activity of the supreme representative organs of state power of the USSR and of the Union and Autonomous Republics. The members of these bodies are the direct

representatives of those who elected them—the workers, peasants and intellectuals. The laws they adopt are therefore the direct expression of the interests and will of the entire people. This finds expression in the fact that the state will as embodied in the laws of the Supreme Soviet of the USSR constitutes the main criterion for the functioning and acts of other state bodies and social organisations. The acts of these bodies and organisations can be regarded as an expression of the state will of the Soviet people only when they conform to the laws of the USSR.

There are no antagonistic classes in the Soviet Union, and an indestructible unity of the entire people has grown up. There is no class or social stratum for which legislation could be a hostile force, just as there is no class or social stratum whose will and interests find no expression in legislation. The social, political and ideological unity of the Soviet people predetermines the unity of its will embodied in legislation.

The universally representative character of Soviet legislation arises also from the political and legal equality of all the social strata of Soviet society; there is no class or social stratum which enjoys political or legal privileges over other classes or strata. Present-day Soviet legislation enshrines the institutions of *democracy for the whole people*, of equal democracy for all strata of society, and is a means of drawing all members of society into the administration of the state.

It would at the same time be incorrect to see the legislation of the period of developed socialism as having some “supraclass nature” and in this respect to counterpose it to the legislation of the epoch of the building of socialism, which was the law of the state of the dictatorship of the proletariat. While it has become the law of the entire people, Soviet legislation has not changed its class character. It remains the expression of the will and interests of the working class.

The Soviet working class continues to exercise leadership over its class allies. This leading role arises firstly

from the leading role of socialist industry in the Soviet economy; secondly, from the definitive role played by the socialist ownership of the means of production by the people as a whole *vis-à-vis* other forms of socialist ownership; thirdly, from the superior level of organisation and socialist awareness of the working class; fourthly, from its revolutionary experience and authority gained during the class struggle for the victory of socialism; fifthly, from the leading role of the Communist Party created by the working class; sixthly, from the dominant position in the USSR of the Marxist-Leninist ideology, the ideology of the world proletariat.

As a result of the substantial changes which have taken place among the Soviet peasantry and intellectuals since the victory of socialism, the proletarian ideals of communism have become their ideals, while their interests today fully coincide with those of the working class.

Therefore, although the working class no longer enjoys any political or legal privileges in the USSR, it continues to be the leading class of Soviet society, while legislation continues to be the expression of its will and interests, which have become the will and interests of the entire people. Soviet laws embody the communist world outlook of the working class, now shared by the entire people, and are a means of achieving the aim of the working class—the building of communism—which is today the aim of the entire people.

The common will of the Soviet people expressed in legislation is shaped and guided by the policy of the Communist Party of the Soviet Union (CPSU). In organising and guiding the will of the people as a whole, the CPSU pays special attention to the laws, which are enactments of the supreme representative organs of state power. The Communist Party draws up the programme for the development of Soviet society and drafts key decisions on the major current political, economic and cultural issues, which are subsequently embodied in law. The Party is guided by the scientific knowledge of the objective laws governing

social development, by the material and spiritual needs of society, international conditions, etc.

The Communist Party also ensures that the public is informed about proposed political and legal measures, elucidates the attitude of different sections of the population to particular measures and generalises their proposals and comments. The Party in this way brings to light the matured needs of social development, takes account of the opinion of different social groups and production collectives and formulates the will of the Soviet people which is embodied in the acts of legislative organs. Legislative and other state bodies and members of Supreme Soviets participate in the formulation of the state will of the people under the guidance of the CPSU.

A specific feature of the Soviet people's common will expressed in legislation is its *state*, i.e., universally mandatory, character. Although Soviet legislation of the epoch of socialism and the transition to communism has acquired new features arising from the fact that it has become the expression of the will and interests of the entire people, it has not lost the specific features characteristic of it as any legislation. These include, in particular, a special link with the state and, whenever necessary, the use of state coercion to ensure observance of the law.

Communist education of the mass of the people and their heightened level of political consciousness is the fundamental guarantee of the observance of the law in a socialist society. Nevertheless, even under socialism the fact that, as Lenin put it, the law is nothing without an apparatus capable of enforcing the observance of its norms, remains a distinctive feature of law.¹

But the character of state coercion in the USSR has undergone changes. During the period of the building of socialism it was applied mainly in relation to particular social groups—the remnants of the exploiting classes—and assumed the character of the class suppression of these

¹ See V. I. Lenin, *Collected Works*, Vol. 25, p. 471.

groups. Today, when developed socialism has been built, coercion is only applied to individual elements which do not constitute any social group, and it does not therefore assume the character of class suppression. Today state coercion is increasingly aimed not only at punishing but also at re-educating the lawbreaker, at making him a full member of society. It also seeks to prevent infringements of the law.

An important distinctive feature of the common will of the Soviet people as expressed in legislation is the fact that it is in the ultimate analysis determined by the economic structure of society.

According to Marxism-Leninism, the law, like the state, forms a part of the superstructure on the economic basis of class society, i.e., on the aggregate of the production relations evolving between people in the process of production. These are based on the dominant property relations with regard to the means of production, and in the first instance determine the status of the classes in production, the class structure of society and the forms of the exchange and distribution of products. The economic system of a society of any epoch constitutes the real foundation whose characteristics in the ultimate analysis explain the entire superstructure, made up of legal and political institutions and of the religious, philosophical and other views in any given historical period.

Thus, the law depends upon economics; it can never attain a level higher than the economic system and the cultural level of society determined by the latter; like the state, it in the final count depends for its existence and development upon the economic conditions of social life.

In socialist society the volitional content of legislation is likewise determined by the economy, i.e., above all by the socialist ownership of the means of production, by the socialist economic system. Therefore in Soviet society too laws must be based on actual material circumstances, take them into account and conform to them. This is an important law governing the evolution of Soviet legislation.

But, while its volitional content is determined by existing economic circumstances, legislation is by no means merely the passive mirror of these circumstances. It in its turn also influences these circumstances and plays an active part in social development.

2. THE ROLE OF LEGISLATION IN THE DEVELOPMENT OF SOVIET SOCIETY

The Soviet socialist state is the main instrument for the building of communism. It is the Soviet socialist state which must lay the material and technical basis of communism, transform socialist social relations into communist ones, raise the material well-being and cultural level of the people and safeguard the peaceful labour of the Soviet people.

The utilisation by the Soviet state of the organisational and educational force of the law, and in particular of legislation, is one of the necessary preconditions for drawing the very broadest masses of the working people into the building of communism and for their education in the spirit of communism. Of course Soviet society also has other forms of education and influence at its disposal. At the present time a major role is played by the norms of morality, the norms of social organisations and other rules governing socialist community life. But legislation occupies a special place among all forms and means of social influence. The significance of legislation arises from the fact that it is by means of laws that the state exercises its organisational role in the development of socialist society. The success of the state in guiding society and in the building of communism largely depends upon the strength and effectiveness of the influence of legislation upon social development.

It is above all by means of legislation that the Soviet state guides society, ensures the achievement of the aims

and tasks confronting it at each given stage of development, organises the productive activity of people and regulates their actions and behaviour.

The role and possibilities of legislation in the development of society should not be exaggerated. It should be borne in mind that the forms of legal influence on social life are objective in the sense that they are objectively determined by the law-governed links between the law as a part of the superstructure of society and its economic system, the basis. A state, depending upon its immediate aims, may use one or other form of legal influence to a greater or lesser degree, or improve the legal means at its disposal and achieve their greater effectiveness, but it cannot repeal or alter the objectively existing links between the law and the economic foundation of society, the definitive role of the economy with respect to the content of the law, or the "mechanism" of these links.

The implementation of legal enactments is influenced by various political, economic, organisational and other factors (the balance of class forces, the state of the economy, the cultural level of the population, the level of the development of democracy in the administration of society and the state, the structure and style of work of the state apparatus, the qualifications of its personnel, etc.) which are taken into account by the legislator. However good laws and other legal enactments may be, they are only the basis for the activity of people, the participants in social production.

But it would also be a gross mistake to underestimate the role of legislation. The achievement of objectives and the fulfilment of tasks depends to a decisive degree upon the purposes of laws, the interests they serve, the manner in which they formulate the objectives of state and economic development, the measures for their achievement and the manner in which people are organised to implement these measures. The socialist state can, by taking proper account of the factors influencing the implementation of legal enactments and by the proper choice of forms

and methods by which legislative influence may be brought to bear upon social development, secure the maximum results with the minimum expenditure of effort, time and resources.

The means by which Soviet legislation influences social development are many and varied. The most important may be formulated as follows:

1. *The promulgation in legal form of state policy, which is thus brought to the attention of all state organs, officials, social organisations and citizens.* The socialist state seeks to achieve this aim by including programmatic points in legislation and by formulating the guiding principles of its policy, the fundamental principles of legislation and the main aims of particular measures in legal enactments. Describing the role of legislation during the early years of Soviet rule, Lenin said that "we gave the ordinary workers and peasants an idea of our policy in the form of decrees".¹ The legislation of recent years also provides many examples of the way in which the Communist Party and the Soviet state set out their policy and explain current tasks and the significance of proposed measures in legislative form.

The Soviet Constitutions—the Constitution of the USSR and the Constitutions of the Union Republics—occupy a most important place among legal enactments which proclaim state policy and bring it to the attention of the broadest mass of the people, while setting down what has already been achieved by the Soviet people, the Constitutions at the same time lay down the principles of Soviet socialist law, define the main problems being resolved by the Communist Party and the Soviet state at the given moment and chart the main lines of development of socialist statehood.

By bringing its policy to the attention of members of society by means of legislation, the Soviet state thus unites them under the banner of Marxism-Leninism, rallies their

¹ V. I. Lenin, *Collected Works*, Vol. 33, p. 303.

efforts and energies to implement the great ideals of communism, and encourages them to be guided by these ideals in their work and social activity and to consciously co-ordinate their actions, interests and aspirations with the whole of society for the achievement of common purposes.

2. *The education of members of society in the spirit of communist ideology with the aid of the law.* The propagation of the communist outlook among the mass of the people is not a spontaneous process; it is a process organised and directed in a planned way by the Communist Party and the Soviet state. With the help of the law, the state endeavours to instill all members of society with communist views and ideas.

By indicating particular forms of social behaviour, by prescribing or proscribing particular acts, the Soviet legislator fosters the conviction that a particular form of behaviour is necessary and desirable. It may be said, that the educational role of a Soviet law is in large measure determined by its normative character. Soviet laws are not only legal expressions of the rights and duties of the citizen; they are also a potent educational force.

3. *Influencing the development of socialist society by means of the regulation of social relations with the aim of establishing and improving the social order which is useful and beneficial to the Soviet people as a whole, i.e., by means of the regulation of the behaviour of citizens and the work of enterprises, establishments and organisations, state organs and officials.* This is achieved by the definition in law of:

- a) the legal status of parties to social relations;
- b) juridical facts, i.e., circumstances (events, actions and conditions) which constitute grounds for the emergence, amendment or termination of legal relationships;
- c) the rights and obligations of participants in social relationships arising under the law or as a result of the onset of juridical facts;
- d) sanctions for the non-fulfilment of legal obligations.

This normative, regulatory form of influencing social development is the form most characteristic of the law. This does not diminish the importance of other forms, but defines the place of each more precisely.

Soviet legislation establishes the socialist social and state system, the structure and principles governing the functioning of the state apparatus, the institutions of socialist democracy and the rights and duties of the citizen; it guarantees the citizen the real possibility of effective participation in the formation of the organs of state power and of control over them.

The protection of the social system, socialist property and the socialist economic structure, the protection of the rights and lawful interests of the citizen against all encroachments and the protection of the security of the state are important functions of legislation.

Legislation actively promotes the development of Soviet society and the communist education of the working people by giving the force of law to the discipline of the state plan, by establishing the measure of labour and the measure of consumption of the social product and the relationship between them, and by regularising economic relations and those in the sphere of marriage and the family, inheritance, education and public health.

Special mention should be made of the part played by Soviet legislation in the guidance of the economic development of society by the state.

The objective possibility and at the same time the necessity for the planned guidance of the economy arises when the socialist ownership of the means of production holds an undivided sway in the economy, when the state acts as the owner of the property of the whole people and simultaneously as the manager, as an economic subject, and when the economic laws of socialism get full scope for their operation. Basing itself on the knowledge of the objective economic laws, the socialist state directs the development of its economy in accordance with the requirements of these objective laws. The possibilities for law

to exert an influence on social development in consequence grow immeasurably and assume a genuinely creative character. By creating and developing, with the help of the law, new forms of volitional relationship between the participants in production, distribution and exchange, the state establishes social links and relations, and the organisational forms for the production activities of the Soviet workers, which promote the emergence, improvement and development of socialist relations of production and the steady growth of socialist productive forces.

This does not imply that the relationship between the law and the economy changes under socialism, that the law assumes the definitive role. The objective laws of economic development cannot be repealed. The primacy of the economy with respect to law continues even under socialism. The legislator cannot arbitrarily establish legal norms. In the ultimate analysis the law must always conform to existing economic conditions.

The new feature in the relationships between the law and its economic basis under socialism is that the state, by correctly reflecting the matured requirements of the economy, in legal enactments, can with the help of the law promote in a conscious, planned manner the emergence and development of economic relations which correspond to those requirements.

Having understood the developmental trends of social relations the legislator can with the help of the law promote their speedy implementation.

On the basis of a scientific knowledge of the objective laws governing social development and on the basis of existing material and moral preconditions, the Soviet state at each stage of development reflects in its laws the level that has already been achieved and at the same time points the way forward to the next, higher stage.

Soviet legislative or statutory enactments are strictly interdependent. The Constitution of the USSR—the Fundamental Law of the Soviet state—has overriding legal force. Current legislation, in the form of conventional (as

opposed to constitutional) laws, is based on the Constitution. Under the terms of Article 14 of the Constitution of the USSR, the USSR Supreme Soviet approves the Fundamentals of legislation of the USSR and Union Republics. The statutory enactments of the Union Republics are drawn up and adopted on the basis of the Constitutions of the Union Republics and in conformity with the all-Union Fundamentals and other laws of the USSR.

The Soviet state, in organising and directing the building of communism, bases itself upon the scientifically cognised laws of social development which find expression in the policy of the CPSU. The organic unity of science and politics and the fullest utilisation of the latest achievements and data of science lie at the heart of the entire activity of the Soviet state, including its activity in the sphere of legislation.

1. THE CONCEPT AND PRINCIPAL FORMS
OF NORMATIVE ACTS
OF THE SOVIET STATE

The entire activity of the Soviet state is founded upon the precise and unswerving observance of the law. Laws and normative acts based upon them express the will of the Soviet people guided by the Communist Party. Normative acts contain general rules to be applied in social relations repeatedly and usually over a long period. State guidance by means of laws and other normative acts based on them gives stability to social relationships and establishes stable law and order in Soviet society.

Normative acts are decisions of legally authorised bodies expressed in written form establishing, amending or repealing legal norms. They include laws, edicts or decrees of the Presidium of the Supreme Soviet, government decisions and ordinances, the orders and instructions of ministries, the ordinances and instructions of state committees, the decisions of local Soviets and other measures of state bodies containing legal norms, and also acts relating to the amendment, coming into force, sphere of operation, or repeal of norms previously adopted.

In accordance with the principles of democratic centralism and socialist legality, the normative acts of local Soviets and of all organs of state administration conform to the decisions of higher organs of state power which directly express the will of the Soviet people. The normative acts of a lower or subordinate body may not be at variance with the acts of higher bodies. This ensures

the uniformity of normative acts regarding the main issues of the policy of the Soviet state. It also ensures that each normative act conforms to the will of the people as expressed in law.

The place of a particular form of legal enactment in the general system of normative acts determines its legal force. Laws, as enactments of the Supreme Soviet, prevail over all acts of local Soviets or of state administrative bodies. Decisions of Councils of Ministers, while subject to the law, prevail over those of all other administrative bodies.

In accordance with the principles governing the Soviet federation, laws and statutory instruments passed by the organs of Union Republics are adopted in conformity with the laws and statutory instruments based upon them of All-Union bodies. Laws and other normative acts of Autonomous Republics are similarly adopted in conformity with the legislative enactments and statutory instruments which are based upon them, adopted by organs of the USSR and the Union Republic concerned.

The strict observance of the principle of the supremacy of the laws adopted by the supreme representative organ of state power is a mandatory feature of Soviet democracy and legality.

The system of normative acts of Soviet state organs is provided for in the Constitution of the USSR and the Constitutions of the Union and Autonomous Republics. As the fundamental law a constitution defines only the most important types of normative acts. Other forms are customarily defined in statutes on them and in other statutory enactments.

All normative acts of Soviet state bodies fall into two main categories: *laws* and *statutory instruments*. This distinction is important primarily as a means of safeguarding the principle of the supremacy of the law and of ensuring that all acts of state bodies conform to the law.

In accordance with existing legislation, the system of normative acts of the Soviet state consists of the following main forms:

laws of the USSR, laws of Union Republics, laws of Autonomous Republics;

decrees and decisions of the Presidium of the USSR Supreme Soviet and of the Presidiums of the Supreme Soviets of Union and Autonomous Republics;

decisions and orders of the USSR Council of Ministers and of the Councils of Ministers of Union and Autonomous Republics;

orders and instructions of ministers, orders and decisions of state committees and other central departmental bodies of state administration of the USSR and of Union and Autonomous Republics;

decisions and by-laws of local Soviets of Working People's Deputies and their Executive Committees.

The distinctive features of each of these forms are considered below.

2. LAWS OF THE USSR AND UNION REPUBLICS— THE MAIN FORMS OF NORMATIVE ACTS OF THE SOVIET STATE

The present USSR Constitution defines normative acts of the USSR Supreme Soviet and of the Supreme Soviets of Union and Autonomous Republics as laws. Laws express the state will of the people as a whole, or of the peoples of each Union or Autonomous Republic. The state invests laws with the leading role in the system of normative acts and in the development of Soviet socialist law.

The will of the people finds its highest expression in a law. No government body, citizen, social organisation or official may act contrary to the law. In this lies the social and political significance of the supremacy of the law.

The supremacy of laws is also expressed in the fact that it is they which establish the most important norms constituting the basis for the adoption by organs of state administration and local government of other norms based on

the law. In this sense it may be said that the laws of the USSR and of the Union and Autonomous Republics constitute the foundation of the varied system of norms of Soviet law. The most important aspects of the state, economic, social and cultural life are regulated exclusively by legislative means, which include the norms of Constitutions, of the Fundamentals of legislation of the USSR and Union Republics, and of the various Codes. Questions of criminal responsibility, exercise of justice and procuratorial supervision, the introduction and repeal of taxes and the approval of the State Plans and State Budgets of the USSR and of the Union and Autonomous Republics are matters governed exclusively by legislative acts.

Laws have supreme legal force in the USSR.

This principle is to be found in a number of provisions of the USSR Constitution: all acts of organs of state administration and of local Soviets of Working People's Deputies are subject to the law; the USSR Supreme Soviet has the power to control the activity of all bodies accountable to it, and to repeal or suspend their decisions; the Constitution lays down that laws shall be precisely and undeviatingly carried out, that courts shall be subject only to the law, etc.

These constitutional principles are safeguarded in the first place by the strict observance of the existing state-law guarantees designed to exclude any possibility of the substitution of the legislative functions of the USSR Supreme Soviet by the issuance of various statutory instruments; and secondly by the further improvement of these guarantees.

The concentration of all legislative authority in the hands of the USSR Supreme Soviet and of the Supreme Soviets of the Union and Autonomous Republics is one of the main guarantees of the supremacy of the law.

The definition of the sphere of exclusive jurisdiction of the USSR Supreme Soviet is an additional guarantee. It follows from the provisions of the USSR Constitution now in force that only the USSR Supreme Soviet may amend

the USSR Constitution, accept new republics into the USSR and approve the formation of new Autonomous Republics and Autonomous Regions within Union Republics. The Supreme Soviet approves the State Economic Plan and the State Budget of the USSR and adopts the Fundamentals of Legislation of the USSR and Union Republics.

Similar powers (bearing in mind the different terms of reference of the USSR and the Union and Autonomous Republics) are exercised by republican Supreme Soviets.

Constitutional guarantees for the supremacy of the law are closely linked to organisational and political guarantees. These in the first place include the extension of the legislative activity of the Supreme Soviets.

Many new statutory enactments relating to the life of the state and to economic, social and cultural development have been adopted during the last decade. These have included major acts such as the Fundamentals of legislation on marriage and the family, public health, labour, land legislation, water legislation, the law on universal compulsory military service and the laws of the Union Republics relating to rural, settlement, district and town Soviets. The decisions of the 23rd and 24th Congresses of the CPSU regarding the further development of Soviet legislation and the strengthening of the legislative work of the USSR Supreme Soviet and the Supreme Soviets of Union Republics were thus put into effect.

3. NORMATIVE ACTS OF THE PRESIDIUMS OF SUPREME SOVIETS

The decrees and decisions of the Presidium of the USSR Supreme Soviet and of the Presidiums of the Supreme Soviets of Union and Autonomous Republics occupy a special place in the system of normative acts of the Soviet state.

In accordance with the USSR Constitution and the Constitutions of the Union and Autonomous Republics, the Presidiums of Supreme Soviets issue edicts or decrees. These are the most important measures enacted by these bodies.

Another type of act—the decision—has also developed in the course of the work of the Presidiums. Decisions are promulgated, for example, to grant pardons and bestow citizenship, and in respect of reports on the work of local Soviets, the courts, the procuracy and state administrative bodies. The Presidium of the USSR Supreme Soviet also adopts certain normative acts (relating, for example, to the interpretation and application of laws) in the form of decisions.

Both decrees and decisions of the Presidiums of Supreme Soviets may be normative or specific. We shall here consider mainly the former.

The normative acts of the Presidiums fall into two categories, depending upon the nature of the functions with which their adoption is linked.

The first category includes decrees which amend or supplement existing laws. A Presidium adopts such measures on the basis of Art. 49(ü) of the USSR Constitution and the corresponding articles of the Constitutions of Union and Autonomous Republics as a body exercising the functions of a Supreme Soviet in the intervals between sessions. They are subject to mandatory submission to the approval by a regular session of a Supreme Soviet, since it alone is invested with legislative authority in the Union as a whole or in an individual republic. Decrees of a Presidium which amend laws or establish new legislative norms (for example, new norms of criminal law or criminal procedure) acquire the force of law after confirmation by a Supreme Soviet.

The second category includes decrees and decisions on matters which lie wholly within the jurisdiction of a Presidium, or are enacted by it on the instructions of a Supreme Soviet to make laws more detailed and specific.

The Presidium of the USSR Supreme Soviet thus adopts decrees instituting orders and medals, titles of honour and also military and other special titles, and decrees on the ratification and denunciation of international treaties and other matters. The content of Acts adopted on matters which lie within the exclusive jurisdiction of the Presidium of the USSR Supreme Soviet or of the Presidiums of the Supreme Soviets of Union and Autonomous Republics is determined by the authority with which these bodies are vested.

To make laws more specific, the Presidium of the USSR Supreme Soviet and the Presidiums of the Supreme Soviets of Union Republics adopt normative decrees regarding the procedure for the bringing into force of laws, or for their application, and also on certain other questions.

Decrees and decisions on all these matters are not subject to confirmation by sessions of Supreme Soviets.

The normative acts of Presidiums of Supreme Soviets prevail over acts adopted by lower state organs. This is because a Presidium is the highest organ of state power of the USSR or a republic. Its acts are subject to control by a Supreme Soviet. In view of the federal structure of the USSR, acts of the Presidium of the Supreme Soviet of a Union Republic must conform to the laws of the USSR and to acts passed by the Presidium of the USSR Supreme Soviet. Acts passed by the Presidium of the Supreme Soviet of an Autonomous Republic must similarly conform to the laws and other measures approved by the Presidium of the Supreme Soviet of the Union Republic concerned.

4. NORMATIVE ACTS OF ORGANS OF STATE ADMINISTRATION OF THE USSR, UNION REPUBLICS AND AUTONOMOUS REPUBLICS

Higher and central organs of state administration—the Councils of Ministers of the USSR and of Union and Autonomous Republics, ministries and government agen-

cies or departments¹ of the USSR and of Union and Autonomous Republics—have extensive powers with respect to the promulgation of normative acts. The legislative authority of these bodies is inseparable from their executive and administrative activity. For example, in co-ordinating and guiding the work of USSR ministries and other bodies, the USSR Council of Ministers approves Statutes relating to them, and also standard (general) Statutes on enterprises, higher and specialised secondary educational establishments, research institutes and laboratories; on the basis and in pursuance of existing legislation, it drafts legal norms and general directives relating to particular branches of the economy and to social and cultural development; it lays down the general procedure for the work of enterprises and organisations, the general level of wages for industrial and office workers and the regulations governing them; it regulates finance, planning and material and technical supplies for the various branches of the economy and for particular groups of enterprises and establishments, and many other norms relating to the management of the national economy, culture and public health.

Ministries and state committees of the USSR Council of Ministers also lay down general norms within their terms of reference with regard to the branch of the economy or other sphere of activity entrusted to them.

The inseparable link between state administration and legislative activity is due to the fact that in the process of administration it is necessary to resolve *general issues of direction* which form the basis for the settlement of particular cases and current economic problems (the allocation of funds to meet a particular need, the deployment of personnel at particular enterprises, the conclusion of agreements between particular organisations, etc.). For

¹ In accordance with Soviet legislation in force, these include central departmental organs of state administration of the USSR, or of Union or Autonomous Republics other than ministries, e.g., state committees, the Central Statistical Board and the State Bank.

example, in order to draw up and approve plans, enterprises must have a common planning procedure and be subject to the same instructions with respect to the drafting of plans; they must be guided by common norms regarding the utilisation of raw and other materials, labour expenditure per unit of production, administrative costs, social and cultural facilities, etc. It is frequently necessary to resolve general issues urgently. It is therefore desirable that organs of state administration should have legislative functions.

The Constitution of the USSR and other legislation in force define the powers of organs of state administration and the procedure in accordance with which they exercise this law-making function in the light of the tasks of state administration and in accordance with the principles of democratic centralism.

The USSR Constitution and the Constitutions of the Union and Autonomous Republics define in general terms the content or limits of the powers of all administrative organs and the major types of acts promulgated by them. They also indicate the basis on which a particular administrative body enacts its measures.

The common characteristic of all normative acts adopted by organs of state administration is that they are *based on the law*; they are promulgated "on the basis and in pursuance of the law". This implies that these acts cannot run counter to laws of the USSR or of Union and Autonomous Republics. Nor can they amend laws, or establish rules which circumvent the law. They must, in other words, *conform to the law*.

This, however, should not be understood in the sense that there must first be a general rule in the form of a law in relation to all administrative questions, followed by the adoption of a more detailed administrative measure.

The promulgation of administrative acts "on the basis and in pursuance of the law" implies in the first place that the statutory instrument is promulgated *in full conformity with the general norms which the law has laid*

down for the regulation of the given form of relationship. For example, in conformity with the decree of the Presidium of the USSR Supreme Soviet of August 28, 1967, introducing compulsory state insurance for collective-farm property, the USSR Council of Ministers adopted a decision to establish an inter-republican reserve fund to insure collective-farm property, laid down the procedure by which it was to be set up and the size of the deductions from insurance payments, established the Central State Insurance Directorate of the USSR and prescribed other rules on this question.

The USSR Council of Ministers similarly amended the Statute on the Award and Payment of Pensions to Collective Farmers and also the Statute on the Award and Payment of State Pensions on the basis of amendments to the Law on State Pensions and to the Law on Pensions and Grants to Collective Farmers.

Secondly, the promulgation of administrative acts "on the basis and in pursuance of the law" implies that *such measures are adopted within the limits of the authority of the administrative body in question as established by law.* This was also the case in the instances referred to above, when the general norms relating to a particular question were determined by the law.

But it very frequently happens that the specific relationships with regard to which administrative bodies are empowered to take appropriate decisions are not regulated by statutory enactments. In some instances the law merely lays down which administrative body shall be authorised to establish norms governing the relationship in question. In such cases administrative acts are promulgated on the basis of the general principles laid down in the Constitutions of the USSR or of the Union or Autonomous Republics with regard to the powers of the appropriate organ. In so far as the powers of a state organ are founded on the law, and in so far as the exercise of these powers by the state organ in question is mandatory, acts adopted within the framework of these powers, provided they are

not at variance with the law, must be held to be promulgated "on the basis and in pursuance of the law".

It should be noted that other administrative bodies as a rule promulgate normative acts in relation to matters which have in general terms been resolved in laws or government measures.

Thirdly and finally, *the fact that administrative acts are based on the law implies that they are adopted in accordance with procedure laid down by the law.* For example, decisions of the Council of Ministers of the USSR and of Councils of Ministers of Union and Autonomous Republics are adopted on a collegiate basis. So also are the decisions of state committees, the Board of the State Bank, the Executive Committees of local Soviets and of a number of other bodies. Ministerial orders and instructions are on the other hand issued personally by ministers who bear individual responsibility for the guidance of the department or sphere of work entrusted to them. Drafts of major ministerial decisions are, however, invariably discussed by the Boards of Ministries.

An important feature of the normative acts passed by organs of state administration is that they are promulgated not only in accordance with the law, but also *on the basis and in pursuance of the enactments of all higher organs of state power and administration.* Here we see a so-called "complete hierarchy" of enactments, that is, the subordination of the enactments of a lower body to *all* the enactments of higher bodies. This requirement makes it possible to ensure the implementation of the principle of dual subordination in the work of administrative bodies, their accountability to the Soviets, and uniformity throughout the entire system of Soviet administration.

Thus, in accordance with the USSR Constitution, the Council of Ministers of a Union Republic issues decisions and orders on the basis and in pursuance of the operative laws of the USSR and the Union Republic, and of decisions and orders of the USSR Council of Ministers (Art. 81); the Ministers of the Union Republic issue orders and

instructions within the terms of reference of their ministries on the basis and in pursuance of the laws of the USSR and the Union Republic, the decisions and orders of the USSR Council of Ministers and the Council of Ministers of the Union Republic, and of the orders and instructions of the Union-Republican Ministries of the USSR (Art. 85).

The Councils of Ministers of Autonomous Republics issue decisions and orders on the basis and in pursuance of the laws of the USSR and the respective Union and Autonomous Republic, and of the orders and instructions of the Councils of Ministers of the USSR and the respective Union Republic.

In this way, the lower the status of an administrative body in the system of Soviet state organs, the wider is the range of normative acts on the basis of which, and in pursuance of which, it adopts its own legal enactments. This is in full accord with the principle of democratic centralism and ensures the uniformity of state power throughout the territory of the country.

Soviet legislative practice does not permit the transfer of the powers of a legislative body to an executive and administrative body. In all cases when the Supreme Soviet of the USSR or its Presidium instructs the Council of Ministers of the USSR or an appropriate Ministry of the USSR to issue a statute on the basis of a law which has been adopted, developing that law and dealing with the manner of its application, or an instruction or measure of a special nature, these constitute *statutory instruments*, giving concrete form to a law or establishing special norms. The Statute on the Award and Payment of State Pensions is an example of a decision of the USSR Council of Ministers which gives concrete form to norms of law. Special norms are laid down by the Council of Ministers, in accordance with the Law on State Pensions, in the Statute on Personal Pensions.

In accordance with established practice, if a question has been regulated by law, the norms of that law may be

changed only by legislative means. The strict observance of this procedure ensures the supremacy of the law.

In addition to common characteristics, the normative acts of organs of state administration also have distinctive features, the closer study of which makes it possible to see their relationship with the law more clearly.

First place among all normative acts of organs of state administration belongs to *orders* and *instructions* of the USSR Council of Ministers and the Councils of Ministers of Union and Autonomous Republics, which owe their importance to the status and role of the Government of the USSR and the Governments of the Union and Autonomous Republics in the structure of Soviet state organs.

In accordance with the USSR Constitution, acts of the USSR Council of Ministers and of the Councils of Ministers of Union and Autonomous Republics are issued on the basis and in pursuance of operative laws. They therefore fall into the category of statutory instruments. The work of the USSR Council of Ministers and of the Councils of Ministers of the Union and Autonomous Republics is based on the strict observance of this rule: the decisions and instructions of Councils of Ministers on all matters regulated by the law are adopted in strict accordance with the norms laid down by the law.

The subordination to the law of acts adopted to resolve problems of state administration which are not directly regulated by the law arises from the fact that such acts are issued within the framework of terms of reference laid down by the USSR Constitution and by the Constitutions of the Union and Autonomous Republics.

For example, the USSR Council of Ministers, in accordance with Art. 68 iii of the USSR Constitution, adopts measures to maintain public order, protect state interests and safeguard the rights of citizens. In furtherance of this responsibility, the USSR Council of Ministers on August 21, 1968 issued a decision "On the Procedure and Limits of Material Liability for Damage to Forestry". This deci-

sion enumerated breaches of forestry regulations for which the offender is materially liable. It also laid down the limits of liability and some rules regarding the procedure to be followed in cases of breaches of forestry regulations supplementing those laid down in other acts. Liability for breaches of forestry legislation is also instituted by the regulations governing the sales of standing forest and the fire regulations for forests of the USSR, also approved by the USSR Council of Ministers.

The Fundamentals of Civil Legislation of the USSR and Union Republics did not deal with specific questions of liability for forestry offences. The USSR Council of Ministers, acting within its terms of reference, therefore established special norms for forestry protection and liability for forestry offences.

In the Union Republics appropriate norms were adopted on the basis of conservation legislation already in force in their territories. They were, therefore, subject to the law not only in relation to the general norms on the terms of reference of Councils of Ministers and to the norms of civil legislation, but also in relation to the special norms concerning the protection of forests and other natural resources.

The acts of Councils of Ministers resolve, on the basis and in pursuance of the laws, all the most important issues of state administration assigned respectively to the Government of the USSR and to the Governments of Union and Autonomous Republics.

From the standpoint of their distinctive legal characteristics, the decisions and orders of the USSR Council of Ministers and of the Councils of Ministers of Union and Autonomous Republics are statutory instruments which prevail legally over all statutory instruments adopted by other organs of state administration of the USSR, of a republic or by local organs of state power and administration.

This broad, all-embracing significance of acts of Councils of Ministers has a directly constitutional basis. These

acts regulate inter-departmental relations and are adopted in respect of questions affecting all ministries and departments, local organs of state power and administration and enterprises and establishments of any department. The acts of other administrative organs do not have similar all-embracing significance: the acts of local government bodies are binding only in the corresponding region, district, city or village (settlement), and the acts of ministries and departments are binding only within their terms of reference.

The decisions and orders of Councils of Ministers, which are administrative bodies with general jurisdiction, are not subject to any functional or departmental limits: they are issued on all administrative questions lying within the jurisdiction of the USSR or a republic, and embrace all branches and functions of the administration.

An important legal characteristic of these acts is that they are not subject to procuratorial supervision. In accordance with the Statute on Procuratorial Supervision in the USSR, this supervision ensures that measures issued by ministries, departments, and by establishments and undertakings subordinate to them, and also by the executive and administrative organs of local Soviets and co-operative and other social organisations are in full accordance with the Constitution and laws of the USSR, the Constitutions and laws of Union and Autonomous Republics and the decisions of the Councils of Ministers of the USSR and Union and Autonomous Republics.

Under the terms of the Statute on Procuratorial Supervision, the measures of Councils of Ministers are, together with laws, the yardstick which verifies the legality of the decisions of all other organs of state administration and co-operative and social organisations.

The acts of Councils of Ministers are not subject to procuratorial supervision because these bodies are directly accountable only to the corresponding Supreme Soviets and their Presidiums, which exercise control over the legality of decisions and orders of the governments of the

USSR and of Union and Autonomous Republics (Art. 49 vi of the USSR Constitution and corresponding articles of the Constitutions of Union and Autonomous Republics).

Decisions of the Council of Ministers are issued in relation to major economic or political questions. They are always adopted collectively and bear the signatures of the Chairman of the Council of Ministers and its Administrative Secretary. As a rule, they have a general significance and normative character—that is, they establish norms of law. They are published in the Collected Decisions of the Government of the USSR, or in Collected Decisions of Union and Autonomous Republics. The most important of them are published in the press, broadcast or transmitted by telegraph. Decisions of Councils of Ministers also relate to questions of personnel: the appointment of deputy ministers and other officials, and the membership of boards of ministries, departments and state committees.

Joint decisions of the Central Committee of the CPSU and USSR Council of Ministers are of special importance. They are a means by which Party and state leadership is exercised. They are a combination of legal enactment and Party directive, reinforcing the mandatory power of a norm of law with the authority of the Communist Party and direct instructions to Party bodies regarding the implementation of concrete measures. Examples include decisions relating to the improvement of industrial management and the implementation of the economic reform, and the decision of December 23, 1970 "On the Improvement of Legal Work in the National Economy".

The Central Committees of the Communist Parties of Union Republics and Republican Councils of Ministers also adopt joint acts on major issues of the political guidance of society.

Orders of Councils of Ministers are issued relating to less important issues. As a rule, they have a more limited or individual application. They may be adopted by an

individual if they relate to personnel matters, or to specific questions relating to the work of particular undertakings, the allocation of supplementary funds, the amendment of plan assignments, etc. They bear one signature—that of the Chairman or a Deputy Chairman of the Council of Ministers—and are not published in the Collected Decisions. They come into force immediately.

Orders and instructions of Ministers of the USSR and of Union and Autonomous Republics and other acts of central organs of state administration (departments)—state committees and commissions, the USSR State Bank, the USSR Central Statistical Board, the State Arbitration Board of the USSR Council of Ministers, etc.—occupy an important place in the system of normative acts.

Under the USSR Constitution, Ministers of the USSR issue orders and instructions within the terms of reference of their respective ministries on the basis and in pursuance of current legislation and of decisions and orders of the USSR Council of Ministers (Art. 73). In accordance with the Constitutions of Union Republics, republican ministers issue orders and instructions within the terms of reference of their ministries on the basis of the laws of the USSR and their republic, of decisions and orders of the Council of Ministers of the USSR and their republic, and also on the basis of the orders and instructions of USSR Union-Republican ministries (Art. 50 of the RSFSR Constitution and the corresponding articles of the Constitutions of other Union Republics).

The ministers of Autonomous Republics issue orders and instructions within the terms of reference of their respective ministries on the basis and in pursuance of the laws of the USSR and of their Union and Autonomous Republic, the decisions and orders of the Councils of Ministers of the USSR and of their Union and Autonomous Republic, and of the orders and instructions of republican ministers (Art. 71 of the RSFSR Constitution and corresponding articles of the Constitutions of other Union and Autonomous Republics).

The General Statute on Ministries of the USSR—the normative act governing the basic principles of the legal status of ministries—lays down that in addition to orders and instructions, a Minister of the USSR may issue rulings which are binding upon ministries of the same name in Union Republics and for enterprises, organisations and establishments belonging to the ministry, and may verify their implementation. Ministers of the USSR may when necessary issue joint orders and instructions.

In accordance with the law, both orders and instructions are issued personally by a minister within the ministry's terms of reference and on the basis of the Statute on it. The most important ministerial measures are however invariably the subject of preliminary discussion by the board of the ministry concerned.

The acts of all departments are likewise based on the law and subordinate to the acts of higher administrative organs (Councils of Ministers). In the case of departments of Union and Autonomous Republics, their acts are also subordinate to those of the corresponding departments of the USSR and the Union Republic. Departmental acts are issued within the terms of reference of the body concerned and bear various names: orders, instructions and also decisions, regulations, rulings, clarifications (for example, the State Labour and Wages Committee of the Council of Ministers of the USSR and the State Planning Committees of the USSR and Union Republics issue decisions; the Committee for Inventions and Discoveries of the USSR Council of Ministers issues rulings and clarifications).

The various bodies adopt acts in different ways. Decisions of the State Planning Committee of the USSR are, for example, adopted on a collegiate basis.

In addition, the head of an appropriate department is authorised, within the terms of the normative act (Statute) on this department, to issue orders and instructions to subordinate agencies and organisations.

The distinctive features of the acts of ministries and departments are, firstly, that they have less legal force

than those of Councils of Ministers: they as it were occupy the next step in the hierarchy of normative acts following the acts of Councils of Ministers. Of course, the acts of ministries and departments of Union Republics, in accordance with the federative structure of the organs of the Soviet state and the principles of democratic centralism, occupy a subordinate place in relation to the acts of all-Union ministries and departments. The acts of ministries and departments of Autonomous Republics occupy a similarly subordinate place in relation to those of ministries and departments of Union Republics.

This flows from the constitutional norms governing the acts of ministries, by analogy with which the question of the legal force of the acts of departments is decided.

Secondly, unlike the acts of Councils of Ministers, the acts of ministries and departments are issued not in relation to all administrative questions, but only in relation to the range of questions lying within the terms of reference of the central administrative body concerned. These are defined by the Statute on the body in question and relevant legislation.

The acts of ministries and departments are binding either upon the agencies and organisations which are subordinate to them or without regard to departmental subordination with respect to matters lying within the competence of the ministry or department in question.

The promulgation of normative acts mandatory for subordinate agencies and organisations is characteristic of a ministry responsible for a particular branch of the national economy or for a particular sphere of social and cultural development.

But in a number of instances ministries and especially state committees, the State Arbitration Board and the State Bank deal with matters affecting the interests of other departments, and with aspects of the work of enterprises, establishments and organisations without regard to departmental subordination. For example, questions of labour, finance, planning and supply arise in the work of

very many ministries and departments. The ministries and departments whose task it is to regulate these areas are therefore empowered to issue acts within their terms of reference which are mandatory for organisations that are not directly subordinate to them.

In this way the USSR State Planning Committee "shall issue decisions within its terms of reference which are mandatory for all ministries, departments and other organisations.

"The Chairman of the USSR State Planning Committee shall issue orders and rulings mandatory for organisations and establishments of the system of the USSR State Planning Committee" (Art. 11 of the Statute on the USSR State Planning Committee).

This makes clear the distinction between decisions of the USSR State Planning Committee which are mandatory for other ministries and departments, and orders and rulings of the Chairman of the Committee, which are mandatory only within the Committee's system of agencies and organisations.

Similar acts (mainly decisions) which are mandatory for all organisations regardless of departmental subordination are issued by the State Building Committee of the USSR and by the State Building Committees of the Union Republics, by the USSR State Labour and Wages Committee, by the USSR Ministry of Trade, the USSR Ministry of Public Health, etc.

Some ministries and departments may issue acts which are mandatory for agencies and organisations which are not directly subordinate to them only on particular matters lying within their terms of reference. For example, the USSR Ministry of Merchant Marine lays down regulations governing the use of sea transport, navigation and safety at sea and fire protection on board ship, which are mandatory for all ministries, departments, organisations and citizens. The State Arbitration Board of the USSR Council of Ministers approves Special Terms for the delivery of certain types of machinery and consumer goods. It

also issues instructions governing quantity and quality of goods supplied.

Another distinctive feature of the acts of ministries and government bodies is that they are as a rule issued with a view to specifying or clarifying laws and government decisions. Ministries and departments do not issue "primary" norms that are not based on the general principles of a law or governmental enactment relating to the matter in question. The only exceptions to this are acts adopted on the special instructions of the government or legislative body.

5. NORMATIVE ACTS OF LOCAL ORGANS OF STATE POWER AND ADMINISTRATION

The acts of local Soviets of Working People's Deputies and their Executive Committees occupy an important place in the system of normative acts issued by the Soviet government bodies.

The USSR Constitution and current legislation have invested local Soviets, as organs of state power which direct the work of subordinate agencies and organisations and decide all issues of local significance, with the right to exercise the law-making function and to adopt acts of a normative character. These functions have been greatly extended under present-day circumstances. The powers of local Soviets enable them to resolve the most varied problems relating to economic and cultural development in their areas (region, territory, district, settlement or village).

The Soviets of Working People's Deputies adopt decisions and issue orders within the powers vested in them by the laws of the USSR and the Union and Autonomous Republics (Art. 98 of the USSR Constitution, Art. 80 of the RSFSR Constitution and corresponding articles of the

Constitutions of other Union Republics). This formula in essence refers both to the acts of the Soviets themselves and to those of their executive and administrative organs.

The acts of local Soviets are *statutory instruments*. What has already been said with regard to the acts of organs of administration fully applies to the acts of their Executive Committees: these acts are adopted on the basis and in pursuance of all the acts of higher organs of state power and administration. A characteristic feature of the acts of local Soviets is, first, that they are adopted in many cases not only in pursuance of the acts of higher organs, but also on matters which lie within the exclusive jurisdiction of the local organ of power, that is, within the framework of the powers vested in it by law. Secondly, the acts of local Soviets may be repealed only by a higher Soviet (Art. 91 of the RSFSR Constitution and the corresponding articles of the Constitutions of other Union Republics). Higher Executive Committees are empowered to repeal decisions of lower Executive Committees, but they can only suspend decisions of a lower Soviet (Art. 90 of the RSFSR Constitution and the corresponding articles of the Constitutions of Union Republics).

In this way, while acts of Executive Committees of local Soviets are promulgated on the basis and in pursuance of the acts of all higher organs, the acts of local Soviets are issued by them within the powers vested in them by law. This, however, does not mean that a local Soviet need not abide by the acts of a Council of Ministers, ministries, departments and higher Executive Committees. On all matters lying within the jurisdiction of higher organs of administration, a local Soviet is guided both by the laws, decrees of the Presidium of the USSR Supreme Soviet and of the Presidiums of the Supreme Soviets of Union and Autonomous Republics, and by the acts of higher organs of administration and by the decisions of higher Soviets and their Executive Committees. This is stressed, in particular, in the laws of Union Republics relating to village, settlement, district and city Soviets.

The formula "within the powers vested in them by the laws of the USSR and the Union Republic" merely emphasises that not all the acts of a local Soviet represent the specification of the acts of higher organs; on many issues it takes decisions which independently govern particular relationships in the territory under its jurisdiction.

The special significance of the acts of a local Soviet is underlined also by the fact that, in accordance with the terms of the Statute on Procuratorial Supervision, they are not subject to procuratorial supervision. The procuracy exercises supervision only over acts issued by the executive and administrative organs of local Soviets, not over acts of the Soviets themselves. This is an expression of the principle that local representative organs of power shall not be subject to the control of any powers appointed from above.

As bodies with general jurisdiction, local Soviets and their Executive Committees deal with a wide range of matters relating to local economic, social, cultural and political development. The powers of local Soviets are set down in the appropriate legislation. On matters which lie within its jurisdiction, a Soviet takes decisions of a normative character. For example, many of the powers of a district, town or village Soviet relate to control over the fulfilment of economic development plans and the observance of legislation, the allocation of land plots, etc., and are not connected with the adoption of normative decisions. But the administration of enterprises and establishments subject to the control of the local Soviet presupposes the establishment of clear-cut procedures. A village Soviet, for example, approves the village budget and plans for economic, social and cultural development for which it is responsible and, taking local circumstances into account, fixes hours of work for the local shops, catering and other establishments which serve the local population. These decisions are normative in character.

The range of questions with regard to which town, district and especially regional Soviets and their Executive

Committees pass normative acts is very much wider. For example, current legislation vests territorial and regional Soviets with power to fix prices for some consumer goods produced by local industries; territorial, district, regional, and city Soviets lay down regulations governing behaviour in public places, the protection of woods and other "green belt" zones and sanitary conditions in populated localities.

A distinctive feature of the acts of local Soviets and their Executive Committees is that on matters that lie within the jurisdiction of the local Soviet they are mandatory not only for institutions subordinate to the Soviet, but also for all organisations, officials, and citizens in the area under its jurisdiction. This principle, which flows from the constitutional norms relating to local organs of state power, is set down in the legislation of the USSR and Union Republics—for example, in the Decree of the Presidium of the USSR Supreme Soviet of April 8, 1968 "On the Fundamental Rights and Duties of Village and Settlement Soviets of Working People's Deputies".

Decisions envisaging fines and other sanctions imposed in the administrative manner in the event of their infringement occupy a special place among the acts of local Soviets. These decisions apply to the whole population and to every enterprise and establishment in the area administered by the Soviet in question. They are of great educational importance, organising the management of local affairs in accordance with state laws. Decisions with administrative sanctions may be taken only by local Soviets themselves, not as formerly by their Executive Committees (Executive Committees may now issue such regulations only in connection with epidemics, epizooties and natural disasters). Village and settlement Soviets do not have these powers.

Local Soviets may not take decisions embodying administrative sanctions on all matters lying within their jurisdiction. Such decisions may be taken only in relation to a range of questions which is strictly defined by the law:

the protection of public order and amenities, the protection of housing, sanitary condition of populated localities and natural resources, the regulation of traffic and certain other matters.

Regional and city Soviets may adopt decisions with administrative sanctions only when the matter in question is not governed by acts of higher organs and when local conditions make the adoption of such acts necessary.

In accordance with the USSR Constitution, local organs of state power and administration issue two types of act: *decisions* and *orders*.

The acts of a session of a local Soviet are termed decisions. These constitute the basis of the work of the Executive Committee and its departments, and of all local organisations, enterprises and establishments. Orders, as acts of an executive nature, are not adopted at sessions of the Soviet, or are adopted only on procedural matters.

Decisions of a Soviet are approved at sessions by open vote, by a simple majority of the total number of deputies. They bear the signatures of the Chairman and Secretary of the Executive Committee.

On a number of matters decisions may be taken only by sessions of the local Soviet, not by Executive Committees. In addition to decisions containing administrative sanctions to which reference has already been made, these include decisions, relating to the formation of Executive Committee bodies and the confirmation of the plan and local budget.

The acts of the Executive Committees of local Soviets take the form of decisions and orders. The normative acts of Executive Committees are adopted in the form of decisions and on a collegiate basis, by a simple majority of the entire Executive Committee, and bear the signature of its Chairman and Secretary. Orders as a rule relate to specific questions, and bear the signature of the Chairman.

Current legislation requires that an Executive Committee shall bring a decision of a village or settlement Soviet to the notice of interested organisations, establish-

ments, officials and citizens within five days (seven in the case of city and district Soviets). The ways in which this may be done are extremely varied and depend upon the resources and facilities available to the particular Soviet. All the most important decisions of the Soviet and its Executive Committee are normally brought to the notice of the public through the local press and radio and by means of posters. Organisations and officials are informed by post.

Rules relating to the coming into force and period of operation of acts of local Soviets are usually laid down by the Soviets themselves. These acts usually come into force from the moment when they are brought to the notice of those to whom they are addressed. They become inoperative on repeal or on the expiry of the period laid down in the act itself.

A special procedure exists for the publication and operation of those decisions of local Soviets which lay down administrative sanctions. These must be brought to the notice of the public and of enterprises and establishments through the press and radio, and by display in prominent places. They are issued for terms not exceeding two years, after which they become invalid and may be renewed by the adoption of new decisions.

Chapter III THE DEMOCRATIC FOUNDATIONS
OF THE LEGISLATIVE ACTIVITY
OF THE SOVIET STATE

1. THE CONSTITUTIONAL BASIS
OF LEGISLATIVE ACTIVITY IN THE USSR

Current Soviet legislation is based upon the Constitutions of the USSR and of the Union and Autonomous Republics. These documents contain the most important norms defining the legislative powers of the supreme representative bodies. They also lay down the Soviet legislative process.

The norms of the Soviet Constitutions lay down a wide range of social relationships which require legislative regulation. An analysis of these norms shows that the law is called upon to establish the most substantive and stable relationships.

We shall consider some groups of these relationships, in the first place those relating to state law. Among these those which are regulated by Constitutions may be considered fundamental. The adoption and amendment of Constitutions lies within the exclusive jurisdiction of the supreme representative bodies of the USSR and of the Union and Autonomous Republics. The Constitutions establish the social and state structure of the USSR, the system and basic principles governing the organisation and functioning of state organs, and the fundamental principles governing the legal status of the citizen in Soviet society and in the Soviet state.

It is quite natural that the Constitution of the USSR and those of the Union and Autonomous Republics, although based on common principles, should differ with regard to the range of relationships which they regulate, the degree of detail, etc. Nevertheless, the object of constitutional regulation is clearly defined. This gives a clear picture of the range of social relationships which are considered to be fundamental in the USSR.

The Soviet Constitutions in the first place lay down the fundamental principles governing the social structure. All have special (first) chapters dealing with this institution. In addition, there is extensive legislation which develops and gives concrete form to these constitutional principles. The necessity for the adoption of statutory enactments of this kind flows from the Constitution of the USSR, and also from the Constitutions of the Union and Autonomous Republics.

Laws which primarily contain norms of state law, develop the constitutional principles asserting that state power belongs to the working people and relating to the forms in which popular rule is implemented and to the representative bodies—the Soviets of Working People's Deputies—which constitute the political basis of the USSR.

The Constitutions and current legislation define the status of the deputies of Soviets. Norms relating to the legal status of deputies are contained in a variety of statutory enactments. With a view to enhancing the role, work and prestige of deputies, the USSR Supreme Soviet in 1972 adopted a Law on the Status of Deputies which defines the status of members of Soviets at all levels and their powers and rights, and which also lays down the duties of officials with respect to deputies.

There is a group of laws which define the legal status of social or mass organisations. The fundamental principles governing their structure and activity are set down in all Soviet Constitutions. In addition, an extremely wide range of relationships to which social organisations are parties are regulated by current legislation. It is laws which in

the first instance govern relationships between mass organisations and state bodies. For example, only laws regulate the relations between these organisations and the representative organs of state power. Laws lay down the manner in which social organisations participate in the work of the standing commissions of supreme representative bodies. The procedure governing the participation of mass organisations in the recall of deputies is laid down by special laws adopted in accordance with the relevant prescriptions of the USSR Constitution (Art. 142) and of the Constitutions of the Union Republics. Many aspects of the participation of mass organisations in the work of local government bodies are governed by laws relating to village, settlement and also regional, city and ward (city district) Soviets.

These laws customarily lay down the specific powers of mass organisations with respect to accomplishment of state tasks, regulate their relations with organs of the state, impose responsibilities upon the latter regarding assistance to the mass organisations, etc. The very nature of these relationships makes regulation by means of state law necessary.

A law—that is, an act adopted by supreme representative bodies standing above all other state bodies—is the most appropriate means of regulating these relationships. This is because the mass organisations play an important role in the implementation of the citizen's constitutional rights and duties.

The law is also the fundamental legal form governing the legal status of the individual in socialist society. The norms of state law laying down the citizens' rights and duties are in the first instance to be found in the Constitutions. Such norms are also to be found in current legislation regulating the relationships between the citizen and organs of state power and the ways in which the citizen participates in the exercise of popular rule. For example, the USSR Constitution places legislation on Union citizenship and the rights of foreign nationals within the juris-

diction of the USSR Supreme Soviet (Art. 14 xxii). The USSR Constitution provides for the adoption of a whole range of laws developing its provisions relating to the fundamental rights and duties of citizens. The Constitution in particular lays down that freedom of speech, freedom of the press, freedom of assembly and rallies and freedom of street processions and demonstrations are guaranteed by law (Art. 125).

In conformity with Art. 14 of the USSR Constitution, the Fundamentals of Legislation of the USSR and the Union Republics on Labour (Art. 14 xx), on Marriage and the Family (Art. 14 xxiii), on Public Education (Art. 14 xviii), on Public Health (Art. 14 xviii) and others were adopted. These contain norms ensuring extensive rights and freedoms for the citizens and establishing their basic duties.

Social relationships in the sphere of national-state structure are in the main regulated by constitutional legislation. They are at the same time set down in many conventional laws adopted in order to implement and develop constitutional norms. Such laws include those relating to the admission of new Union Republics into the USSR, the reclassification of Union and Autonomous Republics, the extension of the powers of Union Republics and many other measures. These laws are based upon clauses in the USSR Constitution (Art. 14 iii and vi).

The USSR Constitution and also those of the Union Republics place the regulation of relationships in the sphere of administrative and territorial structure within the jurisdiction of supreme representative bodies. Although the Constitutions do not directly insist upon the utilisation of the form of law, the nature of these relationships requires that they be established in statutory enactments of Supreme Soviets. This is confirmed by legislative practice.

The legislative and, in particular, the constitutional regulation of the state structure is made necessary by the exceptional political importance of this institution, which combines various state-law forms of the realisation of

sovereignty and the right of nations to self-determination. These forms can be established only by a supreme representative organ, a body which expresses the sovereignty of the people.

The national-state structure is the basis of the entire system of state bodies, above all of the representative bodies.

Statutory enactments also define the system of state organs and the fundamental principles governing their legal status.

Elections to the Soviets are governed by Statutes approved by decrees of the Presidium of the USSR Supreme Soviet and of the Presidiums of the Supreme Soviets of the Union Republics.

A number of matters relating to electoral law, such as the procedure for the recall of deputies to the USSR Supreme Soviet and the Supreme Soviets of Union and Autonomous Republics and also of deputies to local Soviets are governed by laws adopted in accordance with constitutional requirements.

The legal status of representative bodies, their powers and forms of work are in the first instance governed by the Constitutions and by the standing orders of the Supreme Soviet themselves. The Standing Orders of the Lithuanian and Uzbek Supreme Soviets, for example, were set down in laws adopted in these republics on July 16, 1969 and June 24, 1970, respectively. Standing Orders in the majority of cases set out the rules governing the procedure of the bodies in question, in particular the legislative process.

The Statute on the Standing Commissions of the Soviet of the Union and Soviet of Nationalities of the USSR Supreme Soviet was approved by a law of the USSR. The RSFSR Supreme Soviet adopted a Statute on the Standing Commissions of the RSFSR Supreme Soviet. Similar acts were adopted in other Union and Autonomous Republics. Nor is this accidental. The relationships governed by these laws are not matters of the internal organisation

of the bodies concerned; frequently they go beyond the bounds of the internal procedures of the Supreme Soviets. Many of the norms laid down in these Statutes are of general significance. They not only lay down the rights and duties of the standing commissions; they also determine the rights and duties of other state bodies, and also of social organisations and citizens.

The legal status of local representative bodies is regulated by the supreme organs of power. The Constitutions lay down that measures are adopted by local Soviets of Working People's Deputies within the framework of the powers vested in them by the laws of the USSR and of the appropriate Union and Autonomous Republic. According to the RSFSR Constitution (Arts. 76 and 102), the RSFSR Supreme Soviet confirms the Statute on an Autonomous Region and adopts that relating to national areas.

A number of new statutory enactments have recently been adopted at all-Union and Union-Republican level relating to particular links in the system of local Soviets—village, settlement, district, city and ward Soviets. These measures mark a new stage in the improvement of the work of local government bodies.

Laws also define the fundamental principles governing the legal status of other state bodies (organs of state administration, the courts and the procuracy). The status of the supreme representative body enables it to invest other organs of state with the necessary powers.

Laws on national economic plans are adopted in accordance with constitutional requirements. Economic planning is prompted by the objective laws governing the development of the socialist economy. The exceptional importance of the plan in the achievement of the nationwide objectives and in the satisfaction of the needs of society, and the interests of stability of the planning process make it necessary for such acts to be adopted by the supreme representative body in the form of a law.

The same reasons make it necessary to adopt laws on the State Budget, as envisaged by the USSR Constitution

(Art. 14 xi) and the Constitutions of the Union and Autonomous Republics.

Under the Constitution, the fixing of taxes and other revenues making up all-Union, republican and local budgets lies within the exclusive jurisdiction of the supreme representative bodies. Developing the constitutional norms, the all-Union law of October 30, 1959 "On the Budgetary Powers of the USSR and Union Republics" lays down that "tax payments by members of the public shall be determined by the USSR Supreme Soviet". Payments to the USSR State Budget by state enterprises and economic organisations, collective farms, co-operative systems and enterprises belonging to social organisations "shall be determined by laws of the USSR and decisions of the USSR Council of Ministers issued in accordance with them".

The Soviet Constitutions make provision for the legislative regulation of a wide range of social relationships which constitute the subject of the appropriate branch of law.

For example, the USSR Constitution places the establishment of the basic principles governing land tenure and the use of mineral wealth, forests and waters within all-Union jurisdiction (Art. 14 xvii). Republican Constitutions place legislation in these areas within the jurisdiction of Union Republics (see, for example, Art. 19 xv of the RSFSR Constitution).

Laws of major importance, such as the Fundamentals of Health Legislation, Civil Legislation, Civil Procedure, of Legislation on Marriage and the Family, of Labour Legislation and of Land and Water Legislation, and in the Union Republics—civil and civil procedure codes, marriage and family codes, land codes and other laws have been adopted in pursuance of the USSR Constitution. Fundamentals of Criminal Legislation, of Criminal Procedure and of Corrective Labour Legislation, and of legislation relating to the judicial system have also been adopted in accordance with that Constitution. Criminal,

criminal procedure and corrective labour codes and other laws have been adopted in accordance with the Constitutions of the Union Republics.

The USSR Constitution thus contains the starting points for all branches of current legislation. It is characteristic that almost all laws of the USSR are adopted on matters whose statutory regulation is envisaged by constitutional norms.

The Constitutions contain the basic norms governing the legislative process in the USSR. The USSR Constitution, for example, contains an article referring to the equal right of the two chambers of the USSR Supreme Soviet to initiate legislation (Art. 38). Constitutional norms establish the procedure for the convening of sessions of supreme representative bodies and also for the adoption of both constitutional and conventional legislation and its promulgation.

These constitutional principles of the legislative process are examined in the appropriate sections of the present work.

2. THE FUNDAMENTAL PRINCIPLES OF THE LEGISLATIVE ACTIVITY OF THE SOVIET STATE

The fundamental principles of legislative activity are the most important, basic principles which govern the work of the legislative organs of the Soviet socialist state, and which ensure the effective and fullest reflection in law of the will of the Soviet people headed by the working class.

These principles are not the arbitrary expression of the will of some particular body or official. They reflect and take into account the objective factors which influence the legislative regulation of social relationships in the USSR (the economic basis of Soviet society and its class structure), and various factors of social consciousness (the policy

of the Communist Party and the interests of Soviet citizens), the class volitional essence of our law, its purport, the level of culture and legal consciousness of the people and other factors and circumstances.

Insofar as the fundamental principles of legislative activity reflect the objective laws governing the development of Soviet society, their implementation is vitally important and necessary for the Soviet state.

But the objectively determined character of these principles does not mean that they operate in an automatic, spontaneous fashion. Having recognised the nature of these principles, organs of state are guided by them in their work of drafting and issuing laws.

The principles governing the legislative activity of the Soviet state took shape during the stage of the dictatorship of the proletariat on the basis of the writings of Lenin, the Party Programme and the decrees of Soviet power. Lenin's ideas which lie at the basis of these principles to this day determine the character and course of work of Soviet legislative bodies. Naturally, they have today been enriched with a new content which expresses the fact that Soviet legislation now reflects the will of the people as a whole and which corresponds to the changing economic and social structure of Soviet society.

Legislation is a component part of the political and legal superstructure of Soviet society. Therefore some of the principles governing legislative activity reproduce the content of the fundamental principles which are in general characteristic of the state-law superstructure of Soviet society: the leading role of the CPSU, democratism, internationalism, the rule of law. The principles of legislative activity at the same time mirror the distinctive characteristics of the law-making process.

Communist Party guidance of the work of state organs in the preparation and adoption of legislation is of prime importance. This is because the Communist Party plays the leading role in the system of political organisation of socialist society.

The legislative process embodies in law the policy of the CPSU, which expresses the fundamental interests of the classes and social groups making up Soviet society. Therefore, as Soviet society advances to communism, and as the leading and guiding role of the CPSU in the building of communism grows, so the policy pursued by the CPSU with respect to the legislative process gains in importance.

This principle finds clear expression in the CPSU's guidance of the legislative activity of organs of state. In developing the theory of scientific communism, the Party creates the scientific foundation of Soviet law, charts the main line of advance and focuses attention on the most important tasks in the legislative sphere. The programme decisions of congresses of the CPSU and of plenary meetings of its Central Committee constitute the basis for the major statutory enactments. In a number of instances the decisions of Central Committee plenary meetings determine the content of specific enactments. The 24th Congress of the CPSU, for example, declared it necessary to establish in law the status of deputies of Soviets at all levels, their powers and their rights, and also the duties of officials with respect to them. Such a law was adopted by the USSR Supreme Soviet in September 1972.

The Central Committee of the CPSU directly participates in the drafting of key statutory enactments, when necessary tabling drafts in the USSR Supreme Soviet.

The Communist Party initiates nationwide discussions of the most important draft laws; it convenes conferences of those working in various branches of the national economy, science and culture; it organises the broad exchange of opinion on state affairs in order to bring to light the will of the Soviet people, which is then embodied in legislation.

The Party also guides the work of legislative bodies through those of their deputies who are Party members. By taking part in the legislative work of these bodies,

Communist deputies carry out the policy of the CPSU and ensure that Party decisions find legal expression.

Another fundamental principle underlying the legislative activity of the Soviet state—that of *socialist democratism*—is also of great importance. This principle directly reflects the main line of development of socialist statehood in the period of transition to communism. Democratism is inherent in the socialist system; without democracy Soviet society cannot continue to advance. Soviet legislation is based upon the maximum consideration of public opinion, the will and interests of the mass of the people. The more fully and the more vigorously the mass of the people participate in the creation of legislative norms, the more fully and adequately will these norms reflect their interests and aspirations, and the more effective will be their impact upon social development.

The socialist democratism of the Soviet legislative process finds expression above all in the fact that Soviet legislative bodies are made up of workers, peasants and working intellectuals—that is, of representatives of all the groups comprising Soviet society. The role of members of legislative bodies in the drafting, discussion and adoption of new legislation grows with each year. Deputies actively participate in the preparation and discussion of various questions in the legislative bodies, in the preparation of the materials for such discussions, and in the control over the observance of the laws adopted. The increase in the number of standing commissions of the USSR Supreme Soviet and of the Supreme Soviets of Union Republics, the broadening of their terms of reference and the activation of their work with regard to the drafting of statutory enactments assist deputies in their work.

The participation of the mass organisations of the working people in the legislative process is another expression of socialist democratism.

Draft legislative enactments affecting the interests of members of a particular organisation are drawn up taking into account the views of the organisation and its lead-

ing bodies. In the case of the trade unions—a mass social organisation—the Fundamentals of Labour Legislation give the All-Union Central Council of Trade Unions the right to initiate legislation.

The principle of democratism also finds expression in the direct participation of members of the public in the discussion of draft laws and in the constitutional provision for the adoption of laws by means of a referendum.

The combination of the general and national interests of the peoples of the USSR in the legislative activity of the Soviet state is a principle characterising the federative nature of Soviet legislation. This is an expression of the internationalist approach of the Communist Party and the Soviet state to the establishment of statutory norms, while the federative character of the state is also taken into account. Giving flesh and blood to this principle, the Soviet state constantly takes into account the interests both of the Union as a whole and of each of the Union Republics in an equal measure. The Union Republics, through their representatives in the USSR Supreme Soviet and its Presidium, participate on equal terms in the adoption of all-Union legislation, safeguarding the interests of each republic.

The Union Republics, as sovereign states, also exercise their own legislative authority. The Autonomous Republics also carry on substantial legislative activity within their jurisdiction.

As a result, Soviet legislation constitutes a complex system made up of all-Union laws and the laws of the Union and Autonomous Republics. This system ensures uniformity of legislation. It at the same time ensures the full expression both of the interests of the Soviet people as a whole and of the peoples of each Union and Autonomous Republic.

The principle of socialist legality is of great importance in the legislative activity of the Soviet state. It implies that legislative bodies function strictly in accordance with the Constitution, which lays down the fundamental principles

governing the law-making process, the procedure for the adoption of laws and for their coming into force.

The principles governing the legislative activity of the Soviet state are not isolated from each other but are all interconnected and interdependent by virtue of the unity of the economic foundations and social essence of the Soviet society and state. By consistently implementing these principles and developing and enriching their content on the basis of the present-day practical experience of the legislative activity of the supreme organs of state power, the Communist Party and the Soviet state ensure that legislation shall have a high degree of effectiveness in carrying out the tasks of communist construction.

1. THE LEGISLATIVE ACTIVITY
OF THE USSR SUPREME SOVIET AND THE SUPREME
SOVIETS OF UNION REPUBLICS

Legislative activity in the USSR is carried on by the supreme organs of state power.

In accordance with Art. 32 of the USSR Constitution, legislative authority in the USSR belongs exclusively to the USSR Supreme Soviet.

The legislative authority of Union and Autonomous Republics is exercised by their Supreme Soviets in accordance with their Constitutions.

The higher organs of state power are guided by the Communist Party in all their work, including their legislative activity.

The Communist Party sees the improvement of Soviet legislation as an issue of major importance.

The Party's efforts in this sphere find vivid expression in the work of the USSR Supreme Soviet. The Central Committee of the CPSU has many times proposed the adoption of laws on the most important issues of political, economic, social and cultural development to the Supreme Soviet.

It is a characteristic feature that many issues of state law and Soviet development are regulated by laws, including laws passed by the Supreme Soviets of Union and Autonomous Republics.

During the decade preceding the election of the Ninth Supreme Soviet in 1974, a series of major all-Union legislative enactments were passed, including the Fundamentals of all-Union and Union-Republican legislation relating to marriage and the family, labour, land and water utilisation, public health, education, offices of the state notary, etc.

Soviet legislation has become more precise, more stable and more democratic. It fully corresponds to the present-day needs of the development of the USSR.

To obtain a clearer picture of the work of the USSR Supreme Soviet, we may examine the matters considered at sessions of the Eighth Supreme Soviet.

At the first session held in July, 1970 in addition to procedural matters (the election of Credentials Commissions, the formation of Standing Commissions of the Soviet of the Union and the Soviet of Nationalities, the election of the Presidium of the USSR Supreme Soviet and the formation of the government of the USSR—the Council of Ministers), the Supreme Soviet also considered the draft Fundamentals of all-Union and Union-Republican labour legislation. These Fundamentals constituted the first codified all-Union labour law in the history of the Soviet state, regulating all the basic relationships in the sphere of labour, wages, working hours, rest and leisure, and workers' participation in management. Union-Republican Labour Codes have now been adopted on their basis.

The agenda for the second session held in December 1970 included the 1971 Economic Plan, the 1971 Budget and a report on the 1969 Budget, draft Fundamentals of all-Union and Union-Republican water legislation and the approval of decrees issued by the Presidium of the USSR Supreme Soviet in the interval between the first and second sessions. The Fundamentals of the water legislation of the USSR and the Union Republics, which the session approved are designed, like those relating to land legislation adopted previously, to ensure the conservation

and rational utilisation of the natural wealth of the Soviet Union. The use of water in the Soviet Union is growing rapidly as a result of industrial expansion, urban development and the development of agriculture, especially through the extension of irrigated areas, and also as a result of the improvement of the living standards and cultural level of the population. Water provision and conservation is becoming a serious problem, upon the solution of which the country's economic development hinges to a certain extent. The legislative regulation of the basic questions of water conservation and utilisation is therefore of great importance.

At its third session in November 1971 the Eighth Supreme Soviet approved the 1971-1975 Five-Year Economic Development Plan. Laws on the 1972 Economic Plan, the 1972 Budget and on the fulfilment of the 1970 Budget were adopted. The session also approved decrees issued by the Presidium in the interval between the second and third sessions.

At its fourth session in September 1972 the Eighth Supreme Soviet considered measures further to improve the conservation and rational utilisation of natural resources. The Supreme Soviet adopted a decision designed to strengthen environmental protection. The same session adopted an all-Union law "On the Status of Deputies of Soviets of Working People's Deputies in the USSR", which defined the basic powers of members of Soviets at all levels, and also the duties of organs of state and officials in relation to deputies. The law enhanced the powers of deputies, indicated the main lines of their work in the Soviet and in their constituencies and laid down the main guarantees relating to their work. This measure marked a new step forward in the development of socialist democracy, the consolidation of Soviet statehood and the enhancement of the role of the Soviets in the building of communism. It helps to improve the work of deputies, further raise their prestige and increase their responsibility to their electors.

The agenda of the fifth session (December 1972) included the following items: the 1973 Economic Plan, the 1973 Budget and a report on the fulfilment of the 1971 Budget.

The sixth session (July 1973) considered public education and measures to improve general secondary, specialised secondary and higher education and also vocational training. It considered draft Fundamentals of all-Union and Union-Republican legislation on education. Four reports dealing with education were presented: by the First Deputy Chairman of the USSR Council of Ministers on the state of education and on measures further to improve it and on the draft Fundamentals of legislation on education; by the USSR Minister of Education on the state of general secondary education and measures to improve it; by the Chairman of the State Committee on Vocational Training on the state of vocational training and measures to improve it, and by the USSR Minister of Higher and Specialised Secondary Education on the state of specialised secondary and higher education and measures to improve it.

The detailed consideration of these problems in the chambers was facilitated by the fact that they had previously been the subject of detailed examination by the standing commissions on education, science and culture, legislative proposals and youth affairs. The commissions submitted a number of proposals to the deputies.

Thirty-nine deputies took part in the debate. The commissions' co-reports and the speeches of deputies contained a critical analysis of particular aspects of the education and upbringing of young people. Comments were addressed to the ministries and departments concerned. Calls were made for increased attention to be paid to educational planning, and to the specialisation and re-equipment of schools.

The discussion was fruitful; it enabled the standing commissions and deputies to analyse the state of affairs in each branch of education in depth. It enabled them the

better to perceive both positive and negative aspects, and to indicate the most promising lines for future development.

Taking into account the criticisms and proposals of the commission and deputies, the Supreme Soviet approved the Fundamentals of Legislation on Education and adopted a decision "On the State of Education and Measures Further to Improve General Secondary, Specialised Secondary and Higher Education and Vocational Training in the USSR".

The Fundamentals of Legislation on Education reflect the Soviet Union's immense achievements in the education and communist upbringing of young people. They set down the main principles guiding the Soviet educational system and affirm its genuinely democratic character. They give legislative expression to the most important regulations governing general secondary education, vocational training, specialised secondary and higher education, pre-school and extra-mural education. They define the main aims of all the links in the country's educational system.

The decision of the USSR Supreme Soviet, while approving the government's work in this field, also pointed to some shortcomings in the work of administrative bodies and indicated the main lines of development for education in the coming period. It highlighted the consistent implementation of measures to improve all forms of education in accordance with the needs of the development of the economy, science and culture and the demands of scientific and technological progress, and the completion of the transition to universal secondary education during the ninth five-year plan, as major tasks confronting the country.

The sixth session also adopted a law "On Offices of the State Notary." This regulates the main issues involved in the organisation and work of these bodies, laying down their powers and the regulations governing the performance of notarial actions. It also regulates the work of Offices of the State Notary in relation to aliens and stateless persons. It contains clauses safeguarding the rights and

lawful interests of citizens when they perform notarial actions.

The seventh session of the Eighth Supreme Soviet (December 1973) considered the 1973 Economic Plan, the 1973 Budget and a report on the fulfilment of the 1972 Budget. It endorsed decrees issued by the Presidium of the USSR Supreme Soviet.

All items on the agenda are as a rule fully discussed. For example, 147 deputies contributed to discussions on economic plans and budgets at sessions of the Eighth Supreme Soviet. They described the advances which had been made in the localities, districts and republics in economic, social and cultural development. They indicated shortcomings in the fulfilment of plan assignments and the utilisation of reserves, and pointed to the reasons for these shortcomings. They criticised mistakes in the work of enterprises and economic bodies and made proposals and comments addressed to all-Union and republican bodies.

One of the most important functions of the USSR Supreme Soviet is that of supervising the observance of the USSR Constitution and of Soviet laws, and of verifying that state bodies are fulfilling their functions in the sphere of both internal and foreign policy in a proper manner. The work of the Supreme Soviet is based on the constitutional principle that the Government of the USSR, all ministries and departments, the Supreme Court, the Procurator-General of the USSR and other state organisations are accountable to it.

The USSR Supreme Soviet devotes much time to foreign policy. It has adopted a number of important documents aimed at the relaxation of international tension, the consolidation of peace and international security, the enhancement of the international standing of the USSR and the reinforcement of its defence capacity.

The legislative activity of the Supreme Soviets of the Union Republics is expanding rapidly.

During recent years they have adopted laws governing the procedure for the recall of deputies from Republican

Supreme Soviets and from local Soviets. They have approved new legislation on the judicial system and adopted new codes of criminal law and criminal procedure, corrective labour, civil, civil procedure, land and water codes, codes of laws relating to marriage and the family, labour codes, and laws on health, public education, etc.

The increased activity of the USSR Supreme Soviet and of the Supreme Soviets of the Union and Autonomous Republics finds expression not only in an increase in the number of laws, but also in an enlargement in the range of social relationships governed by laws. This includes relationships which hitherto were regulated by statutory instruments. Laws generalise the practical experience of state, economic, social and cultural development. They help the socialist state to fulfil its functions.

Laws have replaced many statutory instruments in the sphere of state law, the government structure and legal-administrative relationships. In recent years Supreme Soviets have adopted a number of laws setting down the legal principles governing state administration in many branches. Legislation has increasingly regulated relations in the spheres of health, culture, education and conservation of nature.

Prior to 1971, five-year plans were approved by government enactments. At the 24th Congress of the CPSU it was stated that the Ninth Five-Year Plan should be submitted to the USSR Supreme Soviet. In line with this, the USSR Supreme Soviet in 1971 approved the 1971-1975 Five-Year Plan.

Until 1958 all annual economic plans were likewise approved by government enactments. Since then it has become the practice for the USSR Supreme Soviet to adopt annual economic plans in the form of laws.

The content of laws relating to economic plans has also changed substantially. Prior to 1964 they did not lay down any detailed indices for economic and cultural development. They merely indicated approval of the plan

drawn up by the USSR Council of Ministers in co-operation with the Councils of Ministers of the Union Republics. Laws approving annual plans now include the main indices from the plan's general section.

An all-Union law of October 30, 1959 "On the Budgetary Powers of the USSR and Union Republics" placed the budgetary system within the jurisdiction of Union Republics. This system is laid down by the Supreme Soviet of a Union Republic (Art. 33). Republican legislation regulates the budgetary powers of Autonomous Republics and local Soviets and the delimitation of the budgetary revenues and expenditures of Union Republics between the budgets of the Union Republics, the Autonomous Republics and local budgets.

It should also be noted that in approving state budgets the Supreme Soviets of Union Republics may increase the total of revenue and expenditure laid down for each republic in the USSR state Budget, though without altering allocations from all-Union taxes and revenues. Additional revenues received during the fulfilment of republican budgets remain at the disposal of the republic. They are used to finance economic, social and cultural measures in the manner laid down by all-Union and republican legislation.

Increased legislative regulation of labour relations is another characteristic feature. The USSR Supreme Soviet adopted a number of important enactments in this area. These included laws relating to the completion of the transition to the seven- and six-hour working day in 1960. The pay of workers in a number of industries and in culture has been increased. On July 14, 1956 a law "On State Pensions" was approved, and on July 15, 1964 a law "On Pensions and Grants to Collective Farmers". The most important measure in the field of labour law were the Fundamentals of Labour Legislation of the USSR and Union Republics adopted in 1971. On the basis of these Fundamentals, new Labour Codes have been adopted in all the Union Republics.

The legislative regulation of land, water, property, family, procedural and other relationships has broadened in scope.

Relationships in the sphere of state administration are likewise increasingly subject to legislative regulation.

The legislative regulation of social relationships has increased. This has found expression particularly in the codification of legislation. Since 1958 codifying acts have prevailed among laws. Their distinguishing feature is that they almost fully or even exhaustively regulate the relations with which they deal. This is the case, for example, with the criminal, criminal procedure and corrective labour legislation. This is due to the exceptional political importance of these relationships.

In a number of instances the advantages of overall regulation of related social relationships by a single legislative enactment have been taken into account.

The detailed legislative regulation of social relationships is in many instances an important guarantee of the subjective rights of the citizen, for example in the case of the criminal procedure and civil procedure law.

2. THE LAW-MAKING ACTIVITY OF THE PRESIDUM OF THE USSR SUPREME SOVIET AND OF THE PRESIDUMS OF THE SUPREME SOVIETS OF UNION REPUBLICS

The general picture of legislative activity in the Soviet state would be incomplete without an analysis of the legislative powers of the Presidium of the USSR Supreme Soviet.

In accordance with Art. 48 of the USSR Constitution, the USSR Supreme Soviet elects its Presidium at a joint session of its two chambers. The Presidium consists of a Chairman, 15 deputy chairmen (one from each Union Republic), a Secretary and 20 members. By tradition the

chairmen of the Presidiums of the Supreme Soviets of the Union Republics are elected as deputy chairmen, thus making provision for the participation of republican representatives in the work of the Presidium. The Presidium is made up exclusively of deputies. The Presidium is accountable to the Supreme Soviet, while the central organs of administration, the Supreme Court and the Procurator's Office are in turn accountable to the Presidium. This accounts for some specificities in the Presidium's composition: the chairmen and deputy chairmen of the chambers of the USSR Supreme Soviet, members of the Government of the USSR, members of the Supreme Court of the USSR and the Procurator-General of the USSR are not eligible for election to the Presidium.

The distinctive features of the legislative activity of the Presidium are governed by its status in state law.

The nature of the USSR Supreme Soviet as a working representative body and the sessional manner of its activities have made it necessary for the Presidium to fulfil the functions of state power in the intervals between sessions.

The Presidium is at one and the same time a supreme government body (it is a permanently functioning organ of the USSR Supreme Soviet, to which it is accountable in all its activities), and the collective head of the Soviet state.

It therefore performs dual functions. First, between sessions of the Supreme Soviet the Presidium exercises a number of the functions of the Supreme Soviet subject to subsequent ratification by a session of that body. These include the dismissal and appointment of individual ministers, the declaration of a state of war in the event of armed attack on the USSR or in fulfilment of international treaty obligations relating to mutual defence against aggression, and also the issuance of decrees amending the legislation in force (USSR Constitution, Art. 49 ii, vii and xiii).

Secondly, the Presidium fulfils functions which lie wholly within its jurisdiction. It interprets the law and insti-

tutes orders and medals, titles of honour and military titles, diplomatic ranks and other special titles. Thus, to commemorate the 50th anniversary of the formation of the USSR the Presidium in December 1972 instituted the Order of the Friendship of the Peoples for great services to the friendship and fraternal co-operation between socialist nations and nationalities and to the economic, social, political and cultural development of the USSR and the Union Republics. The Presidium also issues decrees on the award of Orders and Medals, on pardon and on the admission to and renunciation of Soviet citizenship.

The nature of the Presidium's functions determines its role in the fulfilment of legislative functions and the specific form assumed by its legislative activity.

It carries out its legislative activity as a supreme organ of state power and in a manner which is inseparably linked with the powers of the USSR Supreme Soviet.

The status of the Presidium in state law determines the juridical force of its enactments. The decisions of all organs of state power and administration are adopted on the basis and in pursuance of the laws of the USSR and the decrees of the Presidium of the USSR Supreme Soviet.

The place and role of the Presidium in the legislative process is also underlined by the fact that the USSR Supreme Soviet frequently gives it assignments regarding legislation. For example, the laws of the USSR "On the Approval of the Fundamentals of Land Legislation of the USSR and Union Republics", "On the Approval of the Fundamentals of Water Legislation of the USSR and Union Republics", "On the Approval of the Legislation of the USSR and Union Republics on Public Education" and a number of other enactments instruct the Presidium to determine the procedure by which they shall be implemented.

The USSR Constitution lays down that the Presidium is accountable to the Supreme Soviet in all its work. The Presidium submits normative decrees issued in the inter-

vals between sessions to the Supreme Soviet for ratification. Such ratification implies that the normative enactments of the Presidium assume the force of law and that the USSR Supreme Soviet approves the work the Presidium has carried out between sessions.

Various forms of ratification of decrees, depending upon the nature of the decrees in question, have evolved in the work of the USSR Supreme Soviet. Normative decrees, as has already been noted, are ratified in the form of laws; decrees relating to the appointment, dismissal and transference of officials are ratified by decisions. Normative decrees therefore constitute a form of legislation not only by the Presidium but also by the USSR Supreme Soviet. This is confirmed by cases in which matters usually subject to decrees of the Presidium have been regulated by laws. For example, in August 1966 the USSR Supreme Soviet adopted a law setting up a Union-Republican Ministry of Education. The formation of USSR ministries is usually dealt with by means of decrees.

The submission of decrees for ratification by the USSR Supreme Soviet takes place in the following way, in accordance with a procedure which has evolved in practice. Proposals regarding ratification and a list of the decrees concerned are considered at a meeting of the Presidium prior to a session of the Supreme Soviet. The Presidium adopts a decision instructing its Secretary to report to the Supreme Soviet on the matter in question.

The legislative activity of the Presidium is substantial and varied. Its decrees deal with questions of Soviet state structure and administration, with labour, financial, administrative, criminal, civil and family law, economic, social and cultural development and other urgent problems of national importance.

Matters relating to the safeguarding of the democratic rights and freedoms of the citizen, the extension of the powers of local government bodies and the improvement of economic management figure prominently in the Presidium's work.

The Communist Party and the Soviet state have always attached great importance to the proper and prompt consideration of proposals, statements and complaints received from citizens. A decree adopted by the Presidium on April 12, 1968, setting down the procedure for the examination of these proposals, statements and complaints is imbued with this concern. The proposals of working people are regarded as an important form of popular participation in the affairs of the state. In the present-day conditions of the development of Soviet society, says the decree, complaints are a means by which the citizen reacts to the infringement of his rights and interests safeguarded by law. They are a means by which these infringements are eradicated and averted. It is the duty of all governmental and social bodies to ensure the necessary conditions for the implementation of the right to submit complaints which is guaranteed to citizens of the USSR. The decree lays down disciplinary measures and establishes criminal responsibility for violation of the procedure relating to the examination of statements and complaints from members of the public.

An important measure is the Presidium's approval of the Statute on the Rights of Factory and Local Trade Union Committees (September 27, 1971). The objectives of Soviet trade unions include the protection of the lawful interests of the working people and the improvement of their living and working conditions, the provision of improved rest and leisure facilities and control over the observance of labour legislation. The Statute provides for extensive participation of working people in management. It gives trade union committees powers which enable them to exert a greater influence upon all aspects of the work of production collectives.

The Presidium has established uniform fundamental principles governing the work of local organs of state power throughout the USSR. It has adopted decrees "On the Basic Rights and Duties of Village and Settlement Soviets of Working People's Deputies", "On the Basic

Rights and Duties of District Soviets of Working People's Deputies", and "On the Basic Rights and Duties of City and Ward Soviets of Working People's Deputies". These acts have extended the powers of local Soviets which are now competent to decide a number of questions. Their material and financial basis has been strengthened and their democratic procedures improved. New laws relating to village, settlement, district, city and ward Soviets have been drafted and adopted in all Union and Autonomous Republics on the basis of the Presidium's decrees.

The Presidium also adopts decrees relating to the work of state administration bodies.

In accordance with the Constitution, the Presidium considers urgent questions relating to the system of state administrative bodies. Thus, in response to proposals submitted by the USSR Council of Ministers, the Presidium issued decrees establishing the USSR Ministry of Justice and the USSR Ministry of Livestock and Fodder Production Machinery, while the Committee of Standards, Measurements and Measuring Instruments of the USSR Council of Ministers was reconstituted as the State Committee of Standards of the USSR Council of Ministers. The Press Committee of the USSR Council of Ministers was likewise re-constituted as the Union-Republican State Committee of the USSR Council of Ministers on Publishing, Printing and the Book Trade, and the Cinematography Committee of the USSR Council of Ministers was re-constituted as the Union-Republican State Committee of the USSR Council of Ministers on Cinematography.

The Presidium issues decrees on economic and related matters. It has, for example, promulgated decrees "On the Participation of Collective and State Farms, and of Industrial, Transport, Construction and Other Enterprises and Economic Organisations in Road-Building and Repair Work", and "On the Procedure Governing the Transference of Experimental Enterprises Hitherto under the Control of Local or Republican Bodies to All-Union Control".

The USSR Merchant Marine Code approved by the Presidium's decree of September 17, 1968 contributes to economic development and greatly assists the Soviet merchant marine and fishing fleet.

Following the Presidium's ratification of the international conventions for the suppression of unlawful seizure of aircraft and for suppression of unlawful acts against the safety of the civil aviation the Presidium in January, 1973 adopted a decree "On Criminal Responsibility for the Seizure of Aircraft" which introduced heavy penalties for this offence. In March of the same year a decree "On the Compensation for the Harm Caused to the Crews of Civil Aircraft During the Performance of Their Duties" was enacted. These measures were designed to provide greater protection for the crews of civil aircraft.

The Presidium has approved important measures to raise the working people's living standards and improve their working, leisure and other conditions. On March 14, 1967 it issued a decree "On the Institution of the Five-Day Working Week with Two Free Days for Industrial and Office Workers of Enterprises, Establishments and other Organisations". This assists the more rational organisation of work and leisure and increases the opportunities for the further enhancement of the cultural level of the working people.

Decrees "On Increased Bonuses for Those Working in the Far North and Regions Equated with It", "On Reduced Taxation of Wages of Industrial and Office Workers", "On Further Improvements in the Provision of Pensions", "On Increases in the Minimum Rate of Old Age Pensions for Industrial and Office Workers", and "On Improvements in the Provision of Pensions for Collective Farmers" resulted in higher earnings, lower income tax, reduced taxes for the unmarried and those with small families, larger pensions and a reduction in the pension age for some categories of the working people.

On December 25, 1972 the Presidium, in line with the Ninth Five-Year Plan Directives of the 24th Congress of

the CPSU, issued a decree ending the taxation of incomes of up to 70 roubles a month, and reducing the tax payable on incomes of under 90 roubles a month.

By its decree of December 21, 1971 the Presidium also introduced additional agricultural tax allowances for some categories. Households including invalids of the first and second category who are members of collective farms and who have no able-bodied members were completely exempted from tax. In cases where there are able-bodied members, the tax was reduced by half. Holdings whose main workers are war invalids of the third category and also certain other holdings may also be exempted in whole or in part from the payment of agricultural tax by the Executive Committees of local Soviets.

On September 20, 1973 the Presidium issued a decree reducing the tax on the citizens' incomes derived from artisan activities. On November 21 of the same year another decree increased the pensions payable to invalids and families which have lost their breadwinner.

An important category of normative enactments adopted by the Presidium is that of decrees and decisions relating to matters which lie wholly within its jurisdiction, or which are adopted on the instructions of the Supreme Soviet.

As has already been noted, these enactments are not subject to ratification by the Supreme Soviet's sessions. They include the statutes and regulations on new Orders and medals of the USSR, the institution of military titles and measures relating to the bringing into force of Fundamentals of Legislation of the USSR and Union Republics. Thus, in January 1974 the Presidium approved the statute on the Veteran of Labour medal.

As a supreme organ of state power, the Presidium may in case of need give interpretations of current legislation (Art. 49 iii of the USSR Constitution). This power is closely linked with its law-making activity.

The Presidium's role in legislative activity is not confined to its law-making powers. The Presidium organises

the drafting of all-Union legislation. For example, in 1965 the Presidium considered a proposal from the Leningrad Academy of Forestry Technology and the Scientific and Technical Society of Workers of the Forestry Industry regarding legislation on forestry conservation. The Presidium instructed the Legislative Proposals Commissions of the two chambers—the Soviet of the Union and the Soviet of Nationalities—to prepare a draft.

The Presidium's power to instruct organs of state administration to take measures on the basis and in pursuance of the law is linked with its legislative work. The USSR Constitution also gives it the right to revoke decisions and orders of the USSR Council of Ministers and the Councils of Ministers of Union Republics.

Control over the observance of the Soviet Constitution, of the laws and other decisions of the USSR Supreme Soviet occupies an important place in the Presidium's work. At the request of the government, the Presidium approves a list of enterprises and organisations placed under the direct administration of all-Union bodies, and receives reports of ministries and departments on their work in carrying out the laws and decrees of the Presidium.

The Presidium receives periodical reports on the work of the Supreme Court.

It also receives reports from the Minister of Foreign Affairs on foreign policy questions and the ratification of international treaties. The Presidium also receives reports from the Procurator-General, the Minister of Internal Affairs and the heads of other government bodies on the specific questions relating to the activities of these bodies.

The Presidium thoroughly considers the proposals, statements and complaints of members of the public, who also visit the offices of the Presidium to make personal representations.

The Presidium's work with respect to the ratification of international treaties and agreements is linked with its legislative activity. In accordance with the USSR Consti-

tution, the Presidium ratifies treaties, conventions and agreements which the USSR has concluded with other states.

The treaties of friendship, co-operation and mutual assistance which the Soviet Union has concluded with the socialist countries are of great importance in the further development of the fraternal relations between the Soviet Union and these countries.

The Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof ratified by the Presidium in June 1971 marks an important contribution to the relaxation of international tension and the strengthening of world peace.

The Presidium appoints and recalls the plenipotentiary representatives of the USSR to foreign states. It also receives the letters of accreditation and recall of the diplomatic representatives of foreign states accredited to it. In February 1977 the USSR had diplomatic relations with 128 states. It had diplomatic representatives in 116 countries, while 101 ambassadors of foreign states were accredited to Moscow.

The Presidiums of the Supreme Soviets of the Union Republics play an important role in the Soviet legislative process.

The main lines of their legislative activity are determined by their status as supreme organs of state power which exercise certain of the functions of their Supreme Soviets in the intervals between their sessions. The Presidiums of the Supreme Soviets of the Union Republics not only issue decrees on matters which fall within their jurisdiction; they also propose amendments to legislation. The procedure by which they submit their decrees for ratification by their Supreme Soviets is similar to that of the Presidium of the USSR Supreme Soviet.

The decrees of the Presidiums of the republican Supreme Soviets regulate (within the limit of republican jurisdiction) many important matters relating to the Soviet

governmental system, the economy, public order and administrative, civil, criminal and other branches of law. They, for example, determine the procedure for the classification of towns and settlements and responsibility for infringement of hunting regulations. They approve the Statutes on Juvenile Affairs Commissions, and Administrative Commissions under the Executive Committees of local Soviets, Comrades' Courts, etc.

As already noted, the USSR Constitution (Art. 20) lays down the principle that all-Union legislation shall prevail over that of a republic. The laws of the USSR have equal force throughout the territory of all Union Republics. In the event of conflict between the law of a Union Republic and all-Union legislation, the latter shall prevail.

This principle defines the relationship between all-Union and republican laws. The relations between the USSR Supreme Soviet and its Presidium on the one hand and republican Supreme Soviets and their Presidiums on the other take this principle into account.

The right of the USSR Supreme Soviet and its Presidium to exercise control over the observance of the USSR Constitution and to ensure that the Constitutions of the Union Republics are in accordance with it is of special significance.

In line with this, the Presidium of the USSR Supreme Soviet ensures that the laws and other normative acts of a Union Republic conform to the USSR Constitution and other all-Union laws. In accordance with Art. 49 vi of the USSR Constitution, the Presidium of the USSR Supreme Soviet may revoke decisions and orders of Councils of Ministers of Union Republics when they are contrary to all-Union legislation. In practice, a discrepancy is first brought to the attention of the Presidium of the Supreme Soviet of the Union Republic concerned. If appropriate action is not taken, steps are then taken by the Presidium of the USSR Supreme Soviet.

The relationships between the Presidium of the USSR Supreme Soviet and the Presidiums of republican Supreme Soviets are varied and many-sided. The drafts of many all-Union statutory enactments are passed to republican Presidiums for their comments and proposals. This ensures the participation of Union Republics, in the shape of their supreme organs of state power, in the drafting of the most important all-Union laws.

Union Republics frequently consult the Presidium of the USSR Supreme Soviet during the preparation of their own legislation. Consultation ensures that draft republican legislation shall conform to all-Union legislation; the republics are also in this way able to draw upon the assistance of expert opinion and the advice of government bodies concerned.

Conflict between republican and all-Union legislation may arise, for example, when the USSR Supreme Soviet adopts new legislation regarding matters which lie within joint all-Union and republican jurisdiction.

When adopting a new law, the USSR Supreme Soviet sometimes instructs republican Supreme Soviets to bring republican legislation into line with it. An instruction of this kind is to be found, for example, in all-Union Laws relating to the Fundamentals of Legislation of the USSR and Union Republics.

In other cases an instruction to bring republican legislation into line with all-Union laws may be included in the text of a legislative enactment concerned.

An instruction to Union Republics may take the form of vesting the appropriate republican bodies with powers to regulate the particular sphere of social relationships concerned through its own normative acts in conformity with all-Union legislation. For example, the decree of the Presidium of the USSR Supreme Soviet of November 26, 1958 "On the Participation of Collective and State Farms, Industrial, Transport, Construction and Other Enterprises and Economic Organisations in the Building and Repair of Roads" laid down that "the procedure, time-limits and

forms governing the involvement of collective and state farms, industrial, transport, construction and other enterprises and economic organisations in road work, and also liability for evasion of such participation shall in accordance with the present decree be determined by the Presidium of the Supreme Soviets of Union Republics in accordance with local conditions". The Union Republics adopted normative acts on the basis of this decree.

The Presidium of the USSR Supreme Soviet where necessary makes recommendations regarding current republican legislation (usually in the form of decisions). This was so, for example, in the case of the July 9, 1965 decision of the Presidium relating to free travel for schoolchildren resident in rural areas. After having considered the suggestions of the Legislative Proposals and Budget Commissions of the Soviet of the Union and the Soviet of Nationalities of the USSR Supreme Soviet, the Presidium recommended the Presidiums of the Supreme Soviets of the Union Republics to take steps to introduce free travel to and from school for pupils of primary, eight-year and general secondary schools resident in rural areas, making appropriate provision from republican budgets. This recommendation was adopted in legislative form by Union Republics. The Fundamentals of Legislation of the USSR and Union Republics on Education included this measure as a guarantee of the accessibility of general education.

THE DRAFTING,
ADOPTION AND PUBLICATION
OF THE STATUTORY ENACTMENTS
OF SUPREME ORGANS OF STATE
POWER

1. STAGES IN THE SOVIET LEGAL PROCESS

A law is a state enactment of supreme juridical force. The Soviet legal system therefore envisages a special, very complex procedure for the drafting and adoption of laws—that is, a legislative process defined and regulated by the Constitution of the USSR and other normative acts.

The legislative process guarantees that the real will of the Soviet people as expressed by their representatives—the members of the Supreme Soviet—shall be embodied in law. The observance of the legislative procedure laid down by the state invests its laws with supreme juridical force.

The law-making procedure is not merely a formal, external process laid down for the adoption of any law; procedural process reflects many aspects of the internal content of a law as an act of a supreme organ of state power. Each stage in the legislative process has a profound political and legal significance. The procedure for the drafting and adoption of legislative enactments of differing significance and content may have distinctive features.

The democratic procedure for the preparation of draft laws, their discussion by the general public and the right of legislative initiative enjoyed by a particular range of

persons and bodies ensure that laws are prepared thoroughly and with care. It ensures that they conform to the policy of the CPSU and to the interests of the working people. It ensures that laws express the will of the people, and that they are well-founded.

The consideration of draft laws by sessions of the Supreme Soviet, the business-like discussion that takes place, the detailed study of each clause—all this testifies to the democratic nature of the Soviet legislative process and of the entire Soviet representative system.

The adoption of laws by a majority of votes of the members of each chamber signifies their indisputable approval by the people's representatives and invests them with supreme force. Finally their publication brings them to the notice of the citizens and of all officials and organs. Their coming into force ensures their universal application.

In this way, the legislative procedure—that is, the procedure laid down by law for the submission and consideration of draft legislation by the Supreme Soviet of the USSR and for its adoption and publication, constitutes a legally regularised form for the preparation and adoption of laws, thus ensuring the expression and affirmation of their supreme juridical force.

The legislative process comprises the following stages, which are mandatory for any law: (1) legislative initiative, (2) consideration by a legislative body, (3) adoption and publication.

Alongside this regulated procedure, there also exists the concept of a legislative process in the broad sense of the term, embracing a number of stages in the drafting and consideration of a law which are not mandatory: drafting work carried out by state or social bodies or in commissions; discussion by the general public, or by interested organisations and bodies; consideration by standing commissions of the USSR Supreme Soviet's chambers, or by commissions of the Presidium of the USSR Supreme Soviet; the preparation of recommendations by

commissions, the consideration of these recommendations or of the conclusions of public discussion by the chambers of the USSR Supreme Soviet, etc.

The draft laws of major importance as a rule pass through the greatest number of stages, including prior publication in the press and public discussion, as well as detailed examination by preparatory commissions and drafting groups.

In the case of other drafts (for example, those relating to the ratification of previously adopted decrees of the Presidium of the USSR Supreme Soviet) the legislative process is confined to the necessary mandatory stages, since measures of this kind do not require prior publication or examination by commissions.

It should be noted that even extremely important laws may sometimes pass through only the mandatory stages of the legislative process in the Supreme Soviet, especially in cases when they have been the subject of protracted preliminary drafting by ministries and departments and are tabled on the initiative of the USSR Government. The draft law "On Changes in the Structure of Industrial Management Bodies and the Re-Organisation of Some Other Bodies of State Administration", for example, was not the subject of prior discussion or consideration by the standing commissions of the two chambers before it was tabled in the Supreme Soviet.

A commission of the USSR Supreme Soviet was set up by the October 1965 session to consider the draft. This commission prepared the final draft.

All the main measures of the CPSU and Soviet state in the fields of political, economic and cultural development are carried out in the interests of the working people and are where necessary embodied in law.

In examining the early stages of the preparation of new legislation, the first step—that of bringing to light the social, political and economic prerequisites which make new legislation, or amendments to existing legislation necessary—merits special attention.

The determination of these social needs and law-governed processes and the establishment of the objective necessity for their embodiment in law is an important task at the initial stage in the legislative process.

Governmental and social bodies (ministries and departments, social organisations, scientific institutes, local government bodies, etc.) study the distinctive features of the socialist economy and culture at the present stage, the changes taking place in the life of society and the evolving pattern of public demands and needs.

Proposals for appropriate changes in the legislative regulation of social relationships and in the scope and nature of the rights and duties of citizens, officials and bodies as defined by the law are then drawn up.

Various procedures may subsequently follow. In some cases they are passed to bodies exercising the right of legislative initiative (the Presidium of the USSR Supreme Soviet, the standing commissions of the chambers of the Supreme Soviet, the USSR Council of Ministers) which study, generalise and utilise them in the drafting of new normative acts. The normal procedure, however, is for such proposals to pass through the appropriate administrative channel (a ministry or department) where a draft is prepared and then presented to the USSR Government for submission to the USSR Supreme Soviet.

The legislative process in the Supreme Soviet begins with the exercise of *legislative initiative*.

According to the theory and practice of Soviet legislation, the right to initiate legislation signifies the right vested in certain state bodies, social organisations and individuals to submit draft laws to a legislative body in accordance with established procedure. This right is inseparably bound up with the duty of the legislative body fully to consider such draft laws and to adopt an appropriate decision—that is, to accept or reject the proposed measure.

The legislative body is not, of course, in any way bound by the opinion of the body exercising the legisla-

tive initiative. Acceptance or rejection of a draft law is a matter solely for the legislative body.

The establishment in law of a definite range of subjects having the right to submit draft laws to a legislative body makes it possible carefully to select and draw up the most urgent measures for submission as draft laws.

The right to initiate legislation is by its nature a prerogative vested only in authorised subjects having the necessary special characteristics.

They include, in the first place, persons and bodies which are able and have the right to express the view of large sections of the population; secondly, they include bodies which occupy a special place in the system of state organs.

In accordance with the USSR Constitution and relevant legislation, the right to initiate legislation is vested in the chambers of the USSR Supreme Soviet and its Presidium, the standing commissions of the two chambers, deputies, the USSR Council of Ministers and the USSR Supreme Court.

The right to initiate legislation is also vested in the members of the Soviet federation—the Union Republics in the person of their supreme organs of power.

A number of important draft laws have been submitted to the USSR Supreme Soviet by the CPSU Central Committee jointly with the USSR Council of Ministers and the All-Union Central Council of Trade Unions. The draft law on the development of the collective-farm system and the reorganisation of the machine and tractor stations was submitted jointly by the CPSU Central Committee and the USSR Council of Ministers, while measures relating to the abolition of taxes and the shorter working day were submitted by the AUCCTU and the USSR Council of Ministers. In 1951 a Law on the Defence of Peace was adopted by the USSR Supreme Soviet on the initiative of the Soviet Peace Committee.

The right to initiate legislation is referred to in the

Programme of the CPSU: "The trade unions, the Young Communist League and other mass organisations as represented by their all-Union and republican bodies must be given the right to take legislative initiative, that is, to propose draft laws." This has been consistently implemented in recent years. The Fundamentals of Labour Legislation of the USSR and Union Republics (1970) laid down that trade unions as represented by the AUCCTU have the right to initiate legislation.

The Standing Orders of the Supreme Soviet of the Lithuanian SSR (Art. 30) lay down that social organisations as represented by their republican bodies may initiate legislation.

The extensive and varied range of subjects vested with the right to initiate legislation ensures that measures are adequately drafted and prepared.

The exercise of the right to initiate legislation is a necessary and mandatory stage in the Soviet legislative process, mirroring the profoundly democratic character of the socialist state's representative system.

The right to initiate legislation is one of the guarantees ensuring the implementation of the democratic principles of legislative activity.

Legislative initiative, which presupposes the mandatory examination of draft measures by the legislative body, does not exclude the possibility of their detailed critical study by auxiliary and drafting bodies of the USSR Supreme Soviet. Under the Statute on the Standing Commissions of the Soviet of the Union and the Soviet of Nationalities of the USSR Supreme Soviet a draft may be referred to standing commissions, to an *ad hoc* commission or drafting commission of the USSR Supreme Soviet and its chambers for study, drafting and the submission of recommendations. It should, however, be noted that an unfavourable recommendation by a commission does not in any way relieve the legislative body of its duty to consider the substance of the proposal and adopt a decision.

Before considering a draft submitted by a competent body, the USSR Supreme Soviet may make it the subject of a public discussion or refer it back for further study or recommendations. This procedure is intended to improve the draft law. It is democratic in form and in no way restricts the right to initiate legislation.

Experience shows that as a rule draft measures of nationwide significance are referred to standing commissions of the Soviet of the Union and the Soviet of Nationalities for preliminary examination. This procedure is mandatory only in the case of the USSR economic plan and budget. This is clearly laid down in Art. 17 of the USSR law of October 30, 1959, "On the Budgetary Powers of the USSR and the Union Republics", and in Art. 11 of the Statutes on the standing commissions of the Soviet of the Union and the Soviet of Nationalities of the USSR Supreme Soviet.

We will now consider in greater detail the range of individuals and bodies vested with the right to initiate legislation and the rules governing the submission of draft laws to the USSR Supreme Soviet. These matters are governed by the USSR Constitution and a number of other normative acts and also by the customary practice which has evolved over many years.

Legislation may be initiated by the *deputies* of the Soviet of the Union and the Soviet of Nationalities of the USSR Supreme Soviet. They are representatives of the people, elected to the supreme organ of state power in accordance with the constitutional law and the will of the electorate. Each represents a large group of voters—Soviet citizens of various nationalities, ages and occupations. The electorate have vested the deputy with the authority to take decisions regarding the major issues of the life of the state.

A deputy of the USSR Supreme Soviet may submit a draft law either orally, in a speech to one of the chambers or at a joint session of both chambers, or in written form. An oral submission must be entered into the record

of the session, while a written submission must bear the deputy's signature and be appended to the record.

Deputies take an active part in the discussion of draft laws, frequently introducing amendments of substance.

During the discussion of the Fundamentals of Legislation of the USSR and Union Republics on Marriage and the Family at the fourth session of the Seventh USSR Supreme Soviet, for example, V. I. Shimukonene orally tabled an amendment to Art. 21. Together with proposals submitted by other deputies, it was referred to the standing commissions, which recommended its acceptance. The amendment was in fact approved by the Supreme Soviet.

Deputies are as a rule most active in discussing draft USSR national economic plans and budgets, tabling amendments and addenda both during the debates in the chambers and during the discussion in the standing commissions. They also take part in the wording of draft laws in the standing commissions, and in the sub-commissions and working groups set up by the standing commissions.

In practice, the right to initiate legislation is most frequently exercised by those bodies which are vested with this right and which have drawn up measures. This in the first place includes the *standing commissions of the chambers*. The commissions submit proposals in the form of draft laws. This was done in the case of the Fundamentals of Criminal Legislation of the USSR and Union Republics (December 1958) and the Fundamentals of Legislation of the USSR and Union Republics on Marriage and the Family (June 1968).

Legislative initiative is sometimes exercised directly by the standing commissions which themselves draw up a draft law, setting up preparatory and working commissions, groups and sub-commissions. This work is usually carried out jointly by a number of standing commissions which have an interest in the draft. In such cases, all sub-commissions and groups are likewise joint.

Standing commissions may submit a draft law which they have prepared to the Presidium of the USSR Supreme Soviet with a recommendation that it be published for discussion by the general public. Such publication and discussion is as a rule followed by the submission of a large number of comments and suggestions from members of the public, factories and other establishments, collective farms and social organisations. All are summarised and studied in detail by the standing commissions, and taken into account during the preparation of the final draft. The bodies submitting a draft to the USSR Supreme Soviet customarily refer to the citizens' proposals when presenting a report on it to the session of the Supreme Soviet.

A draft law, which is submitted to the USSR Supreme Soviet and which may or may not be accompanied by an appropriate recommendation from standing commissions, is passed by the Presidium of the USSR Supreme Soviet to the chairmen of the two chambers for inclusion in the agenda of the next session.

A report on a draft law drawn up by standing commissions and submitted to the Supreme Soviet in the name of standing commissions of the two chambers is usually delivered by the chairman of one of the commissions. Who will be the reporter is decided at a joint sitting of the standing commissions concerned in the preparation of the measure.

According to the USSR Constitution, *the Soviet of the Union and the Soviet of Nationalities of the USSR Supreme Soviet* have the right to initiate legislation. The chairmen of the two chambers also have this right. This was the case when the Statute on the Standing Commissions of the Soviet of the Union and the Soviet of Nationalities of the USSR Supreme Soviet was adopted. The principle that each chamber shall have equal powers to initiate legislation laid down in Art. 38 of the USSR Constitution provides that each chamber may directly or through its commissions draft a law or support a propos-

al made by another body and submit the draft to the USSR Supreme Soviet.

The *Presidium* of the USSR Supreme Soviet using its right of legislative initiative, places major items before sessions of the Supreme Soviet. In the first instance it exercises this right by submitting normative decrees which it has adopted for ratification by the Supreme Soviet. In addition, the Presidium submits legislative proposals for consideration by the Supreme Soviet. Thus, the Presidium jointly with the chairmen of the two chambers of the Supreme Soviet and the standing commissions tabled the draft statute governing the work of the standing commissions.

The *USSR Council of Ministers* also has the power to submit draft laws to the Supreme Soviet. Because of the position it occupies in the structure of state organs, the Council of Ministers has excellent opportunities to study, estimate and generalise factors pointing to the need for changes in existing legislation or indicating the necessity for new legislation. It is also well able to draft new legislative measures. As the highest executive and administrative organ of state power, the USSR Council of Ministers issues its own decisions and orders on the basis and in pursuance of current legislation. In case of need, it submits legislative proposals to the USSR Supreme Soviet.

The USSR Council of Ministers in recent years submitted the draft Fundamentals of legislation on education and labour, the draft law relating to the re-organisation of the structure of organs of industrial management and certain other administrative bodies, and a number of other measures. The Council of Ministers regularly submits national economic plans and the USSR State Budget to the USSR Supreme Soviet.

The power to initiate legislation also belongs to the *USSR Supreme Court* in accordance with the statute on it (Art. I). A plenary session of the Supreme Court may submit legislative proposals to the Presidium of the USSR

Supreme Soviet, and also proposals relating to the interpretation of laws.

Under the Statute on Procuratorial Supervision, *the Procurator-General of the USSR* may make representations to the Presidium of the USSR Supreme Soviet on matters requiring legislation, or regarding the interpretation of laws. He uses this power on matters lying within his jurisdiction with respect to legislation relating to the rights and duties of the citizens, etc.

The Union Republics, which are sovereign states forming part of the Soviet federation, exercise legislative authority independently, adopting laws within the framework of their powers as laid down by the USSR Constitution and the Constitutions of the Union Republics.

Certain government bodies and social organisations of the Union Republics and also deputies of the republican Supreme Soviets have the power to initiate legislation, draft legislative enactments and submit them to their Supreme Soviets.

The position with regard to the subjects of the right to initiate legislation in Autonomous Republics is similar.

2. THE PREPARATION AND PRELIMINARY CONSIDERATION OF DRAFT LEGISLATION BY THE STANDING COMMISSIONS

The standing commissions of the Soviet of the Union and the Soviet of Nationalities are auxiliary bodies of the two chambers of the Supreme Soviet, set up to give preliminary consideration to matters lying within the jurisdiction of the USSR Supreme Soviet. There are standing commissions to deal with the main spheres and branches of political, economic, social and cultural development, and also with particular questions relating to the work of the Supreme Soviet.

At the present time each chamber has credentials commissions, legislative proposals commissions, and commissions on planning and budgetary questions, foreign affairs, youth affairs, industry, transport and communications, construction and the building materials industry, agriculture, health and social security, education, science and culture, trade, services and communal economy, and conservation of nature.

Their main functions include the preparation of proposals to be considered by the appropriate chamber or by the Presidium of the USSR Supreme Soviet and the submission of recommendations on matters before the Supreme Soviet and its Presidium.

The functions of the standing commissions determine their place in the legislative process taking place in the USSR Supreme Soviet.

The main normative act regulating the work of the commissions is the Statute on them, which is approved under the terms of the all-Union law of October 12, 1967 supplemented by that of December 19, 1969 following the formation of youth affairs commissions by both chambers.

In accordance with the Statute the commissions are made up of members of the appropriate chamber for a term coinciding with that of the Supreme Soviet of a particular convocation. The commissions consist of a chairman and as many members as the appropriate chamber may determine. The chairmen of the two chambers, their deputies and deputies of the USSR Supreme Soviet who are members of the Presidium of the USSR Supreme Soviet, the USSR Council of Ministers or the USSR Supreme Court, and the Procurator-General of the USSR are not eligible for election to standing commissions. Each commission is accountable to the chamber which elects it. The work of each commission is guided by its chairman.

In drawing up proposals and recommendations on matters of political, economic, social and cultural develop-

ment for consideration by the appropriate chamber or by the Presidium of the USSR Supreme Soviet, the commissions are guided by the need to co-ordinate the interests of the USSR as a whole with those of the Union Republics and to ensure the rational location of industry and the comprehensive development and specialisation of the economies of the Union Republics and economic regions. They are also required to take account of the national and other distinctive characteristics of the Union and Autonomous Republics, Autonomous Regions and National Areas (Art. 3 of the Statute).

The standing commissions' role in the preparation of new legislation depends upon their functions and tasks. The legislative proposals commissions have a special part to play in this respect. They have the following functions:

- to draft all-Union laws and decisions of the USSR Supreme Soviet, and decrees and decisions of the Presidium of the USSR Supreme Soviet on matters relating to the strengthening of socialist legality, the administration of justice and other matters of a general nature;

- to give preliminary consideration to draft all-Union laws and other acts of the USSR Supreme Soviet and its Presidium referred to them, and to prepare the appropriate recommendations;

- to participate, at the request of other commissions, in the drafting of all-Union laws and other acts of the USSR Supreme Soviet and its Presidium which are prepared by appropriate commissions;

- to draft proposals relating to the codification and systematisation of all-Union legislation (Art. 10 of the Statute).

The experience of the work of the commissions over many years shows that all general normative draft laws are examined by the legislative proposals commissions independently or jointly with the commissions responsible for the particular area of work.

The terms of reference of standing commissions likewise

include the drafting of appropriate statutory enactments or recommendations. Under Article 13 of the Statute, the functions of branch standing commissions include the drawing up of all-Union legislation relating to the appropriate field of state administration to be subsequently considered by the respective chamber of the Supreme Soviet and by the Presidium of the USSR Supreme Soviet, and also the preparation of recommendations regarding matters referred to the commissions for preliminary examination.

In carrying out their functions the commissions co-operate with social organisations in generalising and discussing the proposals put forward by citizens. The number participating in their work is very large. Work on major draft laws as a rule involves several hundred people, including workers and collective farmers, scholars and practical workers, academicians and ministers, Party and government officials, doctors and judges, and experts from ministries and departments.

The standing commissions have the right to call for documents, written recommendations, reports, etc., on matters lying within their terms of reference from ministries and departments of the USSR, from republican and local government bodies, and from organisations and officials. All these must comply with the commissions' demands.

The standing commissions of one chamber may if necessary co-ordinate their work with the corresponding commissions of the other chamber, combining their forces in order to carry out the functions with which they have been entrusted. They may seek the opinion of other commissions and propose to the appropriate chamber or to the Presidium of the USSR Supreme Soviet that a matter be transferred from one commission to another.

Being vested with the power to initiate legislation, the standing commissions themselves may independently decide to draft a law, or to suspend, terminate or com-

plete work upon it, fix the timing of its submission to the USSR Supreme Soviet, etc.

The commissions also draft normative acts on the instructions of the appropriate chamber of the Supreme Soviet, a joint session of the two chambers, or (between sessions) of the Presidium. The commissions may present the draft to the USSR Supreme Soviet or its Presidium in their own name.

There have been cases when a law drafted with the participation of standing commissions has been submitted for approval by the USSR Supreme Soviet by the body which first initiated it. The commissions nevertheless play an active part in the legislative process, performing the functions of auxiliary bodies of the USSR Supreme Soviet as laid down in their Statute.

Recommendations regarding draft laws and other acts are drawn up by the commissions on the instructions of the USSR Supreme Soviet, the chambers of the Supreme Soviet and its Presidium.

In practice, all the standing commissions of the Soviet of the Union and the Soviet of Nationalities participate in the legislative activity of the USSR Supreme Soviet. For example, not only the agriculture commissions, but also the legislative proposals, industry, transport and communications, and the construction and building materials industry commissions participated in the drafting of the Fundamentals of Land Legislation of the USSR and Union Republics.

Experience shows that the first initiative and the preliminary work on the majority of draft laws is undertaken by bodies applying current legislation. Only then do the drafts come to the bodies which have the right to initiate legislation (the government, Presidium, standing commissions, etc.) for completion and submission to the examination and approval by the Supreme Soviet. This was the procedure followed, for example, in the case of the Fundamentals of Legislation of the USSR and the Union Republics on Marriage and the Family, the prelim-

inary work on which was carried out by a special government commission. Standing commissions completed the work and submitted the draft law to the Supreme Soviet.

The standing commissions usually call upon the assistance of the USSR Supreme Court, the USSR Procurator's office, the USSR Ministry of Justice, the AUCCTU and other governmental bodies and social organisations, as well as research establishments, when drafting normative acts of a general character, in particular with respect to criminal or civil law, labour law and the law relating to marriage and the family.

In connection with the establishment of new commissions, the Presidium of the USSR Supreme Soviet under the terms of its decision of December 20, 1966 laid down the procedure to be followed by the legislative proposals commissions and branch commissions in dealing with draft laws, work on which was commenced by commissions of the previous Supreme Soviet.

The preparation of draft laws in the standing commissions is complex, creative work which draws upon the rich legislative experience accumulated by the USSR's supreme organ of state power, the advances made by legal science and other branches of learning and the practical experience gained by factories, organisations and establishments. It also takes account of the views of the public.

A standing commission's work on a draft law usually begins with a discussion of proposals regarding legislation. After hearing and discussing a proposal from a member or group of members of the commission, or from other deputies, or from a governmental or special body regarding the need for changes in existing legislation, the commission first takes a decision on the question of principle—to support or reject the proposal. If necessary, the appropriate bodies are instructed jointly with the staff of the commission to compile the reference material, justifications and estimates necessary for drafting the

law, and to make the general outline of legislation in force.

The commission may seek the opinion of ministries and departments, social organisations and research establishments regarding the desirability of the measure in question, and then if necessary entrust them with its preparation, or itself begin work upon it.

The standing commissions customarily set up preparatory commissions made up of their own members. These sometimes include the heads or representatives of ministries and departments which are directly concerned with the draft law in question, and also prominent experts, including scholars and representatives of social organisations. The size of such preparatory commissions or sub-commissions can vary greatly; it usually varies from 20-25 to 50-60, depending upon the complexity of the legislation and other factors.

When several standing commissions are working jointly on a single measure, the preparatory commissions are as a rule made up exclusively of deputies of the USSR Supreme Soviet, each standing commission providing two or three members of the preparatory commission. The preparatory commission in its turn sets up a working sub-commission or group made up of representatives of various bodies, experts and scientists.

No procedure for the formation of preparatory commissions and working groups by the standing commissions is laid down in the Statute dealing with the work of the latter. The most expeditious and effective forms of work are used to draft laws. The commissions are constantly improving their procedure and developing new forms and methods of work.

When starting work on the drafting of a new law, a preparatory commission first conducts a general discussion on the main problems involved to which prominent experts and academics representing various points of view are invited.

Having clarified its basic approach, the preparatory

commission may set up a number of working sub-commissions or groups from among its own membership. These may also include experts who are not members of the commission. Each working group is entrusted with the drafting of the first version or scheme of legislation in question, or with the drafting of particular sections or chapters in accordance with the principles laid down during the discussion at the plenary meetings of the standing commissions and sub-commissions. A working group studies the material and hears the evidence of experts, representatives of government bodies, scientific institutions, etc. A preparatory commission or working groups carry out this work on assignment of the appropriate standing commission.

The commissions frequently consult leading scientists and experts on major problems, or invite them to conferences and discussions. Scientists and other experts are also asked to prepare background material for the commissions.

The preparatory commissions and working groups prepare an outline draft and structure of the law and formulate its main clauses and articles.

Work on the chapters or sections of a draft makes it possible to define its scope more precisely. It brings to light differing points of view regarding the main issues involved either in the law as a whole or with respect to particular articles. It enables the drafters to formulate the law in the most satisfactory manner and to find the correct solution to the contentious issues. During the preparation of the Fundamentals of Land Legislation, for example, the view was expressed that, in order to ensure the proper conservation and utilisation of land, it was desirable to introduce payment for the use of land. The discussion of this problem which began in the working groups and preparatory commission continued at plenary sessions of the standing commissions which after full discussion rejected the proposal.

During the drafting of the Fundamentals of Legislation

on Marriage and the Family a number of problems were widely discussed, including those of the legal establishment of paternity in the case of children born out of wedlock and the summary procedure for the dissolution of marriages.

The commissions take numerous measures to ensure the fullest possible study of the problems involved in the drafting of laws, and to bring to light the views of all sections of the population.

During the drafting of the Fundamentals of Land Legislation, deputies serving on the agriculture and legislative proposals commissions, examined the question of the land of rural populated localities; they consulted the heads of collective farms and members of rural Soviets, and also the inhabitants of villages and settlements. As a result important amendments based on a knowledge of the needs and requirements of the rural population were introduced into the draft. The draft Fundamentals of Public Health Legislation were similarly circulated for comment to 58 medical institutes, as well as to legal research and educational establishments.

The results of on-the-spot studies, discussions, public enquiries and conferences are summed up. They serve as important background material in formulating legal rules, and are studied by members of the commissions, sub-commissions and working groups.

The commissions keep a constant check on the work of their sub-commissions and working groups, receiving progress reports from these bodies' leaders. In March 1970, for example, the legislative proposals commissions received reports from the leaders of the sub-commissions working on the draft Fundamentals of Labour Legislation and on the draft Fundamentals of Legislation on Administrative Responsibility and took appropriate decision.

An important stage in the work of the standing commissions is the discussion of draft laws at their sittings, attended by all who have taken part in the drafting. This normally takes place after the preparatory commission

has completed its work and circulated the draft and background material to standing commission members. Standing commissions do, however, on occasion discuss a draft, or sections of, a draft, at intermediate stages, usually at the request of a preparatory commission.

A meeting of a preparatory commission receives reports on the preliminary work that has been carried out and on the main principles of the draft law. It also considers all proposals and comments received from deputies who are members of commissions and also from departments and citizens. The preparatory commission expresses its view on each proposal, based upon full discussion.

The members of a preparatory commission may, at any stage in the preparation of a draft law or of a recommendation on it, submit amendments and comments, which must be considered by meetings of the commission. In the event of disagreement, the matter is put to the vote. Should a deputy's proposal not receive the backing of the commission, he may put it forward during the discussion in the USSR Supreme Soviet (Art. 26 of the Statute).

Matters on which the preparatory commission cannot reach agreement or which are controversial are considered by the standing commissions. After discussion, a decision is taken and the matter then referred back to the sub-commissions to enable them to complete the drafting work.

After having approved the draft of a new law, standing commissions may decide that the draft should be published for discussion. In such a case commissions make a recommendation to the Presidium of the USSR Supreme Soviet which takes the final decision.

The publication of draft laws for public discussion takes varied forms. Some, like the draft Fundamentals of Legislation on Marriage and the Family and the draft Fundamentals of Land Legislation were published in all-Union newspapers—*Pravda*, *Izvestia* and *Trud*, in republican newspapers published in the languages of the Union Republics, and also in journals. Others on the other hand have been published only in institutional and learned

journals for discussion mainly among specialists. The draft Fundamentals of Civil Legislation, the draft Fundamentals of Criminal Legislation and a number of other measures were published in the journals *Sovietskoye gosudarstvo i pravo* (Soviet State and Law), *Sovietskaya yustitsiya* (Soviet Justice), and *Sotsialisticheskaya zakonost* (Socialist Legality).

Through the press, commissions announce the addresses to which organisations and citizens should send their comments and proposals, and the time-limits for discussion. Citizens send their views both directly to the standing commissions and to the newspapers and journals which publish the drafts; all are collated by the staff of the commissions, analysed and prepared for consideration by the working and preparatory commissions and subsequently by the standing commissions themselves.

The number of proposals and comments on the published draft laws is very great. More than 12,000 letters were received on the draft Law on State Pensions, and more than 7,000 on the draft Fundamentals of Legislation on Marriage and the Family. A similar number was received by *Izvestia*, which reported on them to the standing commissions. Art. 20 of the Statute on Standing Commissions requires them to collate and consider all proposals and comments made during the discussion of draft laws, and to report on the results of the discussion to the chamber of the USSR Supreme Soviet.

The members of standing commissions, having received the comments and proposals, study the draft law drawn up in the light of these proposals and comments with the amendments and formulations introduced by the preparatory commission. At meetings of the standing commissions they sum up the results of the discussion, if necessary hear the views of interested bodies and make any necessary amendments to the draft.

The commissions study the results of public discussions of draft laws with great care and attention. For example, in December 1970 the chairman of the preparatory com-

mission working on the draft Fundamentals of Legislation on Water Resources reported on the discussion of the measure to a joint session of 12 standing commissions. The commissions approved the draft after accepting a number of proposals.

Amendments made in draft laws as a result of their discussion in the press are as a rule numerous and substantive. More than 30 amendments and many changes in wording were made to the draft Fundamentals of Criminal Legislation and the draft Fundamentals of Criminal Procedure in 1958. It was as a result of public discussion that articles dealing with the protection of the honour and dignity of the Soviet citizen and the sale of goods on credit were included in the draft Fundamentals of Civil Legislation.

Amendments relating to the procedure for the dissolution of marriage, the judicial establishment of paternity, exacting alimony and a number of other matters were introduced into the draft Fundamentals of Legislation on Marriage and the Family. Norms designed to enhance the role of local Soviets in the settlement of matters relating to land utilisation and building and improvement in rural and urban areas, and specifying the rights and duties of land users, were introduced into the draft Fundamentals of Land Legislation.

The commissions then report on the discussion of proposals and comments to the deputies in session. The report of the Chairman of the Legislative Proposals Commission of the Soviet of the Union to the fourth session of the Seventh Supreme Soviet (June 1968) noted that there had been valuable discussions of the draft Fundamentals of Legislation on Marriage and the Family at a number of Moscow factories—the Dynamo Plant and the Tryokhgornaya and Shcherbakov textile mills—and at factories in Leningrad, Kiev, Minsk, Alma Ata, Tbilisi and other cities. In the Karaganda Region of the Kazakh Republic the draft was discussed by the workers of more than 30 enterprises; at the Politotdel Collective Farm in the

Tashkent Region it was approved by a meeting attended by some 1,000 collective farmers.

There was likewise widespread public discussion of the draft Fundamentals of Land Legislation, draft Fundamentals of Public Health Legislation, and of a number of other draft laws.

The consideration of proposals and comments submitted following the publication of a draft law for discussion is usually one of the final stages of the standing commissions' work on new legislation. After approving the draft, the commissions submit it officially to the USSR Supreme Soviet, nominate a *rapporteur* and request that it be placed on the agenda.

The standing commissions of the two chambers make recommendations and draw up draft decrees and decisions of the Presidium of the USSR Supreme Soviet on its instructions or on their own initiative. The procedure does not differ substantially from that in the case of draft laws. The legislative proposals commissions, for example, made recommendations to the Presidium of the USSR Supreme Soviet regarding a draft decree on the imposition of fines for the wasteful use of electricity and other fuel resources. These recommendations contained a number of substantive additions to the decree. It was, for example, proposed to establish the officials' administrative responsibility for infringements, lay down the list of infringements for which fines could be imposed, and to include procedure by which offenders could be cautioned. The Presidium studied these recommendations, agreed to the amendments and adopted the decree taking account of the commissions' comments.

A somewhat different procedure is adopted in the case of the preparation of recommendations regarding the USSR national economic plan and the USSR State Budget. These key documents are considered by the planning and budget and branch commissions of the two chambers in accordance with a procedure governed by a special law. The commissions start their work after the USSR

Council of Ministers has placed the plan and budget for the approval of the USSR Supreme Soviet. The planning and budget commissions consider long-term and annual plans and the budget, and submit recommendations on them to their respective chambers. The branch commissions examine the appropriate sections of the plan and budget and report their recommendations and proposals to the planning and budget commissions or, if necessary, to the chambers.

The work of the commissions in drawing up their recommendations regarding the plan and budget is likewise very democratic: the discussion involves experts and members of the public, the plan and budget indices are studied in detail, the views of representatives of appropriate ministries and other bodies are heard and the necessary reference material and statistics are requested from them. Deputies come to Moscow from all republics, territories and regions one or two months prior to the opening of Supreme Soviet sessions specially to discuss plan and budget recommendations. For example, the planning and budget commissions and branch commissions together with the youth affairs and conservation commissions gave preliminary consideration to, and made recommendations on, the 1971-1975 Five-Year Plan, the 1971, 1972 and 1973 plans and budgets and also regarding the reports on the fulfilment of the 1969, 1970 and 1971 budgets to the Soviet of the Union and the Soviet of Nationalities.

The adoption by the USSR Supreme Soviet of the Five-Year Plan, annual plans, budgets and reports on their fulfilment is preceded by their preliminary consideration by the planning and budget, and branch commissions of the two chambers. The commissions set up 15-17 preparatory commissions in which about 200 deputies participate. They consult a large number of economic and financial experts from many all-Union ministries and other bodies.

The work of the standing commissions on draft laws is

a vivid illustration of the democratic nature of the Soviet legislative process, with the extensive participation by large numbers of deputies of the USSR Supreme Soviet and local Soviets, social organisations, experts and members of the public.

3. THE DISCUSSION OF DRAFT LAWS. THE ENACTMENT OF LAWS BY THE USSR SUPREME SOVIET

The examination and discussion of new legislation by the USSR Supreme Soviet is marked by consistent socialist democracy. Deputies and organs of the Supreme Soviet are assured of effective participation. A decree of the Presidium of the USSR Supreme Soviet announcing a session is usually published in the press one month in advance. Deputies are informed of items to be discussed in good time. It is they who have the decisive word in approving the agenda which is defined by the Supreme Soviet itself.

The discussion of draft laws at sessions is a most important stage in the legislative process. It enables deputies to study the draft, to weight all the arguments "for" and "against", to assess the necessity for the proposed changes in legislation and to voice their own opinion.

Discussion begins with the presentation of a report or statement on the draft. In accordance with customary practice, *rapporteurs* are usually nominated by the bodies tabling the draft. A draft law or legislative proposal tabled by a deputy is usually introduced by that deputy. A similar procedure exists in the Supreme Soviets of Union Republics.

Drafts tabled by the Government in the USSR Supreme Soviet are introduced by the Chairman of the Council of Ministers of the USSR, ministers or the heads of central government departments. Drafts originating from organs

of the Supreme Soviet are introduced by the Chairman and Secretary of the Presidium of the Supreme Soviet, or by the chairmen and members of standing commissions. Drafts have also been introduced by the spokesmen of mass organisations. For example, the draft Fundamentals of Labour Legislation tabled at the first session of the Eighth USSR Supreme Soviet were introduced by V. I. Prokhorov, a deputy of the Supreme Soviet and Secretary of the All-Union Central Council of Trade Unions.

The *rapporteur* customarily indicates the reasons for the new draft law and outlines its contents and the main changes which it introduces; he gives an account of the preparation of the draft and of the results of its public discussion; when necessary, the main tasks with respect to its implementation are defined.

It has become traditional for *co-rapporteurs* to be heard, usually the chairmen and members of standing commissions. This procedure has become established in all-Union and republican legislation.

In addition to setting out the reasons for the adoption of the new measure, the *co-rapporteurs* frequently make proposals and observations with a view to improving the draft.

Commissions may amend a draft on the basis of proposals by deputies even after discussion in the Supreme Soviet itself has begun.

The reports are as a rule made to joint sessions of the Soviet of the Union and the Soviet of Nationalities, while co-reports and the debate may take place in either joint or separate sessions. This makes it possible to take the fullest account of the particular interests of both chambers and enables the maximum possible number of deputies to contribute to the discussion.

All deputies are guaranteed adequate time for their contributions. The Standing Orders of the Soviet of the Union and of the Soviet of Nationalities lay down that the chairmen of the two chambers shall by agreement with the *rapporteurs* and *co-rapporteurs* fix the time limits

for the reports, co-reports and for the closing speech. Participants in the debate may on the first occasion speak for 20 minutes and on the second for five minutes; members may speak for five minutes on a point of order and on motivating their vote. Personal and factual statements are submitted in writing and are read out by the chairman immediately or at the end of the session, depending upon their contents.

Many amendments are submitted directly to sessions of the USSR Supreme Soviet. During the discussion of the draft Fundamentals of Land Legislation in December 1968, Deputy Belyakova proposed that it should lay down the conditions for the transfer of land from one category to another and the procedure for determining the purpose of plots of land. Art. 4 of the draft law was amended in accordance with this proposal. Many similar examples may be cited. They indicate the very important part which deputies play in the legislative process.

Sessions of the Supreme Soviet are also addressed by major specialists and scientists, whose suggestions are taken into consideration during the final drafting of new legislation. Many of them are usually adopted by the Supreme Soviet and directly incorporated into drafts.

After the debate and closing speeches of the *rapporteur* and *co-rapporteur*, the USSR Supreme Soviet approves the draft as amended by deputies and the standing commissions. Members of the two chambers usually vote separately.

The Supreme Soviet itself and its chambers decide upon the voting procedure to be adopted—by sections, by articles or as a whole. Articles to which amendments are made are usually voted upon separately. When a draft is voted upon article by article, a vote on the draft as a whole is taken at the end.

The *approval of a law* by the USSR Supreme Soviet is the central stage in the legislative process. Only after it has been approved in accordance with established procedure by the supreme legislative organ of the state does

a draft measure become a law of the USSR. It is signed by the Chairman and Secretary of the Presidium of the USSR Supreme Soviet.

In accordance with Art. 39 of the USSR Constitution, a law is held to be enacted if passed by both chambers of the USSR Supreme Soviet by a simple majority vote in each. Voting is open, by show of hands. Measures amending the USSR Constitution are held to be enacted if passed by a majority of not less than two-thirds of the votes of each chamber (Art. 146).

4. THE PUBLICATION OF THE NORMATIVE ACTS OF THE SUPREME ORGANS OF STATE POWER

Publication in this context means the printing of the approved text of an act in a press organ designated by law for this purpose.

The Soviet state has always attached great significance to this question. One of the first decrees of Soviet power was that of October 30, 1917 dealing with the procedure for the approval and publication of laws. A number of normative acts of supreme organs of state dealing with this matter were issued in subsequent years (1917-1922). All established the direct link between the publication of a law and its coming into force.

This is understandable. The purpose of publication is to ensure that the working people, organs of the state and officials are fully familiar with acts of the Supreme Soviet which establish their rights and duties.

Publication does not imply approval by another body and in no way diminishes the authority of the Supreme Soviet. Furthermore the responsibility for publication rests upon the Presidium, which is elected by and accountable to the supreme representative body. It is carried out in accordance with a procedure laid down by a decree approved by the USSR Supreme Soviet itself.

This procedure is strictly adhered to. In accordance with the decree of the Presidium of the USSR Supreme Soviet of June 19, 1958 the normative acts of supreme organs of state power are published within seven days of their adoption. A similar time limit exists in the Union Republics. The publication of official journals is in line with this. The *Vedomosti Verkhovnovo Sovieta RSFSR* (Gazette of the RSFSR Supreme Soviet), for example, is published at least once a week. The *Vedomosti Verkhovnogo Sovieta i Pravitelstva Litovskoi SSR* (Gazette of the Supreme Soviet and Government of the Lithuanian SSR) appears regularly three times a month. Between 1961 and 1969, 36 issues appeared each year. These journals have substantial circulations. The monthly *Vedomosti Verkhovnovo Sovieta Gruzinskoi SSR* (Gazette of the Supreme Soviet of the Georgian SSR), for example, has a 3,500 circulation.

These facts demonstrate the democratic character of the Soviet legislative process, and the Soviet state's concern that all its citizens shall be fully informed about new legislation.

The wide circulation of *Vedomosti* serves the same purpose. They are accessible to all citizens and all state bodies.

The newspaper *Izvestia Sovietov deputatov trudyashchikhsya SSSR* (Gazette of Soviets of Working People's Deputies of the USSR) and corresponding republican newspapers are also official journals of record, and publish the most important acts "requiring extensive and immediate publication". All-Union laws appear in *Izvestia* very shortly after adoption. When necessary, normative acts are broadcast or transmitted by telegraph. They are published in the languages of all Union Republics.

The Constitutions of the Union Republics contain clauses dealing with the publication of republican legislation in various languages. The Constitution of the Georgian SSR, for example, lays down that republican legislation

shall be published in Georgian, while in the case of the Autonomous Republics and Autonomous Region forming part of the Georgian Republic, both Georgian and the appropriate national language shall be used (Art. 157). The Constitution of the Armenian SSR lays down that republican laws shall be published in Armenian, Russian and Azerbaijan (Art. 39). Art. 30 of the Constitution of the Tajik SSR lays down that laws shall be published in Tajik, Uzbek and Russian, and in Kirghiz for the Murgab and Dzhirgatal regions.

Such a procedure ensures that laws are promptly brought to the attention of the general public; it promotes uniformity in the understanding of the laws and prevents differences of interpretation arising from translation.

All-Union legislation bears the signatures of the Chairman and Secretary of the Presidium of the USSR Supreme Soviet. The laws of Union Republics are signed by the Chairman and Secretary of the Presidium of the Supreme Soviet of the republic concerned.

The legal significance of the acts of signature lies in that it establishes the authenticity of the text of the law. The signatories confirm that a particular text is indeed that adopted by the supreme representative body.

The act of signature does not imply any control over the activity of a supreme organ of power by any other body, since the signatories have no power to withhold signature or publication of a law adopted by the Supreme Soviet. In this lies one of the manifestations of the primacy of the supreme representative organ of the Soviet state.

5. THE COMING INTO FORCE OF LAWS. THE PROCEDURE FOR EFFECTUATING LAWS

All-Union and republican legislation adopted by the appropriate bodies as a general rule comes into force after the expiry of a relatively brief period of time fol-

lowing its adoption. In accordance with the decree of the Presidium of the USSR Supreme Soviet of June 19, 1958, "On the Procedure for the Publication and Coming into Force of All-Union Laws, Decisions of the Supreme Soviet of the USSR and Decrees and Decisions of the Presidium of the USSR Supreme Soviet", all-Union laws and decrees of the Presidium of the USSR Supreme Soviet establishing general norms come into force simultaneously throughout the entire territory of the USSR ten days after their publication in *Izvestia* or the *Vedomosti*, unless otherwise specified in the acts themselves.

Such a comparatively short space of time is usually sufficient to inform the public and enable the appropriate bodies to take the necessary steps to enforce the law.

This time limit can if necessary be shortened; a law could come into force immediately upon publication by radio or telegraph.

In the case of major legislative enactments, such as Fundamentals of Legislation and codes, a longer period is usually laid down. Periods of several months were laid down in the case of some Fundamentals; approximately the same periods were established by the Supreme Soviets of Union Republics in the case of republican codes and other similar laws.

The need for such long periods arises from the legislators' desire to ensure that the general public is fully informed, and that the necessary organisational and legal measures are taken to put a particular law into effect.

The report of the legislative proposals commissions of the two chambers to the fourth session of the Seventh USSR Supreme Soviet regarding the draft Fundamentals of Legislation on Marriage and the Family stated that "in the draft law approving the Fundamentals of Legislation on Marriage and the Family it is envisaged that they should be put into effect as of October 1, 1968. Such a time limit is, in the commissions' view, sufficient to enable the state bodies concerned to carry out the necessary preparatory work".

In the report to the seventh session of the Seventh USSR Supreme Soviet on the draft Fundamentals of Public Health Legislation it was noted that "is is intended to put into effect the draft Fundamentals from July 1, 1970 in order to carry out the necessary organisational and explanatory work in connection with the new legislation prior to that date".

During the period prior to the coming into force of a new law a great deal of organisational and legal work is done by all-Union bodies: the printing of the law and its translation into the languages of the Union Republics, its study, etc. Procedural problems arising in connection with the putting into effect of the law are resolved at the same time.

The putting into effect of a new law is one of the auxiliary, concluding stages of the legislative process in the broad sense of the word. Its purpose is to resolve the problems which arise in connection with the procedure for enforcing the new law and its application. It embraces the aggregate of measures directly carried out by the legislative body in accordance with its decision, or by other bodies acting on its instructions.

In the case of legislation approved by the USSR Supreme Soviet or by the Supreme Soviets of Union Republics, the time limits for the putting into effect of new legislation are laid down by these bodies; in the case of decrees of a general normative character, they are fixed by the Presidium of the USSR Supreme Soviet or by the Presidium of the Supreme Soviet of the republic concerned. They may be set down in the act itself, or in the act by which they are approved. For example, USSR laws relating to the approval of Fundamentals of Legislation usually begin with an article couched in the following terms: to approve the Fundamentals and to put them into effect as from a particular date.

Laws approving Fundamentals of Legislation go on to entrust the Presidium of the USSR Supreme Soviet with the establishment of the procedure for putting them into

effect. The Presidium adopts a decree in accordance with this.

The laws of Union Republics place a similar responsibility upon the Presidiums of republican Supreme Soviets with respect to republican codes.

Thus the decrees of Presidiums of Supreme Soviets bringing new legislation into force are issued on the basis of instructions from Supreme Soviets. They are in essence auxiliary and supplementary in character, in that they are intended to resolve problems arising from the effectuation of the basic legislative enactment.

The procedure for effectuating a legislative enactment depends upon the special characteristics of the enactment itself and its content. But decrees dealing with this question have certain common features. In the first place, decrees of the Presidium of the USSR Supreme Soviet relating to the putting into effect of Fundamentals of Legislation and decrees of republican Presidiums relating to the putting into effect of codes or similar laws adopted in accordance with the Fundamentals, are drafted in accordance with uniform principles, and the main problems which arise are resolved in similar fashion. This is due to the fact that the majority of the rules set down in Fundamentals of Legislation are reproduced word for word in the republican codes, while both all-Union and republican norms are rooted in common principles.

The question of the relationship between a new law and earlier legislation is in principle resolved in the same way. The practical necessity for a solution to this problem arises from the fact that the process of the renovation of legislation does not end with the adoption of a new law such as Fundamentals of Legislation or new codes; a certain period of time is usually needed to bring earlier legislation fully into line with a new law. Therefore decrees relating to the procedure for effectuating new legislation lay down as a general rule that until legislation is brought in conformity with the new law (new Fundamentals of Legislation, a new code, etc.) existing

laws shall apply in so far as they are not at variance with the new legislation.

Under this general rule, acts which are not at variance with a new law also retain their validity; this does not require confirmation by the publication of a new act.

Existing legislation which is at variance with a new law may not be enforced from the moment the latter comes into force although it may remain unrepealed for a certain time. As legislation is further improved, these acts are either declared null and void or appropriate amendments are made in them.

As a general rule, following the putting into effect of a new law many existing legislative enactments which are at variance with it are immediately recognised to be null and void or the necessary amendments are made in them.

Much labour legislation earlier in force, for example, was recognised invalid by a decree of the Presidium of the USSR Supreme Soviet on February 15, 1971, following the adoption of the Fundamentals of Labour Legislation. But some of this legislation, which is partially at variance with the new Fundamentals, has not formally been repealed. It includes the decision of the Central Executive Committee and the Council of People's Commissars of the USSR of June 12, 1929, "On the Material Liability of Industrial and Office Workers for Losses Caused by Them to Employers" and a decision of the same bodies dated January 14, 1927 "On the Conditions of Work of Temporary Industrial and Office Workers". These acts retain their validity only to the extent to which they are not at variance with the Fundamentals of Labour Legislation.

What has been said about the relationship between a new law and earlier legislation also applies to other normative enactments—government decisions, the orders and instructions of ministries and departments, etc.

The effectuation of a new law may involve the issue of the continuing validity of legislative enactments when

changes are made in the distribution of powers between the central, all-Union authority and the Union Republics. For example, the Fundamentals of Criminal Legislation and also of Civil Legislation transferred a number of matters which had hitherto lain within the jurisdiction of the all-Union authorities and in relation to which all-Union laws had been adopted, to the exclusive jurisdiction of Union Republics.

This means that an all-Union act loses its legal force if there exists a republican law dealing with the matter in question in a different way. In this case Art. 20 of the USSR Constitution relating to the primacy of all-Union legislation does not apply, because the Fundamentals have placed the matter in question within the exclusive jurisdiction of Union Republics.

Cases may, however, arise in which no legislative enactment relating to the matter in question placed within the republican jurisdiction has been adopted in the republic concerned at the time when particular Fundamentals of Legislation are put into effect. In such cases the all-Union law retains its validity pending the adoption of appropriate republican legislation. There would otherwise be a gap in the legislative regulation of particular social relationships. The all-Union act becomes null and void following the adoption of republican legislation. In accordance with the procedure which has become customary in such cases, an all-Union act is repealed within the territory of a particular republic following representations by its Supreme Soviet. In this way the interests of both the Union and the Union Republic are safeguarded.

In some cases Fundamentals make provision for the transfer of legislative powers from Union Republics to the Union. For example, the Fundamentals of Labour Legislation transferred a number of matters earlier regulated by republican legislation to the jurisdiction of the USSR (Art. 107).

Art. 1 of the decree of the Presidium of the USSR Supreme Soviet of November 30, 1970 "On the Procedure for

Putting Into Effect the Fundamentals of Labour Legislation of the USSR and Union Republics" specifically stated that "the Union-Republican acts promulgated prior to the effectuation of the Fundamentals on matters coming under the jurisdiction of the USSR pursuant to the Fundamentals and within the limits defined by the latter under the jurisdiction of the Union Republics, shall be in force prior to the promulgation of all-Union enactments which would settle these matters differently".

To consider republican acts as invalid from the moment of the coming into effect of Fundamentals before the adoption of all-Union laws would cause legal problems for an indefinite period. This could give rise to great difficulties in the application of labour legislation. In these cases the decree relating to the putting into effect of the Fundamentals postpones the transference of a particular matter to Union jurisdiction, until the adoption of appropriate all-Union legislation.

Decrees on the procedure for the effectuation of new laws lay down as a general rule that new legislation—Fundamentals, codes, etc.—shall apply to relationships arising after these laws come into force. They thus take as their starting point the general principle of Soviet legislation that new laws are not as a rule retroactive.

Many civil, family, labour, land and other legal relationships are protracted in character. Having arisen prior to the effectuation of new legislation, they may continue to exist after it has come into force. Therefore the question of the possibility of the extension to these protracted relationships of a new law which frequently regulates the rights and duties of parties in a manner different to that in which they were regulated by earlier legislation has great practical importance. On the basis of the general principle that no law is retroactive, decrees relating to the procedure for putting into effect of new legislation usually lay down that in legal relationships which arose prior to the effectuation of the new law and which continue to exist after its coming into force, the new law

shall only apply to rights and obligations arising after its effectuation.

The coming into effect of the norms of Union-Republican codes which reproduce the corresponding norms of all-Union Fundamentals has some distinctive features. These norms, previously established by the Fundamentals apply from the moment the corresponding norms of the Fundamentals rather than the codes are put into effect. This is reflected in republican decrees on the procedure for putting into effect of codes. Art. 3 of the decree of the Presidium of the RSFSR Supreme Soviet of October 22, 1970 "On the Procedure for Putting into Effect the RSFSR Land Code" stated that "the regulations contained in the RSFSR Land Code laid down by the Fundamentals of Land Legislation of the USSR and Union Republics shall be applicable from the time the corresponding regulations of the Fundamentals come into effect".

Alongside general rules, the decrees make special provision regarding the application of some norms of Fundamentals and codes with respect to time, scope and the range of individuals covered. Thus, in exceptional cases some norms may be made retroactive if this contributes to the strengthening of socialist legality and enhances the protection of the rights of citizens and organisations. The decree of the Presidium of the USSR Supreme Soviet of April 10, 1962 relating to the procedure for putting into effect the Fundamentals of Civil Legislation made the regulations under which a person may be declared missing or dead retroactive.

In other cases, decrees on the effectuation of new legislation lay down a later date for the coming into force of particular norms. For example, Art. 3 of the decree of the Presidium of the USSR Supreme Soviet of June 4, 1969 relating to the procedure for putting into effect the Fundamentals of Land Legislation laid down that Art. 8 of the Fundamentals regarding the cancellation of rent for the use of land plots in towns, urban-

type settlements and other land should come into force from January 1, 1970, whereas the Fundamentals as a whole should be put into effect from July 1, 1969.

The decree of the Presidium of the USSR Supreme Soviet of June 1, 1970, on the procedure for effectuating the Fundamentals of Public Health Legislation laid down that the Fundamentals as a whole should be put into effect from July 1, 1970; the rules of the first part of Art. 12 of the Fundamentals, regarding medical and pharmaceutical practice do not, however, apply to persons who have not received special training or title in the appropriate specialised secondary educational establishments in the USSR but who were permitted to engage in medical and pharmaceutical practice prior to October 1, 1972.

Time limits of this kind are necessary because a great deal of preparatory work must be carried out and organisational and other problems resolved before the norms in question come into effect.

In a number of cases decrees, in laying down special conditions for the putting into effect of particular norms of Fundamentals or codes, clarify the articles in question, making it possible to avert errors.

Some norms of decrees relating to the effectuation of Fundamentals and codes contain what are in effect interpretations of new laws. Art. 15 vii of the Fundamentals of Labour Legislation, in listing the grounds upon which a labour contract may be cancelled, includes a sentence of a court involving imprisonment or other form of punishment making it impossible for an industrial or office worker to continue work. The question arose of whether this was applicable in the case of a conditional sentence of deprivation of liberty with obligatory labour under the terms of the decree of the Presidium of the USSR Supreme Soviet of June 12, 1970. In Art. 5 of its decree dealing with the procedure for putting into effect the Fundamentals of Labour Legislation, the Presidium ruled that Art. 15 vii was applicable in such cases.

Art. 3 of the decree of the Presidium of the USSR Supreme Soviet of October 6, 1969 "On the Procedure for Putting into Effect the Fundamentals of Corrective Labour Legislation of the USSR and Union Republics" may be cited as an example of an extended interpretation. This stated that "the regime, labour conditions, rations and other conditions laid down for convicted juveniles shall apply to convicted persons who have reached the age of 18 and who in accordance with the second part of Art. 18 of the Fundamentals of Corrective Labour Legislation of the USSR and Union Republics remain in educational labour colonies".

The process of the putting into effect of the most important new laws, above all Fundamentals, affects a wide range of varied relations linked with the solution of many legal problems, in that they lay down the most important, fundamental principles, whose detailed application is worked out in codes and other legislative enactments usually adopted on the expiry of a considerable period of time after the adoption of the Fundamentals themselves. Decrees on the procedure for effectuating Fundamentals therefore contain norms which resolve particular issues, filling up gaps in legal regulation, on a temporary basis, prior to the adoption of new codes or other laws. Art. 15 of the decree of the Presidium of the USSR Supreme Soviet of November 30, 1970 "On the Procedure for Putting into Effect the Fundamentals of Labour Legislation of the USSR and Union Republics" contained a norm which, pending the adoption of new legislative enactments in accordance with Art. 106 of the Fundamentals, laid down the grounds and procedure for the dismissal of workers discharging educational functions in the event of their performance of an unethical act incompatible with the continuance of their duties.

Sometimes these decrees instruct Union Republics to establish provisional norms relating to the procedure for the application of particular clauses of Fundamentals. Art. 13 of the decree of the Presidium of the USSR

Supreme Soviet of April 10, 1962, "On the Procedure for Putting into Effect the Fundamentals of Civil Legislation and the Fundamentals of Civil Procedure" instructed the Union Republics to establish (until republican legislation was brought into line with the Fundamentals) the procedure for implementing the second part of Art. 25 and Arts. 26 and 95 of the Fundamentals. The republican Presidiums accordingly adopted decrees regulating the procedure for the application of these articles. The norms of these decrees were subsequently incorporated into the new civil codes of the republics.

Decrees relating to the implementation of Fundamentals and codes may also contain instructions to a government and other state bodies to settle matters arising from the application of particular clauses of new legislation. Art. 10 of the decree of the Presidium of the USSR Supreme Soviet of September 20, 1968, "On the Procedure for Putting into Effect the Fundamentals of Legislation of the USSR and Union Republics on Marriage and the Family" instructed the USSR Council of Ministers to introduce a stamp duty payable when a certificate of the dissolution of a marriage is issued, and also to establish procedure for defining the types of income or earnings to be taken into account when assessing maintenance payments. Instructions of this type are given with a view to ensuring the fullest and speediest effectuation of new legislation, and to creating the necessary legal and organisational mechanisms for the purpose.

Decrees on the procedure for the effectuation of new laws cannot of course resolve all the problems which arise in this connection; they have a less ambitious purpose—that of resolving the problems which arise or may arise during the period when new legislation is coming into effect, and also the problems which arise in connection with bringing earlier legislation into line with new enactments.

The majority of the norms of these decrees are therefore provisional in character; after Fundamentals have

come into effect they gradually lose their practical significance. Some are codified in other legislative enactments adopted as part of the process of the renewal and improvement of legislation; only a few retain their legal validity for a long period of time.

Whatever may be the nature of the norms they contain, decrees on effectuating new legislation contribute to a better understanding of the meaning and content of its legal prescriptions and facilitate their proper implementation.

THE CODIFICATION
AND SYSTEMATISATION
OF LEGISLATION IN THE USSR

1. THE PURPOSES
AND PRINCIPLES OF CODIFICATION

At the present stage of the development of the Soviet state, marked by the extension of democracy, the consolidation of socialist legality and the increased role of legal guarantees, the role of Soviet legislation as the foundation of socialist legality and a most important lever in the building of communism is growing. The activity of the state in the person of its supreme organs of power in improving legislation is therefore of great importance.

A most important aspect of this work is the *codification* of legislation.

Codification implies not only the unification and consolidation of related legislative enactments, but also the introduction of any changes that may be necessary.

A distinctive feature of codification is that it is carried out on the basis of existing legislation while at the same time presupposing a critical approach to it. The promulgation of new codified acts as a rule involves the improvement of the law and the replacement of old norms by new ones corresponding to the requirements of social development. Gaps in legislation are filled and discrepancies eradicated.

Codification therefore constitutes a reformulation of existing legislation as a result of which a new legislative enactment comes into being.

Codification assumes many forms, depending upon the nature of the legal norms codified. It may embrace norms relating to a particular legal institution or particular branch of law. On the other hand, norms relating to several legal institutions or to one or even different branches of law may be codified.

The codification of a particular branch of Soviet legislation usually includes both all-Union and republican legislation.

Various types of codification have evolved, depending upon the aims and purposes in each particular instance.

All-Union codification acts dealing with legislation in areas which lie within the jurisdiction of both the USSR and the Union Republics take the form of Fundamentals of Legislation relating to the particular branch or sub-branch of law. This tradition has its roots in the principles governing the relations between the USSR and its constituent Union Republics. By adopting Fundamentals of Legislation, the USSR lays down basic principles and norms, giving Union Republics the right to adopt codes and other laws in conformity with them.

Codes are another important form. A code is a single legislative enactment containing norms of law relating to one particular branch of law and set down in a manner reflecting the system of that branch.

Codes are the usual form adopted in the codification of republican legislation on matters which lie within the jurisdiction of both the USSR and the Union Republics. In such cases, the detailed regulation of social relationships is a republican prerogative. But a code may also be a form of the codification of all-Union legislation relating to matters which fall exclusively within the jurisdiction of the USSR.

Statutes and regulations are another form of all-Union and republican legislation.

The systematisation of legislation likewise has an important role to play in ensuring the correct application of the law and its improvement.

Unlike codification, systematisation does not involve any changes in the acts subject to it.

Systematisation is the external processing of existing legislation, the account and arrangement of normative acts in a manner facilitating their proper utilisation.

External processing involves the incorporation of subsequent amendments and addenda and the deletion of articles and clauses which have been recognised as null and void.

During the process of systematisation legal enactments may be set down according to branches of law, or in alphabetical, chronological or other order, and a chronological or systematic collection of laws is thus compiled.

The *principles of codification* and also the *objectives* of the legislator are of great importance. Codification also embraces the results of the work of codification—that is, the publication of the re-worked and amended normative acts. It is important that the results of codification should conform to the objectives of the legislator, which also influence the work of codification.

The legislator in the first place pursues the main social objectives which determine the basic content of the normative novels of Fundamentals and codes. These objectives are determined by the economic, political and other factors characteristic of the particular stage reached in the development of the Soviet state. At the same time the legislator pursues strictly legal objectives, in each case imbued with a content conforming to the social objectives of codification. These legal objectives include the more orderly presentation of the normative basis of the law, and the improvement of the structure of normative acts, their logic, style and language.

More orderly presentation means the integration of different acts in large composite laws, the co-ordination of norms according to their content, the eradication of discrepancies between different institutions and branches of the law, and the logical development of some institu-

tions from or together with others within the framework of a uniform legal system.

The effectiveness of the law depends upon many factors. When the range of social relationships governed by the law is constantly expanding, the accessibility and scope of normative material assumes exceptional significance. The legislator must therefore strive to achieve this, using, among others, the methods of codification. The following means are employed: the improvement of the form of expression of legal prescriptions, the simplification of the structure (system) of Fundamentals and codes, the development of effective means of bringing the influence of the law to bear (measures of criminal punishment, civil-law sanctions, etc.). The creation of norms and their codification presupposes constant concern on the part of the legislative bodies to ensure that legislation should at all times be effective. The creation of norms must therefore be organised in such a way as to ensure that norms of law not only follow social development, but also reflect its immediate prospects.

The purposes of codification set out above in large measure determine the nature of the principles governing this work. Codification work includes not only the drawing up and adoption of Fundamentals and codes, but also the maintenance of the codified system of law at the level of legal effectiveness which has been achieved. The principles of codification work therefore include: the planned creation of new norms; the prompt repeal of obsolete acts and the inclusion of newly-adopted clauses in codes; the comprehensive regulation of social relationships; the supremacy of the law.

Codification, as experience has shown, must be planned. Proposals for new codes and other key legislative enactments are drawn up by ministries and departments with a view to systematising economic legislation. It is therefore not accidental that a decree of the Presidium of the USSR Supreme Soviet on August 12, 1971 entrusted the systematisation of law and

the preparation of codification proposals to the USSR Ministry of Justice.

There is at present a precise and strict procedure governing the publication, coming into force and putting into effect of new legislation.

The principle of the comprehensive regulation of social relationships implies that all aspects of a particular social phenomenon must be co-ordinated in the process of codification. This principle also envisages an optimal relationship between the law and the economy, the law and morality, etc. The drafting of a legislative enactment to regulate only one aspect of a social phenomenon, while ignoring other aspects which continue to be regulated by outdated legislation or which remain completely unregulated, is impermissible.

Laws, and above all Fundamentals and codes, are the main means by which social relationships are regulated. A law is an expression of the state will of the supreme representative organs of power and of the will of the people. It must therefore be the basic instrument by which norms are created. Relationships which affect the vital interests of the citizens must be regulated only by the law.

Work on the codification and systematisation of legislation has been carried on consistently in the USSR. This work, with the aim of further reinforcing socialist legality, gained new momentum with the adoption of the USSR Constitution in 1936.

Chronological collections of legislation have now been published in the Union Republics. In the RSFSR a systematic collection has appeared. Ministries and departments publish collected editions of laws and statutory instruments relating to particular areas of administration (labour, finance, merchant shipping, conservation of mineral wealth, etc.).

The improvement of Soviet legislation and its correct application also requires the systematisation of all-Union and republican legislation.

Union Republics may in principle publish systematic collections of their own legislation independent of the publication of the systematic collection of current legislation of the USSR, in so far as this is a question of the arrangement and classification of acts involving no substantive changes in the regulation of social relationships.

A number of problems relating to the selection and arrangement of material, the method of systematisation, etc., arise during the compilation of collections of legislation, in particular in the preparation of chronological and systematic collections.

Chronological collections differ from systematic collections in the manner in which the legislative material is arranged and in the degree to which it is edited. In chronological collections acts are arranged in accordance with their date of approval, while in systematic collections they are arranged according to subject-matter.

Chronological collections are compiled during the first stages of work on the orderly presentation of legislation. The compilation of systematic collections is possible especially when the number of normative acts is not large. The compilation of a chronological collection of current legislation sometimes makes the compilation of a systematic collection unnecessary.

The most important objective of systematisation is to bring to light acts and norms which, although not formally repealed, have in fact become invalid. In the case of the compilation of chronological collections, this objective is achieved only to a limited extent, and is in the main confined to the enumeration of measures which have become completely invalid.

But the disclosure of all norms which have become invalid (including those which have become partially invalid) requires the comparative study of a great deal of legislative material. This can be done fully only as part of the compilation of a systematic collection.

A systematic collection is customarily based on a chronological collection and marks a higher stage in the

systematisation of legislation. A systematic collection makes it possible to rid legislation of outdated measures and to assemble and compare normative acts adopted at different times.

During the course of the compilation of collections of laws the question may arise of the substantive revision of particular acts or of the full or partial codification of particular branches of law. This, of course, must not affect the work of compilation. Such matters are referred to the appropriate legislative bodies in accordance with established procedure.

2. SOME QUESTIONS OF LEGISLATION TECHNIQUES

During the codification of legislation certain rules relating to the preparation of draft laws and the exposition of legal norms are followed. These rules are usually referred to as legislation techniques.

This is sometimes confined merely to the editing of the text of a law or other normative act. But the concept of legislation techniques is in reality much wider and considerably more complex.

In its fullest sense, it embraces a wide range of questions connected with the preparation of a draft law, including the organisation of the preliminary work, the selection of normative material relating to the subject of the draft, the methodology and procedure to be followed during work on its content and text, and the disclosure of legislative enactments which will be subject to repeal or amendment or which will become invalid following the adoption of the new law. The concept of legislation techniques also embraces many other aspects of work on the preparation of new legislation.

One of the most important objectives of codification is to ensure the promulgation of exact, precise and fully comprehensible normative acts. This depends upon the

quality of the drafting work during the preparatory stages of the legislative process.

When starting work on the drafting of a new legal measure, it is necessary to define the range of persons who will participate and carefully to gather information relating to the subject. If the work is to be successful, all relevant information and the views of the general public, working people and interested ministries and departments must be carefully considered.

Sociological research is sometimes desirable. During the drafting of the all-Union law adopted in 1969, "On Introducing Changes and Amendments in the Fundamentals of Criminal Legislation of the USSR and Union Republics", criminological studies were carried out to determine the categories of persons to which the law should apply.

The preparation of draft legislation presupposes the *utilisation of scientific knowledge*. A draft must be scientifically based. This is ensured by the participation of scholars and experts who have made a profound study of the social relationships to be regulated by the new law.

During the preparation of the draft Fundamentals of Legislation of the USSR and Union Republics on Water Resources, extensive use was made of the results of earlier measures adopted in accordance with the contemporary level of science and technology and necessary for the proper utilisation and control of water resources throughout the territory of the USSR. All were studied with the participation of scientists and experts. Extensive use was also made of the results of research into problems of water utilisation and conservation.

During the preparation of new legislation, account is taken of the *results of the application of any existing law* regulating the social relationships in question. A draft must always take account of relevant norms which have proved effective. It must also be borne in mind that regulations relating to a particular question may be contained in legal enactments covering areas of law not directly related to that covered by the draft.

A law must reflect typical aspects of social phenomena which are general in character, and it must be stable within the framework of a particular period of the development of society.

Legal norms should be formulated with a certain flexibility with regard to time, that is, the formula of a law should take into account the possibility of future developments, so that the law should not find itself at variance with new circumstances.

It is highly important that *the letter of the law should conform to its meaning*. Upon this depends the effectiveness and authority of the law. A draft law should be set down in a clear and simple language, as far as possible using short phrases; it should not contain incomprehensible or little-used terminology.

Special attention is paid to precise terminology. Terms should be used in a manner corresponding to their usage in the literary language or particular areas of learning.

Uniformity of terminology is of great importance; different terms should not be used to indicate one and the same concept. Outdated terminology should be replaced by terminology in current use. On the other hand, terminology which has hitherto been used in legislative enactments and other normative acts should not be needlessly rejected.

A draft may be divided into sections and chapters, depending upon its content and scope. Its articles should be set down in logical sequence and co-ordinated.

Major drafts frequently have introductory sections or preambles. These explain the objectives of the law and the motives prompting its adoption, and contain no normative clauses.

The structure of each article is of great significance. It is very important that articles should be as succinct as possible. Each article should contain one single norm or a number of related norms. The heading of each article should correspond to its content.

An article may be divided into sections and clauses, depending upon content. Numeration should be uniform.

Legal norms may be definitive, indicative or referential. A definitive norm describes behaviour which is prescribed or prohibited. Indicative norms do not describe prescribed or prohibited behaviour, but indicate other norms which define such behaviour. Referential norms make direct reference to some other law.

References to other articles, and also to previously adopted normative acts, are employed only when this makes it possible to avoid repetition.

A reference to a previously adopted act must indicate the body which promulgated the act, its date and title and also, when the act is referred to for the first time, the number and article of the official publication, if it has been published.

Norms relating to the coming into force of the new law are also formulated during the drafting process.

It is desirable at the end of the draft to indicate the normative acts, or articles of such acts, which become invalid as a result of the adoption of the new law.

When their number is great, they are enumerated in an appendix. If its preparation requires a great deal of time, while the submission of the draft is a matter of urgency, the draft may make provision for its compilation.

Sometimes the adoption of new legislation is the prelude to the promulgation of other normative acts; in such cases, the bodies responsible for their drafting and approval are indicated.

3. THE ORGANISATION OF LEGISLATIVE INFORMATION

The work of legislation, the improvement of Soviet law and the strengthening of socialist legality require an effective and well-organised information service.

A large number of diverse normative acts are involved in the solution of the many problems which arise during the legislative process and the work of codification and systematisation. This makes a speedy and accurate information service necessary.

This is particularly so when it is necessary to analyse not only all-Union legislation and acts of the Government of the USSR, but also those of the organs of state power and administration of the Union Republics, and frequently also those of ministries and departments. Legal information in a generalised, processed form, for example regarding the treatment of a particular question in Soviet and foreign legal literature or how the law has regulated particular social relationships at various periods of history, is of great value.

The recording of normative acts and the organisation of legal information is a complex matter demanding a great deal of painstaking work, specialised knowledge and great experience. This work is at present done by the Presidium of the USSR Supreme Soviet, the USSR Council of Ministers, the USSR Ministry of Justice, the USSR Supreme Court and the Office of the Procurator-General of the USSR, and also by the corresponding bodies in the Union Republics.

Some other bodies exchange information regarding legislation and have their own legal information services, where necessary also dealing with foreign legislation.

New developments in cybernetics make it possible to evolve efficient means for the transmission and processing of legal information.

Cybernetic techniques have many advantages. They make it possible to accumulate unlimited data and exclude the possibility of gaps. With their aid it is possible speedily to recover information relating to the most varied questions and recorded under the most diverse heads, and to systematise it in strictly logical fashion.

The use of cybernetic techniques is also possible and

desirable in the codification and systematisation of legislation.

A computer may be used to verify and analyse legal material, and to bring to light and eradicate contradictions, obscurities and discrepancies.

The creation of legislative acts frequently involves the need for a comparative analysis of the legal regulation of social relationships in various countries or at different historical periods. A computer can rapidly select the relevant material from data stored in its memory-bank.

Methods of retrieving legal information and of bringing to light contradictions, inconsistencies and duplication are currently being evolved in the USSR. A standard methodology for the processing of current legislation is being evolved which will make it possible to resolve many of the problems connected with the improvement of legislation in a comprehensive fashion with the aid of cybernetic techniques.

The improvement of Soviet legislation takes account of the international contacts of the USSR, which are developing in the most varied forms.

For instance, the improvement of separate branches of law, e.g., those relating to patents and licences largely depends on the volume, precision and fullness of the information concerning foreign states' legislation in these fields, and on the supply of this information in due time. The protection of Soviet authors' and inventors' copyright and the use of works discoveries and inventions made abroad also involve appropriate information on legislation abroad.

4. THE CODIFICATION AND IMPROVEMENT OF SOVIET LEGISLATION

As already noted, codification is an important element in the evolution of law, because it helps generalise the accumulated legislative material and resolve new prob-

lems of legal regulation. Account is also taken of the practical experience gained in the application of current legislation and of data indicating trends in legal development. The necessity for codification of a number of branches of law as the basis for the further improvement of legislation arose as a result of the great social and economic changes which have taken place in the USSR during the recent decades. These changes demand not merely the unification and arrangement of a wide variety of legal enactments, but substantial changes in the entire content of the legal regulation of whole areas of the life of society.

The objectives of codification include the improvement of the legal regulation of social relationships, the extension of Soviet democracy and the strengthening of socialist legality. The aim of the Soviet legislator is to make the law accessible, clear and comprehensible to the working people. The Soviet state has always seen codification as an important aid in the building of socialism and communism.

The first major codification of Soviet legislation was carried out in 1922.

A new codification is at present under way. It differs from the earlier codification in that it embraces both all-Union and republican legislation and in that it is carried on a larger scale and involves a great number of branches of law and codification acts of the most varied types.

The content and aims of codification are determined by the objectives of the building of communism in the USSR. The purpose of codification at the present time is to bring existing legislation into line with the current political, economic and ideological needs of Soviet society, to ensure uniformity of legal regulation while taking into account the distinctive features of the individual Union Republics, to establish new legal norms in the light of the needs of society, to eradicate outdated, contradictory and repetitious norms and norms which are inadequately and obscurely formulated, and to bring

the norms of each branch of law into a clear, logical system which ensures that they are generally understood and facilitates their practical application. The adoption of the Fundamentals of Legislation by the USSR Supreme Soviet was an important step towards the achievement of these objectives. A number of all-Union codes and statutes have also been adopted. The Supreme Soviets of Union Republics have approved codes and other laws in line with the all-Union Fundamentals. This demonstrates that the Soviet state is making extensive use of codification as a means of regularising and co-ordinating all-Union and republican legislation.

In this way a stable legal foundation is laid for the improvement of law as a whole, including both legislation and statutory instruments.

It should be borne in mind that the regularising and co-ordination of Soviet law is not a process confined to its codification.

No Fundamentals or codes can bring together all the norms regulating a particular sphere of social relationships. There will always be normative acts which supplement and develop a particular set of Fundamentals or a particular code in response to the current needs of social life. In some branches of law (such as criminal law) the number of such measures is minimal. In other branches (such as civil and labour law) their number is substantial.

With this in mind, the legislator endeavours above all to reduce their number to a rational minimum, and to make them part of a strict, logical system, accessible and convenient to apply.

This work—that is, the further improvement of the law—is carried out in various ways by the Soviet state, above all:

by the codification of both legislative norms which do not form part of Fundamentals of Legislation or a code and of statutory instruments;

by means of the unification of many acts governing a

particular range of questions into one or a number of acts ("consolidation"). The distinctive feature of this method is that it does not presuppose any substantive change in the content of legal regulation; the range of regulated relationships, their subjects, the rights and obligations of the parties, the juridical facts and the sanctions for non-observance remain unchanged. But the total number of acts regulating the relationships in question is reduced; articles and clauses are arranged in a clear and logical fashion; the wording of articles is brought up to date, taking into account changes in the system of state organs, their titles, inter-relationships, etc. Laws and other measures become simpler, more comprehensible and more convenient for application and observance.

The forms of unification may be: a) the creation of a new act to replace those which are unified; b) the transference to one act of articles and clauses from other acts; c) the consolidation of several acts into one existing act with the retention of its title and other provisions. At the present time the first form is widely used. The experience of the USSR Council of Ministers in recent years has demonstrated its effectiveness. Consolidated acts relating, for example, to communications and agricultural procurements have wholly or partially replaced several hundred government measures.

Naturally, the more vigorous the work of codification carried on by the USSR Supreme Soviet and the Supreme Soviets of the Union Republics, the more speedily the process of the further improvement of the entire system of Soviet law advances.

5. THE DEVELOPMENT OF THE CONSTITUTIONAL PRINCIPLES GOVERNING THE CODIFICATION OF LEGISLATION IN THE USSR

The Soviet Constitutions, which form the legal basis for Soviet legislation as a whole, also form the basis for

its codification.¹ They contain the initial norms which define the spheres of social relationships to be regulated by codes.

The codification of legal norms in the form of a law has certain objective grounds. In the first place, it is a question of the purpose and nature of the codification acts. They are fundamental acts relating to the branch of law in question, and regulating a substantial area of social relationships. Other legal enactments are adopted in accordance with them. It is therefore clear that the Fundamentals and codes must be invested with the supreme juridical force of law.

The Constitutions lay down the spheres of social relationships which must be regulated by codification acts. When the USSR Constitution was adopted in 1936 provision was made for the establishment of fundamental principles governing land use and the utilisation of forests, water resources and mineral wealth, and also of fundamental principles of legislation regarding education, public health and labour. In 1946 Art. 14 was amended, giving the USSR the right to lay down the fundamentals of legislation relating to marriage and the family. In 1957 the USSR was empowered to lay down fundamentals of legislation relating to the judicial system and judicial procedure and of civil and criminal legislation. In 1969, because of the close link between regulated relationships relating to the serving of sentences and those governed by criminal legislation, Art. 14 was further amended by the addition of a reference to the establishment of fundamentals of corrective labour legislation.

The All-Union Fundamentals of Legislation envisage the adoption of criminal and civil codes and codes of civil and criminal procedure, corrective labour codes, codes of law relating to marriage and the family, and

¹ Art. 14 of the USSR Constitution refers to the establishment of fundamentals of legislation.

labour, land and water codes by Union Republics in accordance with their Constitutions. The Presidium of the Supreme Soviet of the Ukrainian SSR has in addition resolved to draw up an administrative code.

At the end of 1976, 13 all-Union laws of the Fundamentals of Legislation type were in force in this country, in accordance with which codes and other laws had been adopted by Union Republics. Codification work continues both at Union and Union-Republican level.

The legislative activity of the USSR Supreme Soviet is not confined to the adoption of Fundamentals of Legislation. Other all-Union legislation on matters lying within the Union's jurisdiction and in pursuance of the Fundamentals is enacted and promulgated in conformity with the USSR Constitution.

In accordance with the USSR Constitution and with the aim of enhancing the role played by deputies, the USSR Supreme Soviet has adopted a law "On the Status of Deputies of Soviets of Working People's Deputies". To heighten the role of local Soviets in political, economic, social and cultural development the Presidium of the USSR Supreme Soviet has adopted decrees on the basic rights and duties of village, settlement, district and city Soviets.

Exercising powers laid down in Art. 14 of the USSR Constitution, the USSR Supreme Soviet has approved laws ratifying and denouncing international treaties, laws relating to the budgetary powers of the USSR and Union Republics and legislation regarding universal military service.

In addition to the Fundamentals of Labour Legislation, there is an all-Union law on state pensions and a statute on the powers of factory and local trade union committees. The USSR Supreme Soviet has approved a law on pensions and grants to collective farmers.

In the sphere of legislation relating to the judicial system, side by side with the Fundamentals and supplementing them, there is the Statute on the USSR Supreme

Court approved by an all-Union law. This Statute deals with the work of the supreme judicial body of the USSR.

The Procurator-General is vested with supreme supervisory power to ensure the strict observance of the law (Art. 113 of the USSR Constitution). The necessity for a strictly centralised procedure governing the organisation and implementation of procuratorial supervision prompted the adoption of a special legislative enactment—the Statute on Procuratorial Supervision in the USSR.

The USSR Constitution places the administration of transport of all-Union significance under Union control. The Air Code of the USSR is an important legislative enactment regulating social relationships in this sphere. The Code of Commercial Navigation of the USSR deals with sea transport, supplementing the Fundamentals of Civil Legislation of the USSR and Union Republics on matters relating to the contract of conveyance of freight, passengers and baggage by sea.

The administration by the USSR Government of foreign trade on the basis of a state monopoly made it necessary for the USSR Supreme Soviet to adopt a Customs Code of the USSR in accordance with which the customs authorities of the USSR control the observance of the state monopoly of foreign trade, carry out customs work and curb infringements of customs regulations and smuggling.

But the Fundamentals of Criminal Legislation, which set out the most important normative injunctions relating to this branch of law, do not include all the Union norms of criminal law. The laws relating to criminal responsibility for state crimes and for military offenses approved by the USSR Supreme Soviet supplement and develop these Fundamentals.

Art. 14 of the USSR Constitution places legislation regarding Union citizenship within the jurisdiction of the USSR. This was the basis for the adoption of the law "On

the Citizenship of the Union of Soviet Socialist Republics" by the USSR Supreme Soviet on August 19, 1938.

Other legislative enactments may be adopted, both in the form of laws of the USSR and of decrees of the Presidium of the USSR Supreme Soviet, on matters which lie within the jurisdiction of the USSR.

Chapter VII THE MOST IMPORTANT
ALL-UNION LAWS

1. LEGISLATION RELATING TO THE STATUS
OF MEMBERS OF SOVIETS
OF WORKING PEOPLE'S DEPUTIES

The Soviets of Working People's Deputies are the representative organs of state power in the USSR. They are organisations directly linked with the working people, uniting the Soviet people in the socialist state. Through the Soviets, to which the people elect their best representatives, the working people of the USSR exercise state power which belongs to them. The basic function of the Soviets is to express the will of the people and to exercise state power in their interests. Under the terms of the USSR Constitution, the Soviets constitute the political foundation of the USSR and are the basis of the entire state apparatus. All other government bodies derive their authority from the Soviets. The growing role played by the Soviets in the Soviet state apparatus, the growing control which they exercise over the work of executive bodies, the enhancement of the prestige and role of their members—these are among the characteristic features of Soviet democracy in the period of the building of communism.

The Soviet deputy is the central figure in the Soviets and in the entire system of representative organs of state power. As the people's plenipotentiary representative he participates in the exercise of state power by the Soviets. The effectiveness of a Soviet's work in large measure

depends upon the scope of the powers with which the law invests the deputy, upon the precision with which these powers are regulated by the law and upon the vigour and initiative shown by the deputy in exercising them.

The improvement of the legal status of deputies and the enhancement of their role are the necessary prerequisites for the Soviets' successful fulfilment of their functions as representative organs of state power. It is in this light that we should see the significance of the all-Union law "On the Status of Members of Soviets of Working People's Deputies in the USSR" adopted on September 20, 1972.

This law was drafted on the initiative of the CPSU. "There is now a pressing need for a special law defining the status, powers and rights of deputies—from the Supreme to the settlement Soviets—and also the duties of officials with regard to deputies. It seems to me that the passage of such a law would enhance the authority and activity of deputies,"¹ said L. I. Brezhnev, the General Secretary of the Central Committee of the CPSU, in the Central Committee's Report to the 24th Congress. This proposal was approved by the Congress.

A draft law on the status of deputies was drawn up by the legislative proposals and credentials commissions of the two chambers of the USSR Supreme Soviet on the instructions of its Presidium. The commissions took as their starting point Lenin's principles governing the Soviet system of representation set down in the USSR Constitution. Legal norms relating to the powers of deputies to be found in all-Union and republican legislation were also taken into account and summed up. The rich experience gained by Soviet deputies in the course of their work was generalised on a scientific basis. Deputies, Party and government officials, scholars and experts

¹ *Report of the Central Committee of the Communist Party of the Soviet Union to the 24th Congress of the CPSU, Moscow, 1971, p. 92.*

from ministries and departments, as well as republican and all-Union state bodies contributed to the work. Questions arising during the course of the preparation of the new measure were discussed in the press.

One of the distinctive features of the new law is that it is an all-Union act defining the legal position of members of Soviets at all levels, from village Soviets to the Supreme Soviet. The adoption of an all-Union law on the deputies' status was necessary because of the nature of the structure of the Soviet state. The uniformity of the legislative regulation of the status of Soviet deputies reflects the uniformity of the system of Soviets of Working People's Deputies. The fundamental principles governing the organisation and work of Soviets at all levels and, by the same token, the fundamental principles governing the status of their members are common to all Union Republics and to the Soviet Union as a whole.

The USSR Constitution lays down common principles relating to the election of deputies. It also establishes the most important principles governing the work of deputies (the obligation to report to their constituents, the latter's right to recall a deputy, etc.). The relationships between members of Soviets at all levels, on the one hand, and officials, state bodies, enterprises and organisations, on the other, are similarly founded on common principles. Since there are enterprises and organisations of Union subordination on the territory of Union Republics, it is desirable that relations between the members of Union-Republican Soviets and the administrations of these enterprises and organisations should be governed by all-Union rather than republican legislation. In addition, matters relating to the status of deputies, such as release from work or other duties in connection with the performance of their functions as deputies, the deputy's right to free travel and the question of the deputy's immunity must be regulated on a federal basis by a single, all-Union law. At the same time the law on the deputy's status empowers Union and Autonomous Republics to promul-

gate legislative enactments developing and giving concrete form to certain of its norms in a manner which takes into account the distinctive legal position of members of Soviets at some levels, and also the distinctive features of Union Republics.

The law on the status of deputies consists of an introduction or preamble and four sections.

The preamble, taking as its starting point the principle that full power is vested in the Soviet people in the person of the Soviets of Working People's Deputies, defines the place of the deputy in the system of organs of popular representation. In focusing attention upon the meaning and significance of the work of a deputy from the point of view of state law, the law lays down that deputies are authorised by the people to participate in the exercise of state power by the Soviets, express the will of the people and defend its interests. The law stresses that to be a deputy is a high honour and a great responsibility. The electorate place great political and social responsibilities upon the shoulders of their deputies. It is the duty of the deputy to devote all his energy and ability to the cause of building communism, to strengthen the alliance of the working class and collective farm peasantry in every way, promote the friendship and fraternity of the Soviet peoples, reinforce the social and political unity of Soviet society, improve the well-being and raise the cultural level of the working people and enhance the strength of the socialist homeland. Deputies must carry out the election programme of the indivisible Party and non-Party bloc which embodies the policy of the Communist Party and expresses the interests of the people. The deputy must in all aspects of his work show himself to be worthy of the electorate's confidence. He must in every way match up to the demands made upon him by the people.

Section I of the law contains general provisions defining the status of a deputy and the structure of legislation relating to the powers of deputies (all-Union legislation

and the legislation of Union and Autonomous Republics).

Article 1 lays down that a deputy is the plenipotentiary representative of the people in an organ of state power—a Soviet of Working People's Deputies. He is vested with these powers as a result of his election on the basis of universal, equal and direct suffrage by secret ballot.

A distinctive feature of the Soviets as representative organs of state power of a socialist type is that they not only adopt normative acts and other decisions, but also organise and control their implementation. Lenin declared that the members of Soviets "themselves have to work, have to execute their own laws, have themselves to test the results achieved in reality, and to account directly to their constituents".¹ The law on the status of deputies embodies this Leninist concept.

Article 2 lays down that the exercise of state power by a Soviet is based upon the active participation of deputies in all aspects of its work. The members deal with problems of political, economic, social and cultural development, organise the implementation of their decisions and play their part in controlling the work of state organs, enterprises, establishments and organisations and in exercising all the other powers with which the Soviets are vested.

The deputy is guided by the public interest; he takes account of the needs of the inhabitants of his constituency, and also of the economic, cultural, national and other features of the Union or Autonomous Republic, Autonomous Region or National Area from which he is elected, or within which his constituency lies. He bases his work upon all-Union legislation and upon the legislation of Union and Autonomous Republics and the decisions of the appropriate Soviets.

The activities of the Soviets combine features of the work of government bodies and social organisations. This finds clear expression in the fact that deputies, as the

¹ V. I. Lenin, *Collected Works*, Vol. 25, p. 424.

law lays down, exercise their powers while continuing their normal work. Deputies receive no salary as members of Soviets (Art. 5). Election as a deputy does not transform a citizen into a paid state official. The deputy continues his normal work alongside his fellow-workers, which ensures an unbreakable bond between him and the people.

The law requires that the deputy shall maintain contact with his constituents, with the groups of workers and social organisations which nominated him, and also with factories and other establishments, organisations and state bodies in his constituency.

A deputy is responsible and accountable to his constituents. A deputy who forfeits his constituents' confidence or who conducts himself in an unworthy manner may at any time be recalled by a majority of his constituents in the manner laid down by the law (Art. 6).

The law attaches great importance to a deputy's work in carrying out the mandates of electors. By giving these mandates or instructions to their deputies, the Soviet people show themselves to be masters of their country who participate in the administration of social and political affairs and who have a profound interest in the achievement of the social and economic objectives which confront their country and in the eradication of shortcomings in the work of state bodies and officials. The mandates are a means by which the will of the electorate and the needs and requirements of the working people find expression. They are an effective means by which the electorate can influence the work of deputies, Soviets and government bodies. The scale of this type of work is indicated by the fact that the Soviets elected in 1971 accepted more than half a million mandates for fulfilment.

The law lays down that a deputy shall take part in organising the public to carry out the mandates of electors, and in verifying their fulfilment by factories and other establishments and organisations. The relevant

Soviet considers the mandates approved by meetings of electors, adopts measures for their implementation, takes them into account when drafting economic, social and cultural development plans and when drawing up its budget, and organises and supervises their fulfilment (Art. 7).

The law defines the relationship between the deputy as a member of a collegiate representative organ of state power, on the one hand, and the Soviet and its various organs, on the other.

A deputy must play his full part in the work of a Soviet, and of the standing commissions and other bodies to which he is elected. He must carry out the instructions of the Soviet and its bodies. A Soviet may receive reports from members regarding the fulfilment of their duties and of the decisions and instructions of the Soviet and its bodies.

The Presidiums of Supreme Soviets and the Executive Committees of Soviets assist deputies in their work. They inform deputies about the work of the Soviets and their various bodies, about the progress being made in the fulfilment of economic, social and cultural development plans, the fulfilment of electors' mandates, and about action taken in response to criticisms and proposals made by deputies. They help deputies to study Soviet legislation and the experience of the work of Soviets (Art. 8).

The law on the status of deputies enshrines the principle that the state shall provide the conditions necessary to enable a deputy to exercise his powers. The Soviet state guarantees that each deputy shall enjoy the conditions necessary to ensure the unhindered and effective exercise of his rights and duties. Persons obstructing a deputy in the performance of his powers or in any way infringing the honour or dignity of a deputy as a representative of state power are liable under the law (Art. 9).

The law lays down the term of office of a deputy and establishes the grounds upon which it may be prematurely terminated (Arts. 4 and 10). A deputy's powers

date from the day on which he is elected. A credentials commission elected by the Soviet verifies that the deputy has been duly elected. On the recommendation of its credentials commission, a Soviet either permits the deputy to take his seat or may annul the election of individual deputies. A deputy's term of office ends on the day a new Soviet is elected.

A deputy's term of office may be terminated prematurely as a result of his recall by his constituents.

A deputy's term of office may also be terminated prematurely by a decision of the Soviet adopted on the basis of a personal statement by the deputy offering his resignation owing to circumstances which make it impossible for him to carry out his duties, or because a court has passed sentence upon a deputy.

Section II regulates relationships arising in connection with the deputy's work in the Soviet. A Soviet is a collegiate organ of state power. The success of its work depends upon the full participation of deputies.

The Soviets of Working People's Deputies hold sessions at which deputies discuss and take decisions regarding all basic issues falling within the jurisdiction of the Soviet concerned. A deputy must attend each session and take part in its work. He must be informed in advance of the time and place of the session and of the matters to be discussed. He is provided with the necessary background material. Should he be unable to attend, the deputy informs the Soviet to this effect.

The law lays down the basic rights of the deputy at sessions of Soviets. A deputy may vote on all matters discussed and has the right to elect and be elected to organs of the Soviet. A deputy may table items for discussion and make proposals relating to the agenda, procedural matters or the substance of matters under discussion. He may make proposals relating to the membership of bodies set up by the Soviet and relating to the candidature of officials elected, appointed or confirmed by the Soviet. He may address inquiries, participate in debate, ask ques-

tions, and table motions and amendments. He may speak in support of his motions and in motivation of voting. He may also speak on points of information.

A deputy may propose that the Soviet hear a report or call for information from any body or official accountable to it or under its control. He may submit proposals and comments relating to any question under discussion to the chairman in written form (Art. 12).

The majority of members play an active part in the work of the standing commissions, while many are elected to other bodies of the Soviet. A deputy elected to the Presidium of a Supreme Soviet, to an executive committee, standing commissions or other body may table matters for consideration by these bodies. He may participate in the preliminary study of matters to be examined, and then in their discussion and in the adoption of the appropriate decisions. He may also participate in the organisation of the carrying out of the decisions of a Soviet and its bodies, and in the control over their implementation.

The law lays down that members of the USSR Supreme Soviet and of the Supreme Soviets of Union and Autonomous Republics have the right to initiate legislation.

Control over the work of executive bodies and officials and of the work of the administrative apparatus is an important function of the Soviets. In controlling the fulfilment of economic, social and cultural development plans, local Soviets regularly receive reports from their Executive Committees, sections and departments. Sessions of Supreme Soviets discuss reports from the government or individual members of the government.

The discussion of deputies' inquiries is an effective means by which the Soviets control the work of administrative bodies and officials. The law lays down that inquiry may be tabled by any deputy or group of deputies orally or in written form. A written inquiry is read at a session of the Soviet. The body or official to whom it is addressed must reply within the time-limits and

in the manner laid down by the laws of the USSR and of Union and Autonomous Republics (Art. 14).

Deputies make full use of this right. In 1972 about 51,000 inquiries were tabled in local Soviets.

Attaching great importance to the proposals and comments made by deputies at the sessions of Soviets, the law lays down the procedure by which they shall be considered. They are either considered by the Soviet itself or referred to the appropriate government or non-government bodies or officials who are obliged to examine them and to inform the deputies concerned directly. These bodies are also required to inform the Presidium of a Supreme Soviet, Council of Ministers or Executive Committee, as appropriate.

With a view to enhancing the activity of deputies and strengthening control over the fulfilment of laws and decisions of local Soviets and over the work of organs of state administration, enterprises and organisations, the law lays down that a deputy may, on the instructions of a Soviet, verify the work of government bodies and enterprises, institutions and other organisations with regard to matters which lie within the jurisdiction of the Soviet. The deputy informs the government body, enterprise, institution or organisation of the results of his investigation and, where necessary, submits recommendations relating to improvements and the eradication of shortcomings and also regarding action to be taken against those guilty of infringements of state discipline and the law. A deputy has the right to call for investigations into the work of state bodies and enterprises, institutions and other organisations.

Section III deals with matters relating to the work of a deputy in his constituency and with his constituents. The law takes as its starting point the principle that active work by deputies in their constituencies is essential if Soviets are to function effectively and reinforce their links with the public. The links which the law envisages between the deputy and his constituency and

constituents ensure that the latter's interests shall be brought to light and represented in the Soviets; they ensure that the work of the deputies, of the Soviets and of the entire state apparatus shall give practical expression to the will of the working people.

In maintaining constant contact with his constituents, a deputy reports to them on the work of the Soviet, on the fulfilment of plans for economic, social and cultural development, decisions of the Soviet and the mandates of electors. He participates in the organisation of the fulfilment of laws and the decisions of the Soviet and its organs. He studies public opinion and informs the Soviet and its various bodies of the needs and demands of the public, taking steps to satisfy them. He makes recommendations to state bodies and officials relating to matters arising from his work as a deputy. He relies upon the assistance and support of the Soviet's voluntary helpers, of social organisations and of groups of workers from factories and other undertakings in his constituency.

The examination of suggestions, statements and complaints from members of the public forms an important part of the work of a deputy. He takes steps to ensure that they are dealt with promptly and in a proper manner. He interviews citizens, studies the reasons giving rise to complaints and makes recommendations to the Soviet and to other government bodies, as well as to enterprises, institutions and other organisations.

A deputy has the right to verify the investigation of suggestions, statements and complaints which he has referred to state organs, enterprises and other bodies and organisations in the area administered by the Soviet of which he is a member, and to participate personally in their investigation (Art. 19).

Giving practical form to the principle that the deputy shall be accountable to his constituents, Art. 20 lays down the frequency with which a deputy shall report to his electors, and the procedure governing such reports. Deputies of Supreme Soviets report regularly at least once a

year, while members of local Soviets report at least twice a year. A report-back meeting may be held at any time at the request of groups of workers or social organisations which nominated him, or at the request of electors in a particular area. The deputy informs the Soviet of the meeting and of the suggestions received from those taking part. A report-back meeting is a popular forum at which electors express their view regarding the work of a deputy and a Soviet and criticise shortcomings in their work and also in the work of administrative bodies and officials. They put forward many valuable suggestions, tell the deputy about their needs and seek his assistance and that of the Soviet in dealing with matters of public or personal importance.

A deputy is assured of the necessary conditions for holding report-back meetings and meetings with his electors. Executive Committees and the administrations and social organisations of factories and other enterprises and organisations make premises available, inform electors of the time and place of report-back and other meetings, and also of the times when deputies receive electors. They also assist deputies in other ways.

In guaranteeing normal conditions for the work of a deputy in his constituency, the law also lays down that he shall have the right of immediate access to the heads and other officials of government bodies, enterprises, institutions and other organisations accountable to or under the control of the Soviet of which he is a member.

A deputy has the right to participate in a consultative capacity in the sessions of lower Soviets in the area covered by the Soviet to which he is elected. A deputy may attend meetings of those involved in the work of the local authority, meetings of industrial and office workers and meetings organised on a local basis in his own constituency (Art. 22).

A deputy has the right to address questions related to his work to government and social bodies, enterprises, institutions and other organisations and to officials. These

questions must be dealt with and answered within time limits laid down by the law.

Deputies' proposals relating to major issues are considered by the Executive Committees of Soviets, boards of ministries and departments, by Councils of Ministers and by Presidiums of Supreme Soviets. A deputy may participate in discussions relating to his proposal, and is informed of such discussion in good time (Art. 23).

The law lays down that the deputy shall play an active part as the representative of state power in the campaign against infringements of the law and to ensure the unswerving observance of socialist legality. Should he bring to light any infringement of the rights and lawful interests of a citizen or other violations of legality, a deputy may demand that such infringements cease, and if necessary call upon government bodies and officials to put an end to them. These bodies and officials must take immediate action both to put a stop to the infringements and, where necessary, to bring those guilty to responsibility.

The law on the status of deputies pays particular attention to ensuring that a deputy's powers shall be effective and to the provision of the conditions necessary for him to carry out his duties in a satisfactory manner. While giving a deputy extensive rights, the law at the same time reinforces each right by imposing the corresponding obligation upon the Executive Committees of Soviets and government bodies and officials. The organisational, political, legal and material guarantees which the law provides enables deputies—working people who continue their normal occupations—successfully to fulfil the important state functions of plenipotentiary representatives of the people. These basic guarantees are set down in Section IV.

The obligation to assist the deputy in the performance of his functions which the law places upon government bodies, enterprises, institutions and other organisations and their officials is a general guarantee. Should of-

ficials not fulfil this obligation, a Soviet or its organs may take disciplinary action according to established procedure, or make representations to the appropriate bodies regarding such action, including dismissal (Art. 26).

To ensure that a deputy shall be able to carry out functions which involve his absence from his normal place of work, the law lays down that during meetings of a Soviet and also at other times necessary for the performance of his duties as a deputy as laid down by the law, the deputy shall be exempt from commitments connected with his normal work while being paid his average earnings.

It is frequently necessary for the deputy to obtain various background and other information, or to seek legal and other advice. The law therefore lays down that the Presidium of the USSR Supreme Soviet, the Presidiums of Supreme Soviets of Union and Autonomous Republics and the Executive Committees of local Soviets shall provide deputies with the official publications and information material. The Executive Committees of Soviets, the managements of factories and organisations and also legal bodies assist deputies with legal problems arising during the course of their work.

The heads of enterprises, institutions and other organisations in a constituency are required to supply a deputy with background material and other necessary information at his request (Arts. 28 and 29).

Expenses incurred by a deputy in connection with the exercise of his powers are reimbursed in cases and in the manner laid down by legislation. Members of Supreme Soviets have the right to the reimbursement of postal charges, secretarial services and other expenses, for which they are paid fixed sums. Deputies are paid subsistence allowances during participation in sessions of Soviets and meetings of their organs.

A deputy's right to free travel is an important provision making it possible for him to carry out his functions. A deputy of the USSR Supreme Soviet may travel

free of charge by rail, road, water and air transport and by all forms of urban passenger transport (except taxis) throughout the Soviet Union. Similar rights are enjoyed by the deputies of the Supreme Soviets of Union and Autonomous Republics in the territory of the republics concerned and by the deputies of local Soviets in the territory of the Soviet to which they are elected.

Since a deputy carries out his duties while continuing his normal work and remaining a party to legal relationships arising from this work, the guarantees of his labour rights are of particular importance. The law lays down that a deputy may not be dismissed on the initiative of management or administration, expelled from a collective farm or transferred as a disciplinary measure to lower-paid work without the prior consent of a Soviet or, in the intervals between sessions, of the Executive Committee of a Soviet or the Presidium of a Supreme Soviet.

A deputy leaving his former employment following appointment to an elective post in the organ of a Soviet, may resume his former employment on the expiry of his term of office. If it is not possible for him to resume his former post, he must be offered similar employment in the same enterprise or establishment or, subject to his consent, in another establishment. His period of elective office is included in his term of service in the post which he held prior to his election (Art. 32).

Safeguarding the authority and dignity of the deputy and ensuring his immunity, the law provides additional guarantees against improper arrest and the levelling of unfounded criminal charges. The law also contains provisions relating to unfounded administrative liability in cases in which administrative sanctions are imposed by the courts. Thus, for example, a member of the USSR Supreme Soviet and a member of the Supreme Soviet of a Union Republic may not be brought to criminal responsibility, arrested or subjected to administrative sanctions imposed through the courts without the consent of the

appropriate Supreme Soviet or, in intervals between sessions, of its Presidium.

Deputies of local Soviets also have immunity. Criminal charges may not be brought against a member of a territorial or regional Soviet, the Soviet of an Autonomous Region or National Area or a district, city, ward, settlement or village Soviet, nor may he be arrested or administrative sanctions imposed upon him through the courts without the consent of the appropriate Soviet or, in intervals between its sessions, without the consent of its Executive Committee. The decision of a Soviet or Executive Committee on a matter of this kind may be rescinded by a higher Soviet or its Executive Committee and referred back. If the Soviet re-affirms its previous decision, the question must be decided in substance by a regional or territorial Soviet, or by the Presidium of the Supreme Soviet of an Autonomous or Union Republic on the basis of a recommendation by the appropriate Procurator (Art. 34).

To reinforce their authority and assist them in their work, the law provides that deputies shall have certificates and badges to be used and worn during their term of office.

The law on the status of deputies marks a new step forward in the development of the legislative principles governing Soviet socialist democracy. It greatly assists the work of deputies and enhances the role of the Soviets in the building of communism.

2. LEGISLATION RELATING TO THE CONSERVATION AND RATIONAL UTILISATION OF LAND AND WATER

The Soviet state pays great attention to the problems of the conservation and rational utilisation of natural resources—the land and its mineral wealth, water, forests,

flora and fauna and the atmosphere. A comprehensive approach with far-reaching measures, including legislation, are distinctive features of the Soviet attitude.

All-Union acts such as the Fundamentals of Land Legislation and the Fundamentals of Legislation on Water Resources, and the republican land and water codes and conservation laws occupy a key place among Soviet legislation in this area.

These acts play an important part in ensuring the rational utilisation and conservation of land, water and other natural resources.

The Fundamentals of Land Legislation of the USSR and Union Republics. The USSR Constitution places the establishment of the basic principles governing land utilisation within Union jurisdiction.

On December 13, 1968 the USSR Supreme Soviet approved the Fundamentals of Land Legislation of the USSR and Union Republics, and made them effective as of July 1, 1969.

The first section of the Fundamentals deals with *general questions* relating to the regulation of land relations and concerning all categories of land. In defining the purposes of Soviet land legislation, it is stressed that the regulation of land relations shall have the object of ensuring the rational use of land, the creation of the conditions necessary for the more effective functioning of these relations, the protection of the rights of socialist organisations and the citizens, and the strengthening of the rule of law in this sphere of social relationships. In accordance with the USSR Constitution, land in the USSR is state property—that is, it belongs to the people as a whole. It is the exclusive property of the state and is assigned only for gainful use. Actions which infringe the rights of state ownership of the land are prohibited.

The Fundamentals take as their starting point the concept of an integrated state land fund consisting of agricultural land allocated for use to collective and state

farms and other users for agricultural purposes; the land of populated areas (towns, urban-type settlements and rural populated localities); land used by industry, transport, health resorts, preserves and for other non-agricultural purposes; state forests; state waters and state reserve land.

Art. 8 sets down a most important constitutional principle of Soviet land law—the allocation without charge of land for use by collective and state farms and other government, co-operative and non-government enterprises, organisations and institutions, and citizens. Land may be allocated in perpetuity or for a given period of time. Land allocated without a pre-set time limit is deemed to be held in perpetuity. Land occupied by collective farms is theirs for unlimited use, that is, in perpetuity. Temporary land tenure may be short-term—that is, up to three years—or long-term—that is, for periods of from three to ten years. Should the circumstances of production make it necessary, these terms may be extended for periods not exceeding the respective short- or long-term allocation (Art. 9).

The procedure for the allocation of land for use is set down in Art. 10. Plots of land are available for use as allotments. Land plots are allotted on the basis of resolutions of the Council of Ministers of a Union Republic or Autonomous Republic, or by a decision of the Executive Committee of the appropriate Soviet of Working People's Deputies.

Land plots may be used only for the purposes for which they are allotted.

Land users have the right, in accordance with established procedures and depending upon the purpose for which the land was allocated, to erect dwelling houses, industrial, cultural, service and other buildings and structures; to sow agricultural crops and plant forest, fruit, decorative and other trees and shrubs; to use meadows, pastures and other farm lands; to utilise the common minerals, peat and water resources available on

the land for economic needs, and also to exploit its other useful properties.

Land users are required to take effective steps to improve the fertility of the soil and to carry out comprehensive organisational, economic, agronomic, re-forestation and hydrotechnical measures to avert wind and water erosion. They must not permit the land to become salinated or waterlogged. They must take steps to prevent it becoming overgrown with weeds and to check other processes adversely affecting it.

The Fundamentals permit the withdrawal of land for state or social needs. Under the terms of Art. 16, the withdrawal of irrigated and reclaimed land, arable land, or land under perennial fruit plants or vineyards for non-agricultural purposes, and also of land occupied by water conservation forests, shelter belts and other forests of the first category for purposes not connected with forestry management is permissible only in *exceptional cases* and only on the basis of a resolution of the Council of Ministers of a Union Republic. Land may be withdrawn from a collective farm only *with the consent of a general meeting of its members* or of a meeting of their authorised representatives.

Losses incurred as a result of the withdrawal of land for state or social needs or by the temporary occupation of land, must be made good (Art. 18). In addition, enterprises, organisations and institutions allocated farm land for construction and other non-agricultural purposes must pay compensation for losses in agricultural production caused by its withdrawal (Art. 19).

State control over the use of all land is exercised by the Soviets of Working People's Deputies and their executive and administrative bodies, and also by specially authorised state agencies. Its purpose is to ensure that ministries and departments, government, co-operative and non-government enterprises, organisations and institutions and citizens observe land legislation and the procedure for land tenure, and to ensure the correct keeping of

cadastral records and proper land management in order that the land shall be protected and utilised in a rational manner (Art. 20).

Under Art. 21 the area of irrigated, drained and arable land or of land under valuable perennial fruit plants and vineyards and other highly productive land shall not be reduced or relegated to less productive use. The Fundamentals thus establish the principle of the stability of agricultural land utilisation. Art. 22 states that changes in the boundaries and area of land used by collective and state farms and other state agricultural enterprises and organisations and also research, educational, experimental and other establishments during the enlargement or division of farms and the re-allocation of land between users may be made only on the basis of scientifically grounded land-management schemes.

The Fundamentals lay down the duties of those using agricultural land. According to Art. 23, collective and state farms and other enterprises, organisations and institutions which use agricultural land shall, on the basis of the achievements of science and advanced experience, take measures to improve fertility and the rational utilisation of land; introduce the most effective systems of cultivation and the most economically advantageous combinations of branches of agriculture; extend irrigation, drainage and watering of land; prevent soil erosion, plant shelter belts, etc.

The Fundamentals lay down that lands allotted to a collective farm under a state title deed in perpetuity consist of land in common use and household plots. Household plots are delimited in natural conditions from land in common use (Art. 24). Each collective-farm household has the right to a household plot allocated in a manner and of a size laid down by the rules of the collective farm. The right to this plot is retained by a collective-farm household whose only able-bodied member is called up for active service in the Armed Forces of the USSR, holds an elective post, starts study or temporarily

takes up other work with the consent of the collective farm or through state labour recruitment, and also when only minors remain in a collective-farm household (Art. 25).

The Fundamentals also lay down that household plots should be allocated to industrial and office workers from the land of state farms or other state agricultural enterprises, organisations or institutions in accordance with an approved land-management scheme and delimited in natural conditions; they should be of a size determined by Union-Republican legislation (Art. 26).

Under Art. 30, urban land includes all land within city limits. It includes city building land; land for public use; farming and other land; city forest land; land used by railway, water, air and pipeline transport, by the mining industry, and others.

All land within city limits is, according to Art. 31, under the jurisdiction of the appropriate city Soviet. The transfer of ownership rights to a building on urban land carries with it the transfer of the right to use the plot of land or part thereof.

The Fundamentals also define the legal position of the land of rural populated localities, taking into account the situation as it has evolved in practice. The land of these areas which is designated as development land is demarcated from other land by means of establishing the limits of the populated areas in accordance with their lay-out and building designs. Land of rural populated localities not scheduled for development is separated from other land by way of local land management (Art. 36).

In referring to land used for industry, transport, health resorts, preserves and other non-agricultural purposes, the Fundamentals lay down only general provisions relating to the legal position of these lands.

There are, for example, special articles dealing with the land of health resorts and preserves. Health resort land includes areas which have therapeutic qualities and favourable conditions for medical care and treatment and

which have been allocated to medical establishments of the health resort type. Such land is subject to special protection. To safeguard the conditions necessary for treatment and rest, and also to protect natural curative factors, health protection zones are set up in all resort areas. Within these zones land may not be allocated to enterprises, organisations and institutions whose activity is incompatible with the protection of the natural curative qualities of the area, or interferes with the favourable conditions for rest and leisure (Art. 39).

Art. 40 defines the concept of nature preserves and sets down the regulations for their protection. Preserves are areas in which there are natural objects of special scientific or cultural value (typical or rare landscapes, plant and animal associations, rare geological formations, flora and fauna, etc.). Any activity which violates the natural conditions of such areas or threatens the preservation of natural objects of special scientific or cultural value is prohibited both on the territory of the nature preserves and within protective zones set up around them.

Forested land, and also land which is not forested but which is designated for forestry needs, is considered to be part of state forest land.

Inland waters (rivers, lakes, reservoirs, canals, land-locked seas, territorial waters, etc.), glaciers, hydro-engineering and other similar installations and also land strips along the shores of waters or protective zones are considered state waters.

All land not allocated to users in perpetuity or for long-term use is considered to be part of the state land reserve.

The Fundamentals contain articles dealing with the state land cadastre, land management and land management activities, the settlement of land disputes and liability for the violation of land legislation.

The Fundamentals of Land Legislation and Land Codes. Under the terms of Art. 2 of the Fundamentals

land relations in the USSR are regulated by the Fundamentals and other legislative enactments of the USSR issued in conformity with them, and also by the land codes and other land legislation of the Union Republics. This in effect means that the Fundamentals also determined the content of the republican land codes.

The Fundamentals themselves directly regulate the basic issues of land relationships and define the nature of their regulation. The land codes reproduce the norms relating to these matters in full; they also reproduce unchanged the norms of other all-Union legislation.

The land codes of the Union Republics deal with matters which lie within the jurisdiction of Union Republics, and also with matters which lie within the jurisdiction of both the Union and Union Republics which are not resolved by all-Union legislation. In addition, the republican codes also deal with matters not covered by the Fundamentals but referred to in Art. 6, which lays down that a Union Republic may also regulate land relations on matters other than those enumerated in the article, provided they do not fall within the jurisdiction of the Union.

In many cases the Fundamentals make the settlement of particular issues a matter for both all-Union and republican legislation and indicate the course to be taken in the settlement of a question, although it was not previously subject to regulation by all-Union legislation. The second part of Art. 4, for example, states that "the procedure for classifying lands . . . and for transferring lands from one category to another shall be determined by legislation of the USSR and of Union Republics". In line with this, Art. 5 of the RSFSR Land Code, Art. 5 of the Land Code of the Ukrainian SSR and other republican land codes contain provisions relating to the classification and re-classification of land.

The Fundamentals regulate social relationships by the inclusion of some norms governing the settlement of

certain questions as a whole. Art. 10, for example, lays down that "the procedure for formalising the temporary use of land shall be determined by Union-Republican legislation".

The Fundamentals do not define the powers of legislative enactments of the USSR or of Union-Republican Councils of Ministers and Executive Committees of local Soviets as regards the allocation and withdrawal of land for state or social needs. These questions are seen as a matter for the land codes (first part of Art. 16). In accordance with this, Art. 13 of the RSFSR Land Code places these questions within the jurisdiction of the Councils of Ministers of Autonomous Republics and Executive Committees of territorial and regional Soviets. The Land Code of the Uzbek SSR (Art. 16) places them within the jurisdiction of the Executive Committees of district Soviets.

The Fundamentals refer to a number of rules relating to the procedure governing the allocation and withdrawal of land. Art. 10 prohibits the use of any plot of land *before its boundaries have been fixed* in natural conditions (on the spot) by the appropriate land management agencies and before the issue of the appropriate document certifying the right to use it. Art. 16 lays down that enterprises, organisations and institutions which are interested in the withdrawal of plots for non-agricultural purposes must before starting planning work reach agreement *in advance* with the land users and the agencies exercising state control over land utilisation, as regards the site of the proposed installation and the approximate size of the area stated for withdrawal.

As has been mentioned above, land used by collective farms *may be withdrawn only* with the consent of a general meeting of collective-farm members or meeting of their authorised representatives. Land used by state farms and other state, co-operative and social enterprises, organisations and institutions subject to all-Union or republican jurisdiction may be withdrawn only with the

agreement of the users and the appropriate all-Union or republican ministries and departments.

The land codes cannot envisage solutions for all the problems which may arise in connection with the allocation of land. Therefore the codes, and in particular that of the RSFSR, lay down that the procedure for the lodging and consideration of applications for the allocation of land for use shall be established by the Council of Ministers of a Union Republic.

The joint jurisdiction of the USSR and Union Republics is sometimes expressed in the Fundamentals by reference to the further regulation of particular issues by republican legislation. Arts. 14 and 15 enumerate the grounds for terminating the land use rights of enterprises, institutions, organisations and citizens and state that "the land codes of the Union Republics may stipulate other grounds".

In some instances the Fundamentals propose that the Union Republics shall develop norms contained in the Fundamentals, in other cases Union Republics have full powers to resolve a particular problem, while sometimes the Fundamentals lay down limits. According to Art. 9 of the Fundamentals, the legislation of Union Republics may establish longer periods of land tenure in particular cases, but not exceeding 25 years. The purposes for which land is allocated for temporary use may be extremely varied (the seasonal rearing of livestock, mining, etc.). Therefore the RSFSR Land Code (Art. 11) and that of the Uzbek SSR (Art. 12) and others envisage periods of temporary land use of up to 25 years. The Codes of other Union Republics make no provision regarding this question and therefore the ten-year period laid down by the all-Union law is applicable.

The Fundamentals make provision for the regulation of some relations by republican legislation, laying down no limits or norms, and in effect placing all such matters within the jurisdiction of Union Republics. According to Art. 22, land may be allocated to enterprises, organisa-

tions and institutions for the collective fruit and vegetable gardening in accordance with procedure and on conditions laid down by republican legislation. The land codes and other land legislation of the Union Republics lay down the categories of land from which plots may be allocated for these purposes, the principles in accordance with which their size shall be determined, the length of time for which they shall be allocated for vegetable gardening and the rights and obligations of groups to which such plots are allocated, in particular the planning of gardens and small summer homes.

In placing many matters within the jurisdiction of Union Republics, the Fundamentals take as their starting point the fact that their solution requires the consideration of local conditions and other circumstances which are not always easy to take into account in all-Union legislation.

The Fundamentals of Legislation of the USSR and Union Republics on Water Resources. The USSR Constitution (Art. 14 xvii) places the establishment of the basic principles governing the use of water resources within the jurisdiction of the USSR. The all-Union organs have over a number of years adopted normative acts regulating some key matters in this field.

The water resources legislation of the Union Republics also underwent substantial development. New laws dealing with aspects of this problem were adopted in the Uzbek, Kazakh, Azerbaijan, Kirghiz, Tajik and some other Union Republics.

The development of industry and agriculture, the growth of urban construction and the increase in the living standards and cultural level of the Soviet people have led to a sharp increase in the demand for water in various forms. An important prerequisite for the satisfaction of these demands is the consistent application of the principle of the rational, comprehensive utilisation of water. Constant care is also necessary to prevent the pollution and exhaustion of water supplies. The full and

purposeful regulation of the entire range of relationships arising in connection with the utilisation of water resources with the aid of legal norms is one means by which these problems can be solved. This naturally made it necessary to improve water legislation, to make it less diffuse and more complete, in order to draw together all that was of value in existing legislation and introduce new basic provisions corresponding to present-day needs.

The Fundamentals of Legislation of the USSR and Union Republics on Water Resources approved by the USSR Supreme Soviet on December 10, 1970 marked the first and decisive step in the revision and improvement of Soviet legislation in this area.

The references to conservation and anti-pollution measures contained in the materials of the 24th Congress of the CPSU are of fundamental significance: "As we take steps to speed up scientific and technical progress, we must see to it that it should combine with a rational treatment of natural resources and should not cause dangerous air and water pollution or exhaust the soil. The Party demands most emphatically that the planning and economic bodies and design organisations, all our cadres, should keep the question of nature protection within their field of vision when designing and building new enterprises or improving the work of existing ones. Not we alone, but the coming generations should also be able to use and enjoy all the gifts of our country's splendid natural environment."¹

The Fundamentals of Legislation on Water Resources lay down the scope of legislation dealing with these questions, affirming that water relations shall be regulated by the Fundamentals and other water legislation of the USSR and by the water resources codes and other water legisla-

¹ *Report of the Central Committee of the Communist Party of the Soviet Union to the 24th Congress of the CPSU, Moscow, 1971, p. 68.*

tion of the Union Republics. All other acts must conform to the Fundamentals.

The new law deals with all the most important aspects of the utilisation of water resources, their administration and protection, and measures to prevent damage caused by water.

Art. 3 sets down the basic principle governing Soviet legislation on water resources: in accordance with the USSR Constitution, all waters are state property—that is, the property of the people as a whole. The exclusive character of the ownership rights exercised by the state and the fact that waters may be allocated only for use are stressed. Actions which overtly or covertly infringe state ownership rights are forbidden; cession of water use right and other transactions infringing the right of state ownership are null and void. Those guilty of such infringements bear criminal or administrative responsibility in conformity with the legislation of the USSR and Union Republics (Arts. 3 and 46).

State ownership of water constitutes the basis of all water relations in the USSR. It creates favourable conditions for the planned and comprehensive utilisation of the country's water resources in the interests of the national economy. It also makes it possible to create the best possible conditions for the life, labour and leisure of the Soviet people, and to ensure the protection of their health.

Under the terms of the Fundamentals all waters (water resources) constitute a single state water stock, which includes rivers, lakes, reservoirs and other surface waters and springs, and also the waters of canals and ponds; subterranean waters and glaciers; land-locked seas and other inland waters of the USSR; and the territorial waters (territorial sea) of the USSR.

These may be allocated for use to state, co-operative and social enterprises, organisations, institutions and citizens of the USSR.

Other organisations and individuals may also be

water users in cases covered by legislation of the USSR (Art. 12).

Under Art. 5 the jurisdiction of the USSR includes the disposal of the single state water stock within the limits that are essential for the exercise of the powers of the Union in accordance with the USSR Constitution and the designation of water resources whose use shall be regulated by all-Union agencies. The jurisdiction of Union Republics covers the right to dispose of the single state water stock on the territory of each republic in cases when this lies outside all-Union jurisdiction.

The Fundamentals also lay down that the jurisdiction of the USSR shall include the establishment of basic principles relating to the utilisation of water resources, their protection against pollution and depletion and the prevention and making good of damage caused by water; the approval of schemes for the comprehensive use and protection of waters, and also water economic balances of all-Union importance; the planning of all-Union measures involving the use and protection of waters and the prevention and making good of damage caused by water; state control over the use and protection of waters and the establishment of procedure by which this control is exercised; the adoption of all-Union standards of water use and water quality, and methods of its appraisal, and also the establishment of country-wide systems of state assessment of waters, their use, the registration of water uses and state water cadastre.

Questions of water utilisation which lie outside the jurisdiction of the Union fall within the jurisdiction of Union Republics (Art. 6).

The Fundamentals pay a great deal of attention to the state administration of the use and protection of waters. This is a matter of particular importance in the case of water resources, which are as a rule simultaneously exploited by many enterprises, organisations and institutions from various branches of the national economy.

In addition to bodies exercising general jurisdiction—

the USSR Council of Ministers, the Councils of Ministers of Union and Autonomous Republics and the Executive Committees of local Soviets—provision is made for control by specially authorised state agencies working directly or through basin (territorial) departments. This is because comprehensive consideration of the state of a particular body of water as a whole is necessary when matters of this kind are under discussion. Some functions in this sphere may also be performed by other state bodies in accordance with all-Union and republican legislation.

Problems of the regulation of water utilisation occupy a central place in the new law. Section II defines some general principles and concepts, in the first place the forms of utilisation. Water resources may be allocated for use provided statutory requirements and conditions relating to the drinking, household, medical, spa-treatment, health and other needs of the population and also agricultural, industrial, power, transport, fishing and other state and social needs are satisfied. Water resources may be used only for the purposes for which they are allocated. If this rule is violated, the right of enterprises, organisations, institutions and citizens to use water resources (other than for drinking and household needs) may be terminated.

In view of the urgent need to protect water resources against pollution and depletion, the Fundamentals envisage special provisions, some of which are contained in the Fundamentals themselves, governing the disposal of sewage, industrial waste, etc.

The law draws a distinction between general and special water use. This distinction is based on the degree to which the state of the water is affected by water use. Special water use is permitted only on the basis of permission given by the water regulation and protection agencies (or when the law requires it, by the Executive Committees of local Soviets) with the agreement of bodies engaged in state sanitary supervision, protection of fish

stocks, and other interested bodies; general water use requires no special permission.

General water use involves no installations or technical devices which affect the condition of the water; special use involves the employment of such installations or devices, or affects the condition of the water although no installations or devices are used. A list of special water uses is drawn up in the light of these general criteria by water regulation and protection bodies.

Water resources may be utilised jointly or individually. A resource allocated to an enterprise, organisation or institution on an individual basis may be used by other persons only with the permission of the primary user; in such cases general water use is permitted on conditions laid down by the primary user by agreement with water regulation and protection bodies (Arts. 14 and 15).

Water resources may be allocated in perpetuity or on a temporary basis—either short-term (up to three years) or long-term (three to 25 years). The term may be extended for a period not exceeding the short- or long-term periods of temporary use.

The Fundamentals lay down that general and special use of water resources shall be free of charge. Provision is however made for payment for special use in cases and in the manner laid down by the USSR Council of Ministers.

The legal regulation of water utilisation in general and also of particular forms of use is directly related to the principle of the comprehensive utilisation of water resources, which presupposes the co-ordination and balancing of the interests of many users during the simultaneous utilisation of water resources for different purposes. The Fundamentals therefore include the general provision that no user shall infringe the rights accorded to other users.

The primacy of water supplies for the drinking and household needs of the public is another distinctive feature of the legal regulation of all forms of water

utilisation. These needs have the first call on water resources. The law permits the limitation of users' rights in the interests of the state or other users. But this must not lead to a deterioration of the supply of water for drinking and household purposes. It is as a rule not permitted to use subterranean waters of a quality suitable for drinking for purposes not connected with the supply of water for drinking and household use.

The protection of water supplies and the prevention of damage caused by water occupy an important place in the Fundamentals (Section III). All waters must be protected against pollution and depletion which might impair public health, diminish fish stocks or lead to a deterioration in water supply and other undesirable developments as a result of changes in the physical, chemical and biological properties of waters, the reduction of their capacity for natural purification and the disruption of the hydrological and hydrogeological regime.

3. LEGISLATION ON EDUCATION

In the Soviet Union great efforts are made to raise the cultural and educational level of the citizens and to create an extensive system of educational establishments of all kinds. The Fundamentals of Legislation of the USSR and Union Republics on Education, which set down the most important principles governing the Soviet educational system, are of great importance in this respect. They were approved by the sixth session of the Eighth USSR Supreme Soviet on July 19, 1973.

The new law affects the interests of every Soviet man, woman and child. There are at present some 10 million children in pre-school establishments, 49 million in general schools and more than 2,600,000 attending vocational and technical schools. More than 9 million attend specialised secondary and higher educational establishments.

Education had hitherto been governed by the law of December 24, 1958, "On Strengthening Ties Between School and Life and on the Further Development of the Educational System in the USSR". All-Union and republican normative acts had been adopted on many matters. But until the adoption of the new law, neither the educational system as a whole nor the objectives and distinctive features of each particular branch were fully reflected in legislation.

The new Fundamentals were drawn up on the basis of existing legislative enactments. At the same time these enactments were greatly extended and supplemented.

Art. 1 lays down that legislation of the USSR and Union Republics relating to public education shall regulate social relations in the sphere of education with the aim of satisfying the needs of Soviet citizens and the requirements of developed socialist society with respect to the education and communist upbringing of the rising generation as fully as possible, and ensuring that the national economy receives qualified workers and specialists.

In accordance with the USSR Constitution, the Fundamentals affirm the right of every citizen to education. This right is ensured by the provision of universal compulsory eight-year schooling, the advance towards universal secondary education and by the extension of vocational and technical training and specialised secondary and higher education based on close ties between instruction and work experience and the practical experience of the building of communism. It is also ensured by instruction in the native language, the extension of the system of pre-school and out-of-school establishments, free education at all levels, the provision of state scholarship grants and other forms of material assistance to pupils and students and by the provision of training in production and the improvement of the professional skills of the working people. Universal secondary education for young people

is one of the Soviet Union's outstanding educational achievements.

To create the most favourable conditions for the training and education of young people, Soviet legislation offers pupils and students many privileges.

The Fundamentals are the first Soviet legislative enactment to define the system of public education.

The public education system includes: pre-school upbringing; general secondary education; out-of-school education; vocational and technical education; specialised secondary education, and higher education (Art. 5).

The Fundamentals also deal with the administration of education. In accordance with the USSR Constitution and the Constitutions of the Union and Autonomous Republics, education is administered by the higher organs of state power and administration of the USSR and of the Union and Autonomous Republics, and also by the local Soviets and their Executive Committees.

Under regulations approved by the USSR Council of Ministers, the all-Union bodies responsible for education as a rule administer general secondary, vocational and technical, specialised secondary and higher education through Union-Republican ministries and republican departments under their jurisdiction. They administer educational establishments directly subordinate to them. They also draw up general principles governing teaching, educational, methodological and research work which are mandatory for all educational establishments regardless of their administrative status, and control their work. The Executive Committees of local Soviets administer educational establishments under their control, take steps to increase their number and ensure their proper territorial distribution and the supply of equipment and other aids. The Executive Committees provide compulsory universal schooling and administer pre-school and out-of-school upbringing. They assist vocational and technical schools, specialised secondary schools and higher vocational establishments in their areas.

The Fundamentals take as their starting point the fact that educational establishments are as a rule under the jurisdiction of government bodies. Some educational establishments may be under the jurisdiction of collective farms, co-operative and other non-governmental bodies.

An educational establishment is, under Art. 10, administered by its head, director or rector, aided by the teaching staff and social organisations. To ensure the collective consideration of the main issues of educational, methodological and research work, a pedagogical council (in the case of a higher educational establishment, a council) is set up; it is made up of members of the teaching staff and members of the public. Social organisations functioning in an educational establishment take part in drawing up and implementing measures designed to improve all aspects of its work.

The Fundamentals make provision for the participation of state enterprises, institutions and organisations, collective farms, co-operative, trade union, YCL and other social organisations in the development of education, vocational training and the improvement of qualifications. They help industrial and office workers and collective farmers to obtain education.

The Fundamentals cover all types of education, including self-education. People's universities, lecture centres, courses, schools of communist labour and other social forms of popularising political and scientific knowledge are set up to promote self-education and further raise the cultural level of the public. Educational bodies and establishments also give assistance to this type of education.

The law also emphasises that creches, kindergartens, combined nurseries of both a general and specialised nature and other pre-school child-care establishments are set up to create the most favourable conditions for the upbringing of children of pre-school age and to assist families. Children are placed in pre-school establishments in accordance with the wishes of parents or those acting *in loco parentis*.

The Fundamentals take the view that pre-school establishments should pursue their objectives in close co-operation with the family. Pre-school establishments seek to ensure the all-round harmonious development and upbringing of children, care for their health, train them in elementary practical habits and love for work, take care of their aesthetic education, prepare children for school, and bring them up in a spirit of respect for older people and love for their socialist homeland and for their native town or village.

The Fundamentals regularise the organisation of pre-school child-care establishments and their pedagogical guidance.

Establishments of this type are set up by the Executive Committees of district, town, village and settlement Soviets, and also, with their approval, by state enterprises, institutions and organisations, collective farms, co-operative and other social organisations.

Pedagogical guidance in all pre-school establishments, regardless of their departmental subordination, and the provision of their teaching staff is the responsibility of the USSR Ministry of Education, the Ministries of Education of Union and Autonomous Republics and their local bodies. Medical care and the provision of medical personnel for pre-school establishments is the responsibility of public health bodies.

In order further to raise the educational level of the population, universal secondary education is being effected throughout the USSR. This is one of the most important prerequisites for the social, political and economic advance of Soviet society in the direction of communism and for the growth of the working people's socialist consciousness and cultural level. Universal secondary education is conducted through general secondary schools, vocational and technical secondary schools and specialised secondary schools.

The law takes as its starting point the principle that the general secondary school is a unified labour school

of the polytechnic type for the instruction and education of children and young people.

The uniformity of the general secondary school is ensured by the common principles governing the organisation of the teaching and educational process and by the essentially uniform content and level of general education throughout the USSR, while taking full account of the distinctive national characteristics of the populations in the Union Republics.

Polytechnic instruction, labour education and vocational orientation are carried on in the process of studying the basic principles of science, during labour training and the organisation of various extra-mural activities and socially useful work taking into account the age and individual characteristics of the pupils and their state of health and in accordance with the requirements of scientific and technological progress.

Optional studies are organised in general secondary schools to help develop pupils' interests and abilities and as a form of vocational guidance. Schools and classes for the more profound theoretical and practical study of particular subjects, types of work, arts and sports may be organised. If facilities are available, production training may also be given. The obligatory range of general educational knowledge must be identical in all general secondary schools.

The instruction and education of pupils in general secondary schools is carried on through the teaching process, extra-mural and out-of-school activities and socially useful work. The lesson is the principle form.

Schools may set up preparatory classes for pupils who will study in a language not their own and for children who have not attended pre-school child-care establishments.

If teaching and other facilities exist, general schools with an extended day or extended day groups may be set up to improve the pupils' social education, create better conditions for their all-round development and assist

families with their upbringing. Boarding schools may be established for the same purposes for children and adolescents with unsatisfactory family circumstances.

Children's homes which provide maintenance, education and upbringing exist for children deprived of parental care. Children and young people requiring protracted medical treatment are placed in health-building sanatorium-type schools, or provided with tuition in hospitals, sanatoria or at home. Special schools providing education and upbringing, medical care and training for participation in socially useful work, some of them boarding schools, exist for the physically or mentally handicapped, and also for those who need special conditions for their upbringing.

Evening (shift) secondary schools and correspondence schools exist for workers seeking secondary education.

Enterprises, institutions and organisations must encourage the enrolment of young people in evening classes and create the conditions necessary for combining work and study and for the normal functioning of these classes and the studies of their pupils.

The Fundamentals contain provisions dealing with out-of-school education and defining the main objectives and forms of out-of-school establishments.

To encourage the all-round development of the talents and inclinations of pupils, to foster their social activities, an interest in work, science, technology, the arts, sports, and military science, and also to organise their proper recreation and contribute to their physical fitness, state enterprises, institutions and organisations, collective farms, co-operative, trade union, YCL and other social organisations set up Young Pioneer Houses, centres for young technicians, nature lovers and tourists, children's libraries, sport, art and musical schools, Young Pioneer camps and other facilities for out-of-school activities.

Vocational and technical training occupies a prominent place in the Fundamentals.

Vocational schools are the main centres for vocational training and a chief replenisher of the working class with worthy young workers.

They admit citizens of the USSR who have completed eight-year or general secondary school education.

These establishments train workers for particular branches of the national economy and are based on the appropriate enterprises, institutions or organisations.

Evening (shift) vocational and technical schools, courses, training centres and other facilities exist for young people who have started work after completing their general education, or for workers who wish to change their trade or improve their qualifications.

Factories and other establishments provide facilities for theoretical and practical training and the improvement of the workers' qualifications directly at the enterprise.

Those who complete courses at vocational and technical schools receive the appropriate qualification (grade, class, skill category) together with a certificate; those who secure especially good results and whose conduct is exemplary receive certificates of distinction. Those who successfully complete courses at secondary vocational schools receive diplomas covering their trade qualification and certifying that they have completed their secondary education. Here, too, those who achieve especially good results receive diplomas of distinction.

The grades, classes and skill categories awarded to persons who have completed courses at vocational and technical schools must be recognised by all enterprises, institutions and organisations throughout the USSR.

Those who have acquired a new profession or improved their qualifications while working and have passed the appropriate examination are issued with a standard certificate setting out their new trade, grade, category or class.

The Fundamentals also deal with specialised secondary education, provided in technical schools and other educational establishments designated as specialised secondary educational establishments in accordance with established

procedure. Instruction may be day, evening or by correspondence. Study in specialised secondary educational establishments while continuing work is a way in which workers may acquire a trade or enhance their qualifications.

All citizens of the USSR who have completed eight-year or secondary education are eligible for admission to specialised secondary educational establishments.

Practical work is a component part of the teaching process in these schools. This enables students to acquire specialist skills, and in the case of technical and agricultural specialties, a professional qualification.

Higher education is provided in universities, institutes, academies and other educational centres designated as higher educational establishments in accordance with statutory procedure. Teaching may be day, evening or by correspondence. Study in higher educational establishments while continuing work is a way in which workers may acquire a new profession or improve their qualifications.

The principal objectives of higher educational establishments are: to train high-grade specialists who have mastered Marxist-Leninist theory, who possess profound theoretical knowledge and practical skills in their speciality and in the organisation of mass political and educational work; to instil in students lofty moral qualities, communist consciousness, culture, socialist internationalism, Soviet patriotism and a readiness to defend their socialist homeland; to ensure the physical training of students; to ensure a constant improvement in the quality of the training given to specialists, taking account of the needs of modern production, science, technology and culture and the prospects for their development; to conduct research that contributes to the improvement of the quality of the training received by specialists and to social, scientific and technological progress; to compile textbooks and other manuals; to train scientific and teaching personnel; to raise the academic level of the teaching staffs

of higher and secondary educational establishments, and also of specialists with a higher education working in the national economy.

All citizens of the USSR who have completed secondary education are eligible for admission to higher educational establishments.

The norms relating to students' practical work, which constitutes a component part of the teaching process, are of great importance. To improve their practical skills, final-year students do practical work under the direction of the management of appropriate enterprises, institutions and organisations and under the supervision of higher educational establishments.

Those who have completed higher education receive a qualification in the appropriate specialty, a diploma and a badge. Those who achieve especially good results in their studies, and who distinguish themselves in scientific and social work receive diplomas with distinction.

Those working in the national economy may improve their qualifications by study in refresher institutes, faculties and departments of their educational establishments, research institutes, by attending refresher courses and by working at advanced enterprises.

The Fundamentals also define the rights and duties of students. They have the right to a free use of laboratories, work-rooms, lecture halls, reading rooms, libraries and other educational and auxiliary facilities, as well as sports centres, sports facilities and other equipment belonging to higher educational establishments. Students are provided in the statutory manner with grants, allowances, accommodation in hostels and boarding schools and medical care in educational establishments. They have the right to transport free of charge or at reduced rates. They also receive other forms of material assistance. Part-time students who continue work are entitled to additional leave, a shorter working week and other benefits.

Students have the right to participate through their social organisations in the discussion of problems relating

to the improvement of the teaching process, and of ideological and educational work in general. They also have the right to participate in discussions relating to the progress of students, labour and school discipline and other matters affecting their studies and living conditions.

The provision that persons who have completed vocational training or specialised secondary or higher educational establishments shall be assured of work in their profession and corresponding to their qualifications is of exceptional significance.

The Fundamentals lay down that students shall work in a systematic and fundamental manner to acquire knowledge and practical skills, attend lectures, complete assignments forming part of the syllabus and study programme within established periods of time, improve their ideological and cultural level, take part in socially useful work and self-service and observe the regulations of the establishments in which they study. Students must be disciplined and organised; they are required to observe the rules of socialist community life, to protect socialist property, to tolerate no anti-social behaviour and to play their part in the life of the collective.

The Fundamentals also deal with the training of teachers, the practice of teaching and the rights and duties of educational workers.

Teachers are trained in universities, institutes and other higher educational establishments, and also in specialised secondary educational establishments. The principal form of training for teaching and research personnel are post-graduate courses at higher educational establishments and research institutions. These are open to citizens of the USSR who have complete higher education.

Persons with the appropriate education and professional training may work in pre-school and out-of-school establishments, in general schools, vocational and specialised secondary schools and higher educational establishments as teachers, counsellors, trade-training lecturers, instructors, etc.

To raise the level of teaching skills and develop creative initiative, the work of teachers, lecturers and trade-training instructors is subject to regular inspection.

Vacancies for professorships and lectureships in higher educational establishments are filled by competitive examination in the statutory manner. Appointments are for a stated period with subsequent re-appointment.

A person found to be unsuitable for the teaching post he occupies owing to inadequate qualifications or because his state of health makes it impossible for him to perform his teaching and educational duties, or who commits an amoral act incompatible with continued teaching, is liable to dismissal.

The professional rights and duties of teachers and other educational workers at pre-school and out-of-school establishments, at secondary general and vocational schools and specialised secondary and higher educational establishments are defined by the Fundamentals, by all-Union and republican legislation adopted in accordance with the Fundamentals and by the statutes and rules of educational establishments concerned.

The professional rights, dignity and honour of teachers and other educational workers are protected by the law.

Teachers may improve their qualifications by attending higher educational establishments, institutes of advanced training for teachers, refresher and research institutes and refresher courses, and also by work at advanced enterprises.

The heads of secondary general schools, vocational and technical schools, specialised secondary and other educational establishments are drawn from those with higher education and extensive teaching experience.

Measures to improve the professional skill of teachers are the responsibility of the appropriate educational bodies.

The Executive Committees of local Soviets, educational bodies and institutions, ministries and departments must provide teachers and other educational workers with the

facilities necessary for their work and enabling them systematically to improve their qualifications. These authorities must ensure that teachers receive the benefits and privileges to which they are entitled under the law. They must have constant regard for the maintenance of the authority of the teacher and for the proper use of his labour and work-time, ensuring that he is not diverted from the performance of his duties.

Educational workers have extended leave paid by the state, free accommodation with heating and light in rural areas, special pension rights and other benefits.

For outstanding services in the education and upbringing of the rising generation and the training of specialists, educational workers may be awarded orders and medals of the USSR or special medals and other decorations instituted for educational workers by all-Union and republican legislation. They may also be awarded honorary titles of the USSR and Union Republics.

The Fundamentals define the rights and duties of parents and persons acting in *loco parentis* in the education and upbringing of children.

Parents and persons acting in *loco parentis* have the right:

- to place children in pre-school child-care institutions and general schools in the area in which they reside, and also in vocational schools or specialised secondary schools;

- to take part in the discussion of problems relating to the teaching and bringing-up of children, in extra-mural, out-of-school and other activities and in health work in the educational establishment which their children attend;

- to elect and be elected to parents' committees (councils) set up at schools and other educational establishments.

Parents and persons acting in *loco parentis* are at the same time required:

- to bring up children in the spirit of lofty communist morality and of concern for socialist property, to instil habits of work, prepare them for socially useful activity and to take care of their physical development and health.

They are required to send children to school as soon as they reach school age, ensure their regular attendance and prevent unwarranted absenteeism, and to create conditions enabling children to receive secondary education and vocational training in due time.

Family upbringing is closely co-ordinated with that in schools, pre-school and out-of-school establishments and social organisations.

The Fundamentals *delimit the jurisdiction of the USSR and that of Union Republics in the educational sphere.* This delimitation is prompted by the need to ensure that the USSR retains the range of powers which enable it to carry out its constitutional responsibilities, while at the same time ensuring respect for the sovereignty of the Union Republics.

Educational bodies and establishments, together with scientific and cultural bodies, educational societies and other social organisations ensure that educational knowledge is spread among the public and assist parents and those *in loco parentis* in the upbringing of children and young people.

The jurisdiction of the USSR as represented by its higher organs of state power and organs of state administration in the sphere of public education embraces: the establishment of the general principles governing education and educational administration in the USSR; the adoption of all-Union plans for the expansion of education and for the training of skilled workers and specialists for the national economy; the guidance of the educational organs of the USSR; the administration of teaching, educational and research establishments and enterprises of the educational system subject to all-Union control; the classification of educational establishments and other educational institutions, the approval of their statutes and the determination of ages of entry and periods of study; the organisation, re-organisation and closure of higher educational establishments, and also of specialised secondary, vocational and technical schools and general schools

subject to all-Union control; the establishment of the procedure for determining the number and remuneration of those working in teaching and other educational establishments; the establishment of the general principles governing the teaching methods used in all educational establishments, the approval of teaching plans and the establishment of the procedure for the approval of study programmes; the adoption of all-Union plans for the expansion of teaching facilities in teaching and other educational establishments; the establishment of the forms and levels of assistance to be given to the students of educational establishments; state control in the sphere of public education and the establishment of the procedures by which it is exercised; the establishment of a uniform system of statistics and reporting in the sphere of public education; the settlement of other questions relating to public education placed within the jurisdiction of the Union by the USSR Constitution and by the Fundamentals.

The jurisdiction of Union Republics in the person of higher organs of state power and state administration in the sphere of public education embraces: the adoption of republican plans for the expansion of education and for the training of skilled workers and specialists; the administration of the educational bodies of Union Republics; the administration of teaching, educational and research establishments and enterprises forming part of the educational system subject to republican jurisdiction; the organisation, re-organisation and closure of general schools, vocational and technical schools and also of specialised secondary schools subject to republican jurisdiction in accordance with procedure laid down by the law; the exercise in accordance with established procedures of educational guidance of the work of educational establishments subject to republican and local jurisdiction; the adoption of republican plans for the expansion of the teaching facilities available to educational establishments subject to republican and local jurisdiction; the exercise of state control over teaching and other educational esta-

blishments in the republic, and the settlement of other questions of public education that fall within the jurisdiction of a Union Republic in accordance with the USSR Constitution, the Constitution of the Union Republic in question and the Fundamentals.

Under the Fundamentals officials and citizens guilty of infringement of legislation relating to universal compulsory eight-year schooling, the separation of the school from the church or other breaches are liable under all-Union and republican legislation.

Liability for some forms of infringement is at present governed by republican legislation. Legislation in some of the Republics makes provisions for liability for infringement of legislation relating to universal compulsory eight-year schooling. Thus, Art. 145 of the Criminal Code of the Turkmen SSR makes interference with universal compulsory eight-year schooling punishable by up to one year's corrective labour or a fine of up to 50 roubles. The Criminal Code of the Uzbek SSR contains a similar provision (Art. 136) which makes special reference to those obstructing the compulsory eight-year education of girls of local nationalities.

Republican Criminal Codes also establish liability for the infringement of laws relating to the separation of the church from the state and of the school from the church.

4. LEGISLATION RELATING TO PUBLIC HEALTH

The protection of public health is one of the most important tasks of the state in the USSR. Thanks to the unremitting concern of the Communist Party and Soviet Government, a public health system has been created with immense resources and skilled personnel. More than 760,000 doctors work in the Soviet health service—that is, more than a quarter of the world's doctors. The Funda-

mentals of Legislation of the USSR and Union Republics on Public Health are a contribution to the further development of the Soviet health service.

These Fundamentals, approved by the USSR Supreme Soviet on December 19, 1969, are the first codification act in Soviet legislation which regulates social relationships in the sphere of public health.

The Fundamentals state that the public health legislation of the USSR and Union Republics regulates relationships in this sphere with a view to ensuring the harmonious development of the citizen's physical and mental capacities and health, enhancing his ability to work and prolonging his active life; it seeks to prevent disease and reduce its incidence, to decrease invalidity and mortality still further, and to eradicate factors and conditions injurious to public health.

The protection of public health is the responsibility of all state bodies, enterprises, institutions and organisations.

Trade unions, co-operative organisations, the Red Cross and Red Crescent societies and other social organisations play their part in accordance with their statutes. Individual citizens must also care for their own health and that of other members of society. The Fundamentals (Art. 4) emphasise that all citizens shall be provided with free, qualified medical care by state public health bodies.

The Fundamentals also contain important rules relating to the administration of public health. In accordance with the USSR Constitution and the constitutions of the Union and Autonomous Republics, the health services are administered by the higher organs of state power and organs of state administration of the USSR and of the Union and Autonomous Republics, and also by local Soviets and their Executive Committees. It is stressed that the USSR Ministry of Public Health, the Ministries of Public Health of the Union and Autonomous Republics and their agencies are responsible for the state and further expansion

of the health services, for medical science and for the quality of the medical care available to the public (Art. 8).

The new law deals with the procedure governing the expansion of the network of public health institutions, children's institutions and sports facilities and the administration of public health institutions.

The Fundamentals set out the conditions and procedures governing medical and pharmaceutical practice: it is open to all who have undergone special training and received the appropriate qualification in a higher or specialised secondary educational establishment in the USSR. Aliens and stateless persons permanently residing in the USSR, who have undergone special training and received the appropriate qualifications in a higher or specialised secondary educational establishment in the USSR, may engage in medical or pharmaceutical practice in accordance with their training and qualifications. Those who have received medical or pharmaceutical training and qualifications abroad may practice in the USSR in accordance with procedures laid down by all-Union legislation.

Soviet citizens who graduate from higher medical schools and receive the title of doctor take the oath of doctor of the Soviet Union.

The main professional duties, rights and privileges of medical and pharmaceutical personnel are laid down by all-Union and Union-Republican legislation. The professional rights and duties of medical, pharmaceutical and other health workers are determined by the USSR Ministry of Public Health. The Fundamentals particularly stress that the professional rights, honour and dignity of doctors and other medical workers are protected by law, insofar as they fulfil one of the most important tasks of the Soviet state.

The Fundamentals deal in detail with the professional duties, rights and privileges of medical and pharmaceutical personnel, the improvement of their professional skills, the obligation of the medical worker not to divulge informa-

tion acquired in the course of his professional duties, and liability for infringement of professional duties.

The Fundamentals deal with the maintenance of sanitation and the protection of the public against epidemics. The health of the population is ensured by comprehensive health measures and by the system of public health inspection.

All state bodies, enterprises and organisations, collective farms, trade unions and other social organisations must take steps to maintain sanitation and protect public health against epidemics by preventing and eradicating environmental pollution, improving living, working and leisure conditions and preventing disease.

The Fundamentals enumerate the bodies responsible for health control and list health requirements to be satisfied during planning and building.

The managers of enterprises and institutions, and of design, building and other organisations and the boards of collective farms must, when designing, building, re-building and operating enterprises and communal service installations, take step to prevent the pollution of the atmosphere, reservoirs, subterranean waters and soil. They bear responsibility for the non-fulfilment of these measures in accordance with all-Union and Union-Republican legislation.

The commissioning of new and reconstructed enterprises, workshops, sections, installations and other projects that are not provided with apparatus for the purification, neutralisation or trapping of harmful fumes, effluent and other waste matter is forbidden. Agencies of the Public Health Service may shut down, either permanently or temporarily, installations whose operation may be injurious to public health.

Housing health requirements are laid down by the Councils of Ministers of Union Republics. Tenants may not be put in buildings which do not satisfy these requirements. Persons suffering from serious forms of certain chronic diseases receive extra accommodation, in accordance with

procedures laid down by all-Union and Union-Republican legislation.

The managers of enterprises, institutions and organisations must ensure that health regulations are observed in all premises and places of work. There must be adequate provision for the health needs of the workers.

The observance of health regulations with respect to the maintenance of residential and public buildings and the land on which they are situated is the responsibility of the enterprises, institutions, organisations and citizens who administer, use or own the buildings in question.

General measures to ensure the observance of health regulations relating to housing and public buildings and the condition of populated areas are the responsibility of the Executive Committees of local Soviets.

The Fundamentals pay considerable attention to the problem of the prevention and elimination of noise. The Executive Committees of local Soviets and other state bodies, enterprises, institutions and organisations *must* take measures to prevent, reduce and eliminate noise in factories, dwellings and public buildings, in courtyards, streets and squares of cities and other populated areas. All citizens must observe regulations concerning the prevention and elimination of noise at home.

The Fundamentals also refer to health requirements applicable to the public water supply, obligatory consultation with health bodies regarding standards and specifications, health regulations governing the production, processing, storage, transportation and sale of foodstuffs, control over the production, use, storage and transportation of radioactive, toxic and other hazardous substances, compulsory medical examinations, the prevention and eradication of infectious diseases and health education.

Medical and prophylactic care occupies an important place in the new law. Article 32 states that citizens of the USSR receive specialised medical treatment in polyclinics, hospitals, dispensaries and other medical and prophylactic establishments, as well as emergency and other medical

assistance at home. Those invalided during the Great Patriotic War also receive treatment in special medical and prophylactic establishments. If out-patients, they receive special benefits under all-Union legislation. When ill and unfit for work, the citizen receives sick leave and sick pay under the social insurance scheme.

In order to prevent disease, medical and prophylactic establishments are required to carry out extensive health surveys and to make use of the dispensary method. Enterprises, institutions and organisations must take measures to prevent industrial injuries and professional diseases and to rehabilitate victims in conjunction with public health bodies and the trade unions.

Aliens and stateless persons residing permanently in the USSR receive medical treatment on equal terms with Soviet citizens. Aliens and stateless persons temporarily resident in the USSR receive treatment on terms laid down by the USSR Ministry of Public Health.

In discussing the provision of medical and prophylactic care, the application of methods of diagnosis, treatment and medicines, and assistance to medical personnel engaged in the performance of their duties, the Fundamentals stress that surgical intervention is resorted to and complex methods of diagnosis used only with the patient's consent or, in the case of those under the age of 16 or those who are mentally ill, with the consent of their parents, guardians or trustees. Urgent surgical operations may be performed and complex methods of diagnosis applied without the consent of patients or their parents, guardians or trustees only in exceptional cases when delay in diagnosis or the performance of an operation imperils the life of a patient, and when it is not possible to obtain the consent of parents, guardians or trustees.

To protect the health of the public, health bodies must take special measures to prevent and treat diseases which constitute a danger to others (tuberculosis, mental and venereal diseases, leprosy, chronic alcoholism, drug addiction) and also quarantine diseases. Patients suffering

from tuberculosis are supplied with drugs free of charge; they are also treated free of charge in sanatoria and dispensaries.

The Fundamentals pay great attention to the protection of the mother and child. In the USSR motherhood is protected and encouraged by the state. The protection of the health of the mother and child is ensured by an extensive network of prenatal centres, maternity homes, sanatoria and rest homes for expectant mothers and mothers with children, creches, kindergartens and other children's institutions; by the granting of maternity leave with social insurance benefits; by giving nursing mothers time off to feed their babies; by the payment of grants when a child is born, or when a sick child is being cared for; by the prohibition of the employment of women on heavy or injurious work and the transfer of expectant mothers to lighter work while retaining average earnings; by the general improvement of working and living conditions, and by state and social assistance to families and other measures.

Public health institutions provide every woman with qualified medical attention during pregnancy, confinement in hospital, and medical and other assistance for the mother and newborn child.

Medical care for children and adolescents is provided by medical and other health establishments, including children's polyclinics, dispensaries, hospitals and sanatoria. Treatment in children's sanatoria is free of charge. Children and adolescents are kept under observation by dispensaries.

To rear a healthy younger generation, sound in mind and body, state organs, enterprises, institutions and organisations, collective farms, trade unions and other social bodies build up an extensive network of creches and kindergartens, schools, boarding schools, forest schools, Young Pioneer camps and other facilities. In children's institutions and schools, children are assured of the necessary conditions for safeguarding and building up their health and for hygienic upbringing.

The Fundamentals also lay down guidelines regarding assistance to those caring for children, the benefits payable to mother in the event of her child's illness, and control over the labour and trade training and working conditions of young people.

An important section of the Fundamentals deals with sanatoria and health resorts and the organisation of leisure and physical culture.

The procedure by which patients shall be selected for treatment in sanatoria and health resorts is established by the USSR Ministry of Public Health by agreement with the All-Union Central Council of Trade Unions. Treatment may be free, at a reduced rate, or at full rate, as determined by established procedures. Localities possessing curative facilities, mineral springs, mud baths, and climatic and other conditions which aid treatment may be designated as health resorts.

The Fundamentals also contain important articles dealing with sanatoria and health-resort establishments, holiday homes, holiday hostels, tourist centres and other leisure facilities, physical culture, sport and tourism, medical evidence relating to fitness for work, forensic medical and psychiatric evidence, pharmaceutical treatment, control over the production of pharmaceuticals and the provision of prosthetic appliances and assistance.

The Fundamentals and Laws Relating to Public Health. According to Article 2 of the Fundamentals, the legislation of the USSR and Union Republics relating to public health consists of the Fundamentals and other legislative enactments of the USSR and Union Republics which conform to them.

Articles 6 and 7 define the jurisdiction of the USSR and that of the Union Republics. The jurisdiction of the USSR in the person of its higher organs of state power and administrative bodies in the sphere of public health embraces the adoption of all-Union plans for the development of health facilities and the improvement of public health; the adoption of all-Union plans for research and

the development of new preparations and medical equipment, the co-ordination of work in these fields, the application of the achievements of science and of new methods of diagnosis, treatment and prophylaxis; the adoption of all-Union plans for the expansion of medical and pharmaceutical training, the appointment of specialists graduating from medical and pharmaceutical schools, the training of research workers and the advanced training of medical and pharmaceutical personnel; the establishment of medical and pharmaceutical qualifications and terms of training; the adoption of all-Union plans for the production and distribution of the products of the medical and pharmaceutical industry between Union Republics, ministries and other bodies of the USSR, the export and import of medicines, medical equipment and other medical articles, etc.

The jurisdiction of a Union Republic in the person of its higher organs of state power and administration in the sphere of public health includes the adoption of republican plans for the expansion of health facilities and the improvement of public health, the administration of republican health bodies, the adoption of legislative measures relating to public health and the settlement of other matters relating to the administration of public health falling within its jurisdiction in accordance with the USSR Constitution, the Constitution of the Union Republic and the Fundamentals.

5. CIVIL LEGISLATION, LEGISLATION ON MARRIAGE AND THE FAMILY

Soviet civil legislation and legislation on marriage and the family have an important part to play in the achievement of the objectives of the building of socialism and communism.

Civil legislation regulates an extremely wide range of the most varied relationships: purchase and sale, delivery, contract, hiring and lease, copyright, patents, inheritance, etc.

Soviet civil legislation is an important means of further reinforcing legality with respect to property relationships and the protection of the rights of socialist organisations and the individual.

The all-Union measure governing this sphere is the Fundamentals of Civil Legislation of the USSR and Union Republics which was approved by the USSR Supreme Soviet on December 8, 1961, and came into force on May 1, 1962.

These Fundamentals lay down that Soviet civil legislation regulates property relations and related non-property personal relations with the objective of laying the material and technical basis of communism and providing for the ever fuller satisfaction of the material and spiritual needs of the citizen. It also regulates other non-property personal relations.

Civil legislation regulates the relations between state, co-operative and social organisations, and between the citizen and state, co-operative and social organisations; it also regulates the relations between citizens.

In accordance with Article 4 of the Fundamentals, civil rights and obligations arise from transactions provided for by the law, and also from transactions which, although not expressly provided for by the law, do not contradict it; from administrative measures, including, in the case of state, co-operative and social organisations, planning measures; from discoveries, inventions, technical improvements and the creation of works of scholarship and literary and artistic works; from injury caused to other persons, and likewise from the acquisition or accumulation of property at the expense of another person without sufficient grounds thereto; as a consequence of other acts of individuals and organisations; as a consequence of events to which the law attaches civil law consequences.

The Fundamentals lay down that rights under civil law are protected through recognition by the courts or by arbitration and mediation boards; by restoration of the condition existing prior to the infringement of the right and the termination of acts infringing the right; adjudication of specific performance; the termination or modification of legal relationships; the recovery from the person infringing the right of damages caused and, in cases provided for by law or contract, of penalty (fine, penal interest). Rights under civil law are protected by comrades' courts, trade unions and other social organisations; they may also be protected by administrative means.

To ensure the protection of honour and dignity, the Fundamentals give the individual or organisations the right to seek through the courts the retraction of statements injurious to their honour and dignity if the person circulating such statements is unable to demonstrate their truth.

The Fundamentals recognise the legal capacity of all citizens of the USSR, arising at birth and ceasing at death. They also emphasise that the citizen's capacity to acquire civil rights and assume obligations under civil law (civil legal ability) arises in full with the achievement of majority, i.e., on reaching the age of 18.

Soviet citizens may own personal property, use living accommodation and other property, inherit and bequeath property, choose their occupation and place of residence, exercise the rights of authorship with respect to a work of scholarship, literature or art, a discovery, invention or technical improvement. They may also exercise other property and non-property personal rights.

The Fundamentals lay down that a person may be declared missing by the courts if no information about his whereabouts is received for one year at his place of permanent domicile. He may in the same way be declared dead if no information regarding his whereabouts is received at his place of permanent domicile for three years, or for six months in cases when the person concerned is

missing in circumstances of mortal danger or in circumstances warranting the presumption of his death in a definite accident.

The Fundamentals regulate the status of organisations as juridical persons. Under Article 11, organisations which possess their own property are juridical persons. They may in their own name acquire property and non-property rights and assume obligations and appear as plaintiffs and defendants in a court of law or before an arbitration or mediation board.

Juridical persons include state enterprises, institutions, state organisations, collective farms, etc. These juridical persons have civil legal capacity in accordance with the established purposes of their activity. They are liable for their obligations in the property they own, which is subject to attachment in accordance with all-Union and Union-Republican legislation.

Acts of individuals and organisations intended to establish, modify or terminate rights or obligations under civil law are deemed to be legal transactions. They may be either unilateral, bilateral or multilateral.

A transaction concluded by one party (the agent) on behalf of another (the principal) by virtue of powers based on a power-of-attorney, law or administrative measure immediately establishes, modifies or terminates the rights and obligations of the principal.

The Fundamentals contain an important clause dealing with the period of limitation. According to Article 16, the general period for bringing an action to redress a wrong suffered by an aggrieved party (period of limitation) is three years, or one year in the case of actions brought by state organisations, collective farms and other co-operative and social organisations against each other. It is at the same time stressed that the period of limitation shall not apply to claims arising from the infringement of personal rights not relating to property, to claims by state organisations for the recovery of state property unlawfully acquired by collective farms and other co-operative and

social organisations or individuals, or to claims by depositors for the re-payments of deposits placed in state labour savings banks and in the State Bank of the USSR.

Socialist property and the personal property of the citizen occupy an important place in the Fundamentals.

They lay down that the owner of property shall have the rights of possession, use and disposal.

Socialist property embraces state property (the property of the whole people), the property of collective farms and other co-operative organisations and their associations, and the property of social organisations.

The state is the sole owner of all state property. State ownership embraces the land, its mineral deposits, waters and forests, factories and other industrial undertakings, mines, electric power stations, rail, water, air and road transport, the banks, communication facilities, agricultural, commercial, public-utility and other undertakings, and also the basic housing facilities in towns and urban settlements. Land, mineral wealth, waters and forests, being the exclusive property of the state, may be allocated only for use.

State property allocated to state organisations is administered by these organisations in accordance with their objectives, planned assignments, the designated purpose of the property and the rights of possession, use and disposal of the property.

The property of collective farms and other co-operative organisations and their associations includes their enterprises, cultural and welfare facilities, buildings, installations, tractors, harvester combines and other machinery, transport facilities and their draught animals and livestock.

The property of trade unions and other social organisations includes their enterprises, buildings, structures, sanatoria, rest homes, cultural centres, clubs, stadiums and Young Pioneer camps together with their equipment, cultural and educational facilities and other assets appropriate to the purposes of these bodies. These assets may not be attached to meet the claims of creditors.

The Fundamentals define the rights of personal owner-

ship. According to Article 25, the individual may own property intended to satisfy his material and cultural needs. Each individual may own income and savings derived from his labour, a dwelling house (or part thereof) and a supplementary husbandry, household effects and furnishings and articles of personal use and convenience. Personal property may not be used as a source of unearned income.

The Fundamentals also refer to common property. Article 26 states that property may belong by right of common ownership to two or more collective farms or other co-operative or social organisations, or to the state and one or more collective farms or other co-operative or social organisations, or to two or more individuals.

A distinction is made between common ownership by shares (share ownership) and that without demarcation of shares (joint ownership).

The Fundamentals also deal with the property of collective-farm households. Under Article 27, this belongs to its members by right of joint ownership. A collective-farm household may own a supplementary husbandry on its plot of land, a house, livestock, poultry and farm implements. The collective-farm household owns the income acquired by its members through work on the collective farm, and household and personal effects paid for out of common funds.

The Fundamentals safeguard property rights. They give the owner the right to recover his property from the unlawful possession of another. There is heightened protection for state and collective-farm or co-operative property.

As a result of the great increase in civil transactions, the Fundamentals contain a great many norms regulating the forms of transaction. The principle of the effective fulfilment of obligations, which is closely related to the planned character of the socialist national economy, is laid down as part of the law relating to obligations. The fulfilment of a plan presupposes the implementation of an

action envisaged by an economic agreement or the achievement of the objectives set by it, and not financial compensation for miscalculations or negligence. This principle is not merely proclaimed but reinforced by legal guarantees. Under Article 36, the payment of a penalty laid down for improper fulfilment of an obligation and the reimbursement of damages do not relieve the debtor of the fulfilment of the obligation.

A substantial extension of the rights of the citizen is a feature of the Fundamentals. Retail sale and purchase is strictly regulated. Under a contract for sale, the seller undertakes to transfer goods to the ownership of the purchaser, while the purchaser undertakes to accept the goods and pay a definite sum of money for them. Under Article 41, goods sold by a trading organisation must conform to state standards, specifications or samples. The Fundamentals lay down time limits for claims relating to defects and define the concept of guarantee periods. They also define the point at which the purchaser acquires the right of ownership.

The housing rights of the citizen occupy an important place in the Fundamentals. They regulate in detail the procedure by which housing is allocated, since in the sphere of housing relationships not only the rights and obligations arising from contracts for the lease of housing but also the right to housing is of great importance.

Article 56 lays down the important rule that accommodation in buildings belonging to local Soviets is allocated by their Executive Committees with the participation of representatives of social organisations. The tenant must pay rent promptly. He has the right to renew the lease. He also has the right to terminate the lease at any time, or to exchange the premises he occupies. Eviction by administrative order is not, however, permitted except in the case of buildings threatened with collapse or in the case of unauthorised occupancy.

The Fundamentals list works subject to copyright. These include works of scholarship, literature or art, regardless

of form, purpose or value, or of the manner of reproduction. The author has the right to publish, reproduce and circulate his work under his own name, under an assumed name (pseudonym) or anonymously by any legal means; he has the right to the inviolability of the work, and to receive remuneration for its use by others.

Copyright in a work produced jointly by two or more persons (collectively) belongs jointly to the co-authors, regardless of whether such work forms an integral whole or consists of parts each of which has an independent value. Each of the co-authors retains the copyright to his part of a collective work which is of independent value. The use of an author's work by other persons is permitted only by agreement with the author or his heirs. Copyright shall be effective during the lifetime of the author.

The Fundamentals make provision for inheritance under the law and under the terms of a will. Inheritance under the law takes place only when there is no will. Where there are no heirs-at-law or testamentary beneficiaries, or all the heirs do not accept the legacy, or all heirs are disinherited by the testator, the property passes to the state.

In the case of inheritance under the law, the children (including adopted children), spouse and parents (including adoptive parents) of the deceased are heirs of the first class, with equal shares. The heirs of the first class also include a child of the deceased born after his death. The grandchildren and great-grandchildren of the deceased are heirs-at-law if the parent who would have been the heir is no longer alive at the time of the opening of succession; they are entitled to equal shares of the portion which would have been due to their deceased parent under intestate succession. Heirs-at-law include those incapable of work who were dependents of the deceased for at least one year prior to his death. Where there are other heirs, they shall be entitled to share equally with heirs of the class upon whom the estate devolves (Art. 118).

Every citizen may bequeath all or part of his property (not excluding ordinary household effects and furnishings)

to one or several persons who may or may not be his heirs-at-law, and also to the state or to any state, co-operative or social organisation.

Civil Codes have been adopted on the basis of the Fundamentals in the Union Republics. The general principle governing the allocation of jurisdiction between the USSR and the Union Republics is set down in Article 3. The Civil Codes and civil legislation of the Union Republics regulate property and personal non-property relations, regardless of whether or not the Fundamentals contain provisions relating to these relations.

The second part of Article 3 enumerates relations which are regulated by all-Union legislation (though these matters may be regulated by Union-Republican legislation, if placed by the USSR within the jurisdiction of Union Republics). They include relations between socialist organisations regarding deliveries and capital construction, relations with respect to the purchase by the state of agricultural produce from collective and state farms, relations of organisations concerned with rail, sea, inland waterway, air and pipeline transport, and also foreign-trade relations.

All matters outside the jurisdiction of the USSR fall within the jurisdiction of the civil legislation of the Union Republics.

From its very early years the Soviet state has paid unremitting attention to the problems of *marriage and the family*. The very first measures of the Soviet Government included decrees laying down new principles of marital and family relationships: the equal rights of men and women in marriage, the equality of spouses with respect to personal and property rights and with regard to offspring, the introduction of civil marriage, the dissolution of marriage, etc.

The adoption by the USSR Supreme Soviet on June 27, 1968, of the Fundamentals of Legislation of the USSR and Union Republics on Marriage and the Family, which

came into effect on October 1, 1968, was a most important new step forward in the development of Soviet legislation in this area.

Section I defines the objectives of legislation relating to marriage and the family. These include the further strengthening of the Soviet family, founded on the principles of communist morality; the founding of family relations on a voluntary marital union of a man and a woman based on sentiments of mutual affection, friendship and respect for all members of the family free from material consideration; the upbringing of the children in a family organically combined with their social upbringing in the spirit of devotion to their homeland and a communist attitude to work, the preparation of children for active participation in the building of a communist society; the full protection of the interests of mother and child and the provision of a happy childhood for every child; the complete eradication of harmful survivals and customs of the past from family relations; the fostering of a sense of responsibility to the family on the part of every citizen (Art. 1). This section further confirms the principles of legislation on the family, on which relations between people in socialist society are built.

As Article 3 points out, men and women have equal personal and property rights in marriage. This is based on the equality of men and women in all spheres of state, social, political, economic and cultural life set down in the USSR Constitution. All citizens, irrespective of nationality, race and religion, have equal rights in family relations. No direct or indirect restriction of rights, no direct or indirect advantages in contracting marriage or in family relations based on national, racial or religious criteria are permitted.

In the USSR motherhood is the object of nationwide respect and esteem. It is protected and encouraged by the state.

The legal regulation of marital and family relations in the USSR is exclusively a matter for the state. Only a

marriage duly registered in a state registry office is recognised. Religious ceremonies of marriage, like other religious ceremonies, have no legal validity.

Section II of the Fundamentals deals with *marriage*. According to Article 9, marriage is contracted at a state registry office. Registration is required in the interests of both state and society, and also in order to safeguard the personal and property rights and interests of spouses and offspring. The rights and obligations of spouses arise exclusively from a marriage contracted at a state registry office.

To prevent hasty, ill-considered marriage, the Fundamentals lay down that a marriage may be registered only after one month has elapsed following the presentation of a statement of intention to marry to the state registry office. This enables the bride and groom to re-examine their feelings, prepare for an extremely important event in their lives and weigh their decision. In accordance with the Fundamentals, Union-Republican legislation must make provision for the ceremonial registration of marriage and for explanations to the bride and groom regarding their rights and obligations as spouses and parents.

The registration of marriage requires that both parties shall express consent, and that both parties shall have reached marriageable age. The Fundamentals fix this at 18. Union Republics may, however, set a lower age, but not less than 16.

Young people of 18 are held to be adults with all the rights of the citizen. They have the right to vote, to receive earnings of their own and have attained a degree of physical and mental maturity.

Marriage may not be entered into by persons one of whom is already married; between relatives in the direct ascending or descending line, between full and half-brothers and sisters, or between foster-parents and adopted children, or between persons either of whom has been certified incompetent by a court of law as a result of mental illness or feeble-mindedness.

The Fundamentals lay down that the personal and property relationships of spouses shall be regulated in accordance with the principle of their complete equality. Husband and wife may choose the surname of either as their common surname, or either may retain his or her premarital surname; Union-Republican legislation may make provision for the use of a double surname. Both husband and wife are free to choose their occupation, profession and place of residence. Questions of family life, the upbringing of children and the management of the household must be decided jointly.

The Fundamentals lay down that property acquired by spouses following marriage shall be deemed common, joint property. The spouses have equal rights regarding its possession, use and disposal. In order to safeguard the interests of the wife and mother, it is expressly stated that the spouses shall have equal rights to property if one of them has been engaged in running the household, caring for children or for other valid reasons has had no independent earnings. The legislator's rejection of the concept of "head of the family" has great practical importance.

In the event of the division of the common joint property of the spouses, the share of each shall be equal. The court may depart from this principle, taking into account the interests of minors or the reasonable interests of one of the spouses. Under the decree of the Presidium of the USSR Supreme Soviet of September 20, 1968, dealing with the coming into force of the Fundamentals, this rule applies to all the property of spouses, including that acquired before October 1, 1968.

The Fundamentals also deal with the obligations of spouses with respect to reciprocal maintenance. The most important rules laid down in this respect are:

- 1) Husband and wife are obliged to give each other material support. Should either refuse such support, a spouse unfit for work and in need of support, and also a wife during pregnancy and for one year after the birth

of a child, shall be entitled to receive through the courts maintenance payments from the other spouse, subject to the latter being able to provide such payments.

2) A spouse who is unfit for work and in need of support has the right to maintenance from the other spouse (subject to the latter being able to provide it) both during marriage and after its dissolution without any restriction in time.

A divorced husband or wife in need of support also has the right to maintenance if he or she becomes unfit for work within one year after the dissolution of the marriage. Where a husband and wife have been married for a long time, the court may be entitled to award maintenance to the divorced partner if the latter has reached pensionable age not later than five years after the dissolution of the marriage. However, in certain cases the new law empowers the court to exempt spouses from the payment of maintenance, or to restrict payment to a specific period.

3) A marriage ceases on the death of either of the spouses, or on the basis of a decision of a court declaring one of the spouses to be deceased. During the lifetime of the husband and wife, the marriage may be dissolved by means of a divorce upon application by either or both. The Fundamentals lay down that as a general rule marriages shall be dissolved by a court of law, at the same time requiring that the court shall take steps to bring about a reconciliation. Experience has shown that legal procedure frequently has a great influence upon husband and wife, making it possible to prevent over-hasty divorces. With a view to safeguarding the health of mother and child, a husband may not apply for dissolution of marriage without the consent of the wife during the pregnancy of the wife or during the first year after the birth of a child. A marriage is dissolved when it is established by the court that continued cohabitation and the further preservation of the family is impossible.

4) The Fundamentals lay down the rule that a husband and wife who have no children under age may have their

marriage dissolved by mutual consent at a registry office. To avert ill-considered decisions, the divorce is registered and certificates relating to the dissolution of the marriage are issued to the couple three months after the submission of the application.

Registry offices may also dissolve marriages in the case of persons certified as missing in accordance with established procedure, persons certified incompetent because of mental illness or feeble-mindedness, and persons sentenced to detention for terms in excess of three years. It should be noted that even in these instances the marriage may be dissolved only by a court should the application be disputed. A spouse who has adopted a partner's name upon marriage may, after its dissolution, retain that name or on request revert to the pre-marital surname.

The Fundamentals give great attention to *the family* and to relations between members of the family, especially between parents and children. According to Article 16, the mutual rights and obligations of parents and children are based upon the origin of the children. Therefore, the parentage of a child born of parents in wedlock is certified by the parents' marriage certificate. In such cases, the names of the parents are entered in the birth certificate on the basis of a statement by either of them. The parentage of a child born of parents not in wedlock is established through the submission of a joint statement by the father and mother to a state registry office, or on the basis of a court decision regarding paternity. In such cases the child is registered and the first name, patronymic and surname of the father is entered. In accordance with Article 16, when a child is born to parents out of wedlock and there is no joint statement, paternity may in certain circumstances be established by a court of law. In such a case, the court "shall take into consideration the cohabitation and management of a common household by the mother and the respondent prior to the birth of the child, or the joint upbringing or maintenance of the child by the two, or evidence authentically demonstrating the re-

spondent's recognition of his paternity". The existence of objective factors of this kind enables the court to avoid legal errors in establishing paternity. The inclusion of this clause will also foster a more serious attitude to the birth of a child and to their responsibility for its upbringing and maintenance on the part of unmarried parents.

The father and mother of a child who are in wedlock are registered as the child's parents in a register of births on the basis of a statement by either. If the parents are not married to each other, the child's mother is registered on the basis of her statement, while the child's father is registered on the basis of a joint statement by the father and mother, or the father is registered on the basis of a court decision. Should the mother die, or if it is not possible to establish her place of residence, the registration of the child's father is based on a statement by him. Where a child is born to an unmarried mother and there is no joint statement by the parents or decision of the court regarding paternity, the entry relating to the father shall be in the mother's surname; its name and patronymic shall be entered according to her instruction.

The father and mother have equal rights and obligations with respect to their children. Parents must maintain children who are minors and adult offspring who are in need of support. The protection of the rights and interests of minors rests with their parents. Parents may demand the return of their children by any person unlawfully detaining them other than by a decision of a court.

The Fundamentals also include other basic rules governing the relations between parents and children. It is laid down that parents have equal rights and duties in respect of their children even when a marriage has been dissolved. While providing far-reaching protection for parental rights, the Fundamentals at the same time increase the responsibility of those who fulfil their parental obligations in an improper manner or evade fulfilment or who abuse their parental rights. In such cases parents may be de-

prived of parental rights; such action may be taken in the case of chronic alcoholics and drug addicts. Deprivation of parental rights does not, however, absolve parents from the duty to maintain their children. In addition, the law lays down that children may be relieved of the duty to maintain their parents if the court establishes that the parents have evaded the fulfilment of their parental responsibilities.

The rules permitting the adoption of a child without the consent of its parents if the latter have evaded involvement in its upbringing and maintenance and not given the child proper parental care and attention are also intended to enhance parental responsibility. These rules relate in the main to children in children's homes. The Fundamentals at the same time make provision for the restitution of parental rights if the behaviour of the parents has changed and if it is in the best interests of the child.

The Fundamentals refer to the duty of children to maintain their parents: adult offspring must maintain and care for parents who are unfit for work and in need of assistance. They may be relieved of this responsibility if a court establishes that the parents have failed to carry out their parental duties. The responsibility to maintain minors who have no parents may devolve upon other relatives—grandfather, grandmother, brother or sister and also upon the child's stepfather and stepmother. The responsibility of maintaining adult members of a family who are unfit for work and need support may, if they are unmarried or have no parents or adult offspring, devolve upon their grandchildren and also stepsons and stepdaughters.

The Fundamentals leave the earlier principles governing the scale of maintenance payments to be sought from parents for the maintenance of their children who are minors unchanged. These payments are determined as a proportion of the earnings or income of the parent: for one child—one quarter, for two children—one-third, and for three or more—one half. The Fundamentals at the same

time lay down that in cases provided for by the law these payments may be reduced; when the parent paying maintenance is an invalid of the first or second category, or when the parent has other dependent children who are minors, and if the children receiving maintenance are working and have sufficient earnings. The Fundamentals also lay down that in cases where children are in children's institutions and fully maintained by the state or social organisations, recovery of all or part of these costs may be sought from parents.

The rules relating to maintenance payments have another distinctive feature. Parents paying maintenance for children who are minors may be liable for additional payments arising from exceptional circumstances (serious illness, the maiming of the child, etc.). It is more equitable if both parents share these additional expenses.

Experience shows that in the overwhelming majority of cases no dispute arises in cases involving child maintenance payments. This was reflected in the Decree of the Presidium of the USSR Supreme Soviet of June 21, 1967, under the terms of which such payments may be made voluntarily. In accordance with this an article was included in the Fundamentals stating that maintenance payments may be made voluntarily in person by the person liable to pay them, or through his place of work or study. The voluntary payment of maintenance does not, however, preclude the right of a recipient to seek payment through the courts. This constitutes an important legal guarantee of the interests of the child.

The Fundamentals contain a very important article dealing with adoption. According to Article 24, adoption is permitted only in the case of minors and only when it is in the best interests of the child. It is effected on the basis of a decision of the Executive Committee of a district or city Soviet at the request of the person wishing to adopt a child. It requires the consent of parents who have not been deprived of parental rights, and also the consent of the child to be adopted, if the child is 10 or over.

Adoption may be declared invalid and annulled only by a court of law.

An important new feature of the rules relating to adoption laid down in the Fundamentals is that stating that the status of an adopted child is to the greatest possible extent equated with that of a natural child. The Fundamentals lay down that adopted children acquire rights and assume obligations not only with respect to their adoptive parents but also with respect to all their relatives. Adopted children at the same time forfeit their rights and are relieved of their obligations with respect to their natural relatives.

The detailed regulation of relations arising in connection with trusteeship and guardianship is placed wholly within the jurisdiction of Union Republics. The Fundamentals themselves simply state the objectives of these institutions.

The procedure governing the registration of civil status (births, deaths, marriages, etc.) is governed by Union-Republican legislation. The Fundamentals therefore lay down only some general principles.

The birth of a child is a great event for a family. It has, therefore, become a tradition to register births in a ceremonial fashion. The Fundamentals, therefore, make provision for the ceremonial registration of births as well as marriages (Art. 29).

The final section of the Fundamentals, Section V, deals with the application of Soviet legislation relating to marriage and the family in the case of aliens and stateless persons, the application of foreign legislation relating to marriage and the family in the case of Soviet citizens resident abroad, and the application of international treaties and agreements. Since the legal regulation of relations with aliens lies, according to the USSR Constitution, within the exclusive jurisdiction of the USSR, these matters occupy a relatively prominent place in the Fundamentals.

The Fundamentals of Legislation on Marriage and the Family and Marriage and Family Codes. The necessity

for Union-Republican marriage and family codes flows from Article 7 of the Fundamentals. The content of the Union-Republican codes is in large measure determined by the Fundamentals. This finds expression not only in the fact that the codes reproduce the norms of the Fundamentals in full, but also in that the norms of the Fundamentals themselves directly regulate the basic questions of marital and family relationships and determine the character of their regulation.

The marriage and family codes, therefore, do not independently regulate those relationships which are stated in the Fundamentals to be regulated by all-Union legislation. Norms relating to these relationships are reproduced unaltered.

The codes deal in detail with matters which are placed directly within the jurisdiction of Union Republics, and also with matters which fall within the joint jurisdiction of the USSR and Union Republics.

In accordance with Article 7 of the Fundamentals, legislation relating to marriage and the family consists of the Fundamentals themselves and other legislative enactments of the USSR together with the marriage and family codes and other Union-Republican legislation adopted in conformity with the Fundamentals. Union-Republican legislation deals with matters placed within republican jurisdiction by the Fundamentals, and with marital and family relationships not directly dealt with by the Fundamentals.

Matters which the Fundamentals place within Union-Republican jurisdiction occupy a prominent place in the marriage and family codes, taking account of local conditions, special characteristics and other aspects whose variety is difficult to take into consideration during the planning of an all-Union measure. In addition, Article 8 of the Fundamentals specifically states that the contraction of marriage, relations between spouses and between parents and children, adoption, the establishment of paternity, the exaction of maintenance payments, trusteeship and

guardianship, the dissolution of marriage and the registration of acts of civil status are regulated by the legislation of Union Republics, whose appropriate organs shall perform or register the act in question, or settle any dispute which may arise. The validity of marriage, adoption, trusteeship and guardianship and of registration certificates is determined by the legislation of the Union Republic on the territory of which the marriage is contracted, adoption made, trusteeship or guardianship established or the certificate in question registered.

Marriage and family codes have been adopted in all Union Republics.

6. LABOUR LEGISLATION

At all stages of the building of socialism Soviet labour legislation has played an important part in the achievement of the objectives set by the Communist Party and the Soviet state, and has exerted a great influence upon the development of socialist relations of production.

The Fundamentals of Labour Legislation of the USSR and Union Republics approved by the USSR Supreme Soviet on July 15, 1970, and which came into effect on January 1, 1971, occupy a most important place among Soviet labour legislation measures. These Fundamentals were the first uniform all-Union legislative enactments setting down the basic principles governing labour legislation in the history of the Soviet state.

Article 1 defines the objectives of Soviet labour legislation. Soviet labour legislation regulates the labour relations of all factory and office workers, promoting increased productivity of labour, higher efficiency in social production and the raising on this basis of the standard of living and cultural level of the working people, strengthening labour discipline and gradually transforming labour for the common weal into the prime vital need of every able-

bodied citizen. Labour legislation lays down a high standard of working conditions, and provides full protection for the rights of factory and office workers.

The Fundamentals establish the basic rights and obligations of factory and office workers. The citizen's right to work is ensured by the socialist organisation of the national economy, the steady growth of the productive forces of Soviet society, the eradication of economic crises and the abolition of unemployment.

Factory and office workers exercise their right to work by concluding a labour contract to work at an enterprise, institution or organisation. In addition, the state guarantees them payment for their labour in accordance with its quality and quantity. They have the right to rest in accordance with the laws limiting the length of the working day and working week and providing for annual paid leave. They are entitled to healthy and safe working conditions, free trade training and free training to improve their qualifications. They have the right to form trade unions and to participate in management. They are entitled to maintenance in old age and in the event of sickness or disability at the expense of the state through the state social insurance system.

The Fundamentals require all factory and office workers to observe labour discipline, take good care of public property and fulfil production quotas established by the state with the participation of the trade unions.

The factory or office trade union committee concludes a collective agreement with the management on behalf of the workers. The conclusion of the agreement follows discussion and approval of the draft at meetings (conferences) of workers. A collective agreement applies to all workers, regardless of whether or not they are union members.

A collective agreement must contain the basic provisions governing labour and wages at the undertaking as laid down by current legislation. It must also contain provisions relating to working hours, rest, payment and incentives

and labour protection drawn up by the management and trade union committee.

The agreement also establishes the reciprocal obligations of management and workers regarding the fulfilment of production plans, the improvement of the organisation of production and labour, the introduction of new machinery and increased productivity, the improvement of quality and the cutting of costs, the development of socialist emulation, the strengthening of industrial and labour discipline, the raising of qualifications and the on-the-spot training of workers.

The agreement must mirror the obligation of management and the union committee to involve workers in management and the fixing of output quotas, rates of pay and incentive payments. The agreement must also deal with the protection of labour, benefits for front-rank workers, the improvement of housing conditions and the provision of cultural and other facilities and the expansion of educational and cultural work.

A labour contract is concluded between a worker and an enterprise, institution or organisation. The worker undertakes to work in a particular trade or speciality in accordance with the rules of the undertaking, while the enterprise, institution or organisation undertakes to pay the worker a wage or salary and to provide the conditions of labour laid down by labour legislation, the collective agreement and the labour contract.

The Fundamentals prohibit refusal to offer employment without good cause. Under the terms of the USSR Constitution, any direct or indirect limitation of rights, or any direct or indirect preference in offering employment on grounds of sex, race, nationality or religious beliefs is illegal.

Labour contracts are signed for an indefinite term, for a period of up to three years, or for the time required to carry out a definite job. A probationary period may be stipulated.

Management may not demand work not stipulated in

the labour contract; transfer to other work in the same undertaking, and also transfer to work at another undertaking or in another area, even if the undertaking itself is being transferred, is permissible only with the worker's consent.

Temporary transfer to other work for a period not exceeding one month for industrial reasons is permitted. A management may transfer a worker to work not stipulated in the labour contract not only at the same undertaking, but also at an undertaking in the same area with remuneration in accordance with the work performed, but not less than his average remuneration at his former work. Such a transfer is permitted when it is necessary to prevent or overcome a natural calamity or industrial breakdown, or promptly to rectify their consequences, to avert accidents, stoppages, the destruction of or damage to state and public property and in other emergencies, and also to replace another worker. The Fundamentals expressly state that transfer to replace another worker shall be for periods not exceeding one month in any calendar year.

In the event of a stoppage, workers are transferred to other work in keeping with their trade or speciality at the same undertaking for the entire period of the stoppage, or to another undertaking but in the same area for a period not exceeding one month. If a worker is transferred to lower-paid work as a result of a stoppage and fulfils his quota he is paid his average earnings from his previous work; a worker not fulfilling his quota is paid his former wage rate (salary).

The transfer of a skilled worker to unskilled work as a result of a stoppage or temporarily to replace another worker is not permitted.

A labour agreement may be terminated on many grounds: mutual consent; expiry, except when labour relations in fact continue and neither party demands their termination; call-up or enlistment for military service; at the request of the worker, the management, or on the

demand of a trade union body; the transfer of a worker to other work with his consent, or his acceptance of elective office; the refusal of the worker to move to another area together with the undertaking; a sentence of a court (other than a suspended sentence) under the terms of which a worker must serve a prison term or period of corrective labour not at his normal place of work, or other punishment which makes it impossible for him to do his job.

Workers have the right to terminate labour contracts concluded for an indefinite period by giving the management two weeks' notice in writing. A labour contract signed for a definite period may be terminated prior to expiry at the request of the worker on grounds of sickness, disability, etc. (Art. 16).

A management has the right to terminate a labour contract concluded for an indefinite period, or to terminate a contract concluded for a definite period before the expiry of that period. It may do so, however, only when the undertaking is closing down or its staff being reduced, when a worker is found to be unsuitable due to insufficient skill or because of health reasons which make it impossible for the worker to continue work, when a worker without good cause systematically fails to carry out the duties specified in the contract or the rules of the undertaking provided disciplinary measures and measures of public censure have previously been taken, in cases of absenteeism without good cause (including attendance at work while under the influence of alcohol), following the reinstatement of a worker who previously did the job in question, or when a worker fails to appear at work for a period of more than four successive months due to temporary unfitness (excluding maternity leave). Under previous legislation, a post was held open for two months.

The post of a worker who becomes unfit for work as a result of industrial injury or disease is held open for him until recovery or until invalidity is established.

The Fundamentals lay down that a management shall not have the right to terminate a labour contract without the consent of the appropriate trade union committee. They at the same time lay down that a union body not below district level may call upon a management to terminate the contract of a managerial executive or relieve him of his duties if he has infringed labour legislation, failed to fulfil obligations set down in the collective agreement or shown himself to be bureaucratic or negligent.

According to the Fundamentals, the normal working week shall not exceed 41 hours. They lay down a shorter working week for certain categories, 36 hours in the case of workers aged between 16 and 18, and 24 hours in the case of those aged between 15 and 16. The working week of those engaged in work injurious to health may not exceed 36 hours.

The Fundamentals contain clauses dealing with the five- and six-day working week, hours of work on the eve of weekends and holidays, hours for night work, restrictions on overtime, days off and holidays, annual leave and its length, additional leave, etc. These provisions are designed further to improve the living and working conditions of workers. Article 21, for example, not only lays down the present length of the working week (41 hours); it also envisages its further reduction as economic and other essential conditions permit. Article 33 stresses that workers shall be entitled to at least 15 working days' leave a year and that annual leave shall be gradually extended.

The Fundamentals define the nature of payment in socialist society, pointing out that in accordance with the USSR Constitution workers are paid in accordance with the quality and quantity of their work. The establishment of reduced rates based on sex, age, race or nationality is prohibited. The justice of Soviet legislation is manifest in the establishment of the centralised state regulation of wages and the fixing of wage scales by the state with the

participation of the trade unions and by payment in accordance with rates approved centrally.

Systems of remuneration occupy an important place in the Fundamentals. The Fundamentals refer to time-rate and piece-rate systems, and also time-rate plus bonus and piece-rate plus bonus systems. They also lay down the procedure by which these systems shall be introduced at particular undertakings. Time-rate plus bonus and piece-rate plus bonus systems may be introduced to provide additional incentives for the fulfilment and overfulfilment of production plans, to increase efficiency, profitability and productivity, and to improve the quality of output and economise on resources. In addition, workers may receive bonuses based on the results of the undertaking's work over the year and paid out of a fund made up of allocations out of profits. Their size depends on the quality of work and the worker's length of unbroken service.

The Fundamentals lay down that workers on time-rates shall be paid time-and-a-half for the first two hours of overtime and double time thereafter; there shall also be additional payment for those on piece-rates; work on holidays shall be paid at double time; night work shall also be paid at a higher rate.

Soviet workers as a rule work honestly and conscientiously, observe labour discipline, carry out the orders of the management promptly and accurately, increase productivity, improve quality, observe technological discipline, and safety regulations and the rules relating to labour protection and industrial health, and safeguard and strengthen socialist property. The fulfilment of these obligations is ensured firstly by a conscientious attitude to work and secondly by persuasion and the encouragement of conscientious work.

The law envisages varied forms of moral incentive. Article 55 lays down that exemplary fulfilment of socialist emulation undertakings, increased productivity, improved quality, long and irreproachable service, innovations and other achievements shall be rewarded by an

expression of commendation, a bonus, a valuable gift, a certificate or enrolment in the Book of Merit or on the Merit Board. Other measures may also be taken.

For outstanding services workers may be recommended for orders, medals, certificates and badges; they may be awarded honorary titles.

The Fundamentals also enumerate the sanctions managements may apply in cases of negligence or infringement of labour discipline: reproof, reprimand, severe reprimand; transfer to lower-paid work for a period not exceeding three months, or transfer to a lower post, also for a period not exceeding three months; and dismissal.

The Fundamentals pay great attention to the provision of healthy and safe working conditions. They contain clauses dealing with safety during the construction and use of industrial buildings, installations and equipment; they prohibit the commissioning of undertakings which fail to satisfy safety regulations and require managements to take measure to ensure safety in co-operation with trade union committees. They also contain clauses dealing with the provision of protective clothing and other equipment and the issue of special food rations where appropriate.

Special attention is paid to the work of women. It is stressed that women enjoy equal rights with men as regards work, leisure and social security. There are special guarantees relating to the work of women. They may not, for example, be employed on heavy work, on work where conditions are injurious to health, or underground. Women may not be employed on night work; they may not do overtime or work on holidays. Expectant mothers and nursing mothers and mothers with children under the age of one may not be sent on assignments. Women with children aged between one and eight may not do overtime or be sent on assignments without their consent.

On presentation of a medical certificate, expectant mothers are transferred to lighter work during the period of their pregnancy, while continuing to draw their previous average pay. Nursing mothers and mothers with children

under the age of one shall, if they are unable to carry out their former work, be transferred to other work, while continuing to receive their former average earnings until the child is weaned or until it reaches the age of one. In addition to pre- and post-natal leave, a woman may at her request be granted unpaid leave until the child reaches the age of one.

The Fundamentals forbid managements to refuse a woman employment or reduce her wages on grounds of pregnancy, or because she is a nursing mother. They also forbid the dismissal of expectant mothers, nursing mothers or mothers with children under the age of one unless the undertaking is being completely shut down.

The employment of young people under the age of 16 is not permitted. However, in exceptional cases, young people who have reached the age of 15 may be employed with the consent of the union committee. The law prohibits the employment of young people under the age of 18 on work which is hazardous or injurious to health or on underground work. Nor may young people under the age of 18 be employed on night work, do overtime or work on holidays. Workers under the age of 18 may not be dismissed without the consent of the district (city) juvenile affairs commission.

The law provides a number of benefits for young people. Firstly, the wages of workers under 18 who are working a shorter working week are the same as those of older workers of the same grade who are working a full week. Secondly, workers under the age of 18 employed on a piece-rate basis are paid at the rates laid down for adult workers plus an additional payment for the time by which their working day is shorter than that of the adult workers; they receive annual leave totalling one calendar month in the summer or, at their request, at any other time of the year. Thirdly, all undertakings have quotas of vacancies reserved for the employment and trade training of young people under 18—those who have completed general education or vocational or technical schools, and others.

Managements organise individual, group and other forms of trade training at the undertaking's expense to raise the levels of skill of the workers, especially young people. Managements must ensure that the conditions necessary for both work and study exist. A worker's achievements in this respect must be taken into account when the question of up-grading or promotion arises. Workers who combine work and study are entitled to a shorter working week or shorter working day, while continuing to draw their normal pay.

The Fundamentals contain provisions relating to the bodies dealing with labour disputes. These include: 1) labour dispute commissions at factories and other undertakings made up of union and management representatives on a parity basis; decisions are reached through agreement between the parties; 2) factory and office trade union committees. These consider disputes when labour dispute commissions have failed to reach agreement. They may confirm the decision of a commission, or rescind it and pass a decision of their own on the substance of the matter; 3) district (city) people's courts. These consider disputes on appeal by workers when the latter do not agree with decisions of factory and office union committees, or when the latter do not agree with the decision of a labour dispute commission made up of the trade union organiser and the manager of an undertaking or when agreement was not reached in the commission.

Workers may appeal to a labour dispute commission at any time, without any limitation. In the case of dismissal, they may appeal to a district (city) people's court within one month of receipt of notice of dismissal.

The Fundamentals lay down that a worker who is improperly dismissed or transferred to lower-paid work and then reinstated shall, on the basis of a decision of the court, receive his average earnings for the period of enforced idleness from the date of the dismissal. They stress that the court shall require the official responsible for the improper dismissal or for the transfer of the worker to

lower-paid work to compensate the undertaking for the loss caused by it having to pay the worker for his enforced idleness or for his period of work at a lower wage. The amount of compensation shall not exceed three months' salary or wage-packet.

All workers must be covered by compulsory state social insurance. This insurance is paid for by the state from funds contributed by factories and other undertakings, without any deductions from workers' wages.

Workers and their families are entitled to temporary disability allowances; women are in addition entitled to pregnancy and childbirth allowances and grants on the birth of a child; there are also grants to meet funeral expenses as well as old-age and invalidity pensions, and pensions following the loss of a breadwinner, and long-service pensions for certain categories of workers.

State social insurance funds are also used to provide sanatoria, rest homes, children's summer camps and other similar facilities, and also to provide special foods, etc.

The labour legislation of the USSR and Union Republics consists of the Fundamentals and other all-Union labour legislation together with Union-Republican labour codes and other labour legislation adopted in conformity with the Fundamentals.

Labour questions are governed by the legislation of the USSR, the legislation of the USSR and Union Republics, and the legislation of the Union Republics. Article 107 of the Fundamentals deals with the division of powers between the USSR and Union Republics in respect of matters covered by the Fundamentals. The labour codes of the Union Republics reproduce the general principles of the Fundamentals and deal with their detailed application, and create their own norms where this is provided for by the Fundamentals, and also in relation to matters which lie within the exclusive jurisdiction of the Union Republics.

7. LEGISLATION RELATING TO THE PROTECTION OF LAW AND ORDER AND THE CAMPAIGN AGAINST CRIME

From the very first days of its existence the Soviet state has been indivisibly linked with socialist legality, which is a means of defending the achievements of the October Revolution and a most important instrument for the protection of the rights of the workers. Lenin saw the strictest observance of the law as a sure guarantee of the economic and political achievements of the Soviet state. He saw the active participation of the mass of the working people, and their increased participation in all spheres of economic, political and cultural life as a prerequisite for strengthening the rule of law and for success in the struggle with violations of the law.

At the present stage of development of Soviet society the strengthening of the rule of law and the campaign against crime are linked with the building of communism and with the development and consolidation of the Soviet state and socialist democracy. Soviet legislation, in particular that dealing with the campaign against crime and other violations of the law, makes an important contribution to the achievement of these objectives.

The USSR Constitution places the establishment of the *basic principles governing legislation on the judicial system* within the jurisdiction of the USSR (Art. 14). In accordance with this the second session of the Fifth USSR Supreme Soviet on December 25, 1958, approved the Fundamentals of Legislation on the Judicial System of the USSR and of the Union and Autonomous Republics. This enactment established the legal system of the USSR, which consists of the courts of the USSR and Union Republics.

The Fundamentals of Legislation on the Judicial System lay down (Art. 1) that justice in the USSR is administered by the USSR Supreme Court, the Supreme Courts of Union Republics, the Supreme Courts of Autonomous Republics,

by territorial, regional, and city courts, by the courts of Autonomous Regions and National Areas, by district (city) people's courts and also by military tribunals.

The USSR Supreme Court and military tribunals are, therefore, all-Union courts, while all others are Union-Republican courts. The district (city) people's courts constitute the main link in the Soviet judicial system.

The Purposes of Justice and the Objectives of the Court.

The purpose of justice is to protect the social and state system of the USSR, the socialist economic system and socialist property; the political, labour, housing and other personal and property rights of the citizens of the USSR and the rights and lawful interests of state institutions, enterprises, collective farms and co-operative and other social organisations. It is also to ensure the strict and undeviating implementation of the law by all institutions, organisations, officials and citizens of the USSR.

Justice is administered in accordance with the principles of socialist humanism and democracy. As is stated in Article 3, the entire activity of the court educates citizens of the USSR in a spirit of loyalty to their country and to the cause of communism, of the strict and undeviating implementation of Soviet laws, care for the socialist property, the observance of labour discipline and of an honest attitude to state and social duty, in a spirit of respect for the rights, honour and dignity of citizens, and for the rules of socialist community life. In applying criminal sanctions, the law seeks not merely to punish, but also to rehabilitate and re-educate offenders.

Article 4 stresses that justice is administered through the hearing of civil and criminal cases by the courts. This sets down the educational objective pursued by court hearings, both civil and criminal. Secondly, it sets down the objectives pursued during the hearing of criminal cases. The acquittal of those charged illegally or without foundation is one of the main objectives of socialist justice. The Fundamentals therefore stress that justice is administered through the hearing of criminal cases before a court with

the lawful punishment of the guilty and the acquittal of the innocent as its objective.

The Principles of the Administration of Justice. The Fundamentals reproduce the constitutional principles relating to the administration of justice, including (a) the equality of citizens before the law and the courts, regardless of their social, property or official status, nationality, race or creed, and (b) the elective nature of all courts. The law is administered in strict accordance with the legislation of the USSR and the Union and Autonomous Republics.

The Fundamentals embody the constitutional principle of the independence of judges and their subordination only to the law. Article 9 stresses that judges and lay assessors shall be independent and subordinate only to the law. The independence of judges is directly linked with the administration of justice. It is prompted by the need to ensure strict socialist legality. This means that any form of pressure upon the court during its hearing of a case is impermissible because it may influence the court's decision. The Fundamentals underline that the ruling regarding independence applies not only to judges, but also to lay assessors.

The principle set down in the USSR Constitution that judicial proceedings shall be conducted in the language of the Union or Autonomous Republic or Autonomous Region, or, in instances provided for by the Constitutions of the Union and Autonomous Republics, in the language of the National Area or of the majority of the population of the district, with those not speaking this language being able fully to acquaint themselves with the material of the case through an interpreter and to address the court in their native language is of great importance. Its proclamation and effective implementation is a manifestation of the Leninist nationalities policy.

The democratic character of the administration of justice in the USSR also finds expression in Article 11. This lays down that all court proceedings shall be public. Exceptions are permitted only in circumstances for which the law

makes special provision. This is an important guarantee protecting the rights and lawful interests of the citizen.

The USSR Constitution guarantees an accused person the right to defence, and the Fundamentals make provision for this. The Advocates' Bar plays an important role in this respect. According to Article 13, the Advocates' Bars exist to provide defence in court and also to render other forms of legal aid to citizens, enterprises, institutions and organisations. These bars are voluntary associations of persons engaged in advocacy. They function under a statute approved by the Supreme Soviets of Union Republics. The USSR Ministry of Justice, the Ministries of Justice of Union and Autonomous Republics and the justice departments of the Executive Committees of territorial, regional and city Soviets exercise general guidance over their work within the framework and in the manner laid down by all-Union and Union-Republican legislation.

Public defence spokesmen play an important part in enhancing the educational function of legal proceedings. Under Article 15, representatives of public organisations may undertake the defence of an accused person.

Public spokesmen may also present the case for the prosecution. This is of great importance in drawing the public into the campaign against crime. The victims of a crime may also present the case for the prosecution.

Lay assessors play an important role in the hearing of civil and criminal cases before all courts of first instance.

All civil and criminal hearings must be collegiate. In courts of first instance, hearings are before a judge and two lay assessors, while in courts of second instance, hearings must be before three members of the court in question. The hearing of appeals against court decisions, verdicts, rulings and resolutions which have come into legal effect is conducted before judicial collegiums (or divisions) of the USSR Supreme Court and the Supreme Courts of Union Republics likewise collegially—before three members of the court concerned. The presidium of a court hears cases in the presence of the majority of its

members; a plenary meeting of a court hears cases in the presence of at least two-thirds of its members.

The Fundamentals stress the important role of the procurator's supervision. Under Article 14, the USSR Procurator-General and procurators subordinate to him participate on the basis of, and in the manner laid down by, all-Union and Union-Republican legislation in administrative and judicial sessions during the hearing of civil and criminal cases, present the case for the prosecution in the name of the State, present and maintain suits before the court and verify that the decisions, verdicts, rulings and resolutions of courts are lawful and well-founded. They also supervise the implementation of court verdicts.

The Election of Courts and Their Powers. The Fundamentals lay down varied procedures for the election of judges and lay assessors. According to Article 19, the people's judges of district (city) people's courts are elected by the citizens of the district or city concerned on the basis of universal, equal and direct suffrage by secret ballot for a term of five years. On the other hand, the lay assessors of these courts are elected at general meetings at factories, offices and other places of work or residence, or by military units for a two-year term. The electoral procedure is established by Union-Republican legislation. The election of the district and city people's courts in this way, on the one hand, ensures the stability of judicial personnel and their increased competence in hearing cases. On the other, it ensures the involvement of a greater number of working people in the administration of justice.

Territorial, regional, and city courts, and the courts of Autonomous Regions and National Areas are elected by the appropriate Soviets for five-year terms. They consist of a court chairman, deputy chairmen, court members and lay assessors, and function through judicial collegiums handling civil and criminal cases and a presidium.

The highest judicial body of an Autonomous Republic is its Supreme Court, which supervises the judicial activi-

ties of all the republic's legal bodies in accordance with the procedure laid down by all-Union and Union-Republican legislation. It is elected by the Autonomous Republic's Supreme Soviet for a five-year term. It consists of a court chairman, deputy chairmen, court members and lay assessors and functions through judicial collegiums handling civil and criminal cases and a presidium.

The highest judicial body of a Union Republic is its Supreme Court, which supervises the judicial activities of all the republic's legal bodies in accordance with the procedure laid down by legislation of the USSR and Union Republics. It is elected by the Supreme Soviet of the Union Republic for a five-year term. According to Article 25 of the Fundamentals, the Supreme Court of a Union Republic consists of a chairman, deputy chairmen, members and lay assessors. It functions through judicial collegiums handling civil and criminal cases, and through plenary sessions. Presidiums may be set up in accordance with Union-Republican legislation. The powers of presidiums and plenary sessions are also laid down by Union-Republican legislation.

The highest judicial body of the USSR is the USSR Supreme Court, which supervises the judicial activities of the USSR legal organs and also of the Union Republics. The limits of this supervision are defined by the Statute on the USSR Supreme Court. The USSR Supreme Court is elected by the USSR Supreme Soviet for a five-year term. In accordance with Article 27 of the Fundamentals, it consists of a chairman, deputy chairmen, members and lay assessors elected by the USSR Supreme Soviet; the chairmen of the Supreme Courts of the Union Republics are also *ex officio* members of the USSR Supreme Court. The USSR Supreme Court functions through judicial collegiums handling civil and criminal cases, a military collegium and plenary sessions.

The Fundamentals lay down the qualifications of those who administer justice. Under Article 29, any person who has reached the age of 25 on the day of the election is

eligible for election as judge or lay assessor. People of that age usually have some experience of life; they are mature socially and politically and have acquired the necessary legal qualifications.

The lay assessors play an important part in the hearing of civil and criminal cases in courts of all instances. They take their places on the bench by rotation for periods of not more than two weeks per year, except where it may be necessary to extend this term because of the need to complete the hearing of a case begun with their participation. When performing their duties in court, the lay assessors have the same rights as the judge; factory and office workers elected to serve as lay assessors retain their wages and salaries during their term of service; those who are not factory or office workers receive expenses in a manner and in accordance with scales laid down by Union-Republican legislation.

The Fundamentals lay down that people's judges should regularly report to their electors on their work and that of the people's court. Territorial, regional, and city courts and the courts of Autonomous Regions and National Areas are accountable to the appropriate Soviets; the Supreme Courts of Union and Autonomous Republics are accountable to the appropriate Supreme Soviets or, in the intervals between the sessions of the latter, to their Presidiums. The USSR Supreme Court is accountable to the USSR Supreme Soviet or, in the intervals between its sessions, to its Presidium.

The Fundamentals lay down that judges and lay assessors may be removed before the expiry of their term of office only through recall by their electors or by the body electing them, or because a court passes sentence on them. The procedure for the recall of judges and lay assessors of courts of the USSR and Union Republics is laid down by legislation of the USSR and Union Republics respectively.

Judges may not be charged with criminal offences, removed from office in connection with such charges or

arrested a) in the case of people's judges, chairmen, deputy chairmen and members of territorial, regional, and city courts, the courts of Autonomous Regions and National Areas and the Supreme Courts of Autonomous Republics—without the consent of the Presidium of the Supreme Soviet of the Union Republic concerned; b) in the case of chairmen, deputy chairmen and members of the Supreme Courts of Union Republics and also lay assessors of these courts—without any consent of the Supreme Soviet of the Union Republic or, in the intervals between its sessions, of its Presidium; c) in the case of the chairman, deputy chairmen and members of the USSR Supreme Court and also of lay assessors of the USSR Supreme Court—without the consent of the USSR Supreme Soviet or, in the intervals between its sessions, of its Presidium; d) in the case of chairmen, deputy chairmen and members of military tribunals—without the consent of the Presidium of the USSR Supreme Soviet.

Decisions, rulings and interlocutory orders in civil cases, and also verdicts, rulings and interlocutory orders relating to the attachment of property in criminal cases are executed by court officers. The orders presented by such officers are binding upon all officials and citizens.

The Fundamentals lay down that on the basis of Article 14 (u) of the USSR Constitution and in accordance with the Fundamentals themselves, the Supreme Soviets of Union Republics adopt laws relating to their judicial system which take account of local conditions.

The USSR Constitution (Article 14, u) places the establishment of *fundamental principles governing criminal legislation* within the jurisdiction of the USSR.

On December 25, 1958, the second session of the Fifth USSR Supreme Soviet approved Fundamentals of Criminal Legislation of the USSR and Union Republics. This replaced an earlier all-Union law which had already become inoperative in many respects.

Section I sets out *the objectives and general provisions* of criminal legislation. According to Article 1, the criminal legislation of the USSR and Union Republics seeks to protect the Soviet social and state system, socialist property, the person and rights of citizens and the whole of the socialist legal order against criminal encroachment. To this end, the criminal legislation of the USSR and Union Republics determines which socially dangerous acts constitute criminal offences and establish the punishments to which offenders shall be liable.

Article 3, which states that "only a person guilty of a crime, that is, one who has, either intentionally or negligently, committed a socially dangerous act provided for by criminal law, shall be subject to criminal responsibility and punishment. Criminal punishment shall be applied only by the verdict of a court", is of the greatest significance. It is thus established that the only ground for criminal liability is the commission of a crime, while a crime is a socially dangerous act covered by criminal law.

All persons committing crimes on the territory of the USSR are liable to responsibility under the criminal laws in force at the place of the crime. Citizens of the USSR who commit crimes abroad are subject to criminal responsibility under the criminal laws in force in the Union Republic on whose territory criminal proceedings have been instituted against them or where they have been committed for trial. Stateless persons in the USSR who have committed crimes abroad are liable in the same way.

Article 6 is designed to reinforce the rule of law. The criminal nature of an act, and the punishment to which a person committing it is liable, is, according to this article, determined by the law in force at the time the act was committed. A law rendering an act no longer punishable or reducing the punishment, is retrospective—that is, it applies to acts committed before its enactment. A law making an act a punishable offence or increasing the punishment is, however, not retrospective.

The Fundamentals define the concept of a *crime*. Ac-

According to Article 7, a crime is a socially dangerous act of commission or omission which infringes the Soviet social or state system, the socialist economic system, socialist property, the person or the political, labour, property and other rights of the citizen, or any other socially dangerous act provided for by the criminal law which infringes the socialist legal order. An act of commission or omission which, although formally containing some of the features of an act covered by criminal law but which by reason of its trivial nature does not constitute a social danger, is not deemed a crime.

A person who commits a crime while drunk is not absolved from criminal responsibility.

Persons who have attained the age of 16 before the commission of an offence are subject to criminal responsibility. Persons between the ages of 14 and 16 are subject to criminal responsibility only for homicide, deliberate bodily harm causing impairment of health, rape, assault with intent to rob, theft, malicious hooliganism, deliberate destruction of or damage to state or social property or the property of individuals entailing grave consequences, and also for the deliberate commission of acts liable to cause the wrecking of a train. However, a person who at the time the socially dangerous act was committed was not responsible for his actions—that is, was not accountable for his actions or able to control them because of chronic mental illness, temporary mental derangement, mental deficiency or other pathological condition—is not subject to criminal responsibility.

The Fundamentals pay great attention to the concepts of “necessary defence” and “dire necessity”. They stress that an action which, although covered by criminal law, is committed for necessary defence—that is, in protecting the interests of the Soviet state, social interests, or the person or rights of the defender or another person against a socially dangerous infringement by causing harm to the infringer—shall not be deemed a crime, provided the limits of necessary defence are not exceeded. A clear disproport-

tion between the necessary defence and the nature and danger of the infringement shall be deemed to be exceeding these limits.

An action which, although covered by criminal law, is committed as a result of dire necessity—that is, in order to remove a danger threatening the interests of the Soviet state, social interests, or the person or rights of the individual committing the act or others—is not deemed a crime when in the given circumstances the danger could not have been removed by other means, and where the harm caused is smaller than that prevented.

The Fundamentals refer to *the purposes of punishment*. According to Article 20, the purpose of punishment is not only chastisement for a crime which has been committed, but also the rehabilitation and re-education of the offender in the spirit of an honest attitude to work, strict observance of the laws, and respect for the rules of socialist community life. It also seeks to prevent the commission of new crimes, both by the offender and by others.

The following sanctions may be applied to offenders: deprivation of liberty, exile, restricted residence, corrective labour without deprivation of liberty, deprivation of the right to hold specified offices or engage in specified activity, fine or social censure. Other additional sanctions may also be applied, namely, confiscation of property or deprivation of military or special rank. Restricted residence, exile, deprivation of the right to hold specified offices or engage in specified activity and fine may be applied not only as basic but also as additional sanctions (Art. 21).

Punishment does not seek to inflict physical suffering or degrade human dignity.

The humanism of Soviet criminal law finds expression, for example, in the further restriction of the death penalty (Art. 22). Exile is likewise not applicable to expectant mothers, or to mothers with dependent children under the age of 8, etc.

In accordance with Article 23, deprivation of liberty shall be for terms not exceeding 10 or, in the case of

specially grave crimes and especially dangerous habitual criminals in instances envisaged by all-Union and Union-Republican legislation—15 years. In the case of a person who was under the age of 18 at the time the offence was committed, deprivation of liberty may not be for a period exceeding 10 years.

Sentences of deprivation of liberty imposed by a court are served in corrective-labour colonies with ordinary, reinforced, strict and special regimes, or in prison, and also in educational-labour colonies with ordinary and reinforced regimes.

The Fundamentals contain provisions relating to exile and restricted residence. These are imposed for terms not exceeding five years. They may not be applied to persons under the age of 18 at the time the offence was committed. Exile may also not be applied in the case of expectant mothers, or to mothers with dependent children under the age of 8.

Under Article 25, corrective labour without deprivation of liberty may be imposed for terms of up to one year. The sentence is served either at the convicted person's place of work or at some other place in the area where he lives. Deductions determined by the sentence of the court but not exceeding 20 per cent are made from the earnings of persons undergoing punishment of this kind. The article also provides that those who maliciously evade serving sentences of this kind may be required by the court to serve the unexpired part of the sentence in the form of deprivation of liberty. This provision undoubtedly enhanced the effectiveness of this form of punishment.

The court may impose deprivation of the right to hold specified offices or to engage in specified activity for periods of up to five years as a basic or supplementary punishment. The court may also impose fines, social censure, confiscation of property, deprivation of military and other ranks, and also of orders, medals or other honorary titles.

The Fundamentals pay great attention to the question of the *imposition of punishment and relief from punishment*. According to Article 32, the court imposes punishment within the terms laid down by the law relating to the offence committed, in strict accordance with the Fundamentals and the Criminal Code of the Union Republic concerned. In imposing punishment, the court, guided by the socialist concept of justice, takes into consideration the nature of the crime committed and the degree of social danger which it represents, the character of the offender and any circumstances which mitigate or exacerbate the offence.

Circumstances mitigating responsibility include: the prevention by the offender of any harmful consequences arising from the offence committed; the commission of an offence as a result of the concurrence of grave personal or family circumstances; the commission of an offence under duress, or by expectant mothers or juveniles; sincere repentance or voluntary surrender to the authorities. Circumstances held to aggravate responsibility include: the commission of an offence by a person previously guilty of an offence; the commission of an offence by an organised group; the grave consequences of an offence; the commission of an offence against a juvenile, aged or helpless person, etc.

Under Article 38, a sentence of deprivation of liberty or corrective labour may be suspended when the court is satisfied that it would be inappropriate for the offender to serve it. The decision of the court must be motivated. The sentence is not enforced provided the offender does not commit a further deliberate offence within a probationary period laid down by the court.

The Fundamentals contain provisions relating to imposition of punishment for multiple offences and under multiple verdicts; the imposition of a lighter punishment than that envisaged by the law; stay of execution in relation to a sentence imposed on a person in or subject to military service in time of war; deduction of time served in preliminary detention; the period of limitations in criminal

proceedings; the period of limitations as it effects the enforcement of a sentence; relief from criminal responsibility and punishment; remission of sentence, and the expunging of records of conviction.

The Fundamentals deal with questions arising in connection with conditional remission of sentence, which, experience has shown, is an effective means of rehabilitating and re-educating offenders. As compared with previous legislation, new restrictions have been placed on the use of conditional remission and the substitution of a lighter sentence in the case of persons who have previously been sentenced for grave offences, and also in the case of juveniles sentenced for premeditated murder, grievous bodily harm, rape, assault with the intent to commit robbery and other dangerous offences.

Article 44 lays down that conditional remission of sentence or substitution of a lighter sentence for the unexpired term may apply after *at least half* of the sentence imposed has been served, subject to the offender having demonstrated his rehabilitation by his exemplary conduct and honest attitude to work. However, the number of offenders eligible under this rule has been somewhat reduced. At the same time, the range of offenders eligible for remission after serving *at least two-thirds* of their sentence has increased. This category, according to Article 44, now includes: those serving sentences of over three years for deliberate offences; those who have previously served sentence in places of detention for a deliberate offence and who have before the expunging or cancellation of the record of the sentence again committed a deliberate offence for which they have been sentenced to deprivation of liberty; those who, while serving sentence in a place of detention, have committed a deliberate offence for which they have been sentenced to deprivation of liberty. Article 44 also lays down that recommendations relating to remission are submitted jointly by the body responsible for the serving of the sentence and the supervisory commission of the local Soviet. Article 44 also lays down that when exile,

restricted residence or corrective labour is imposed in place of an unexpired term of deprivation of liberty, it shall be imposed within the limits laid down by the law for the type of punishment concerned, and shall not exceed the remaining period of the unexpired term.

With a view to strengthening public control over those whose sentences are conditionally remitted, Article 44 lays down that the court may, in sanctioning conditional release before expiry of sentence or in substituting a lighter punishment for the remaining period of the unexpired term, place upon a given collective of working people, with its consent, the duty of superintending a person, conditionally released before the expiry of his term, during the remaining part of it, or a person for whom a lighter punishment has been substituted, and of carrying on educational work with him.

Under Article 45 conditional release or substitution of a lighter sentence may apply to those sentenced for offences committed under the age of 18 only when they demonstrate their rehabilitation by exemplary behaviour and their honest attitude to work, and have in addition served *at least one third* of their sentence.

Conditional release or substitution of a lighter sentence may apply only after *at least half* the original sentence has been served in cases of those serving terms of deprivation of liberty of at least five years for a deliberate offence committed while under the age of 18, those who have previously served sentences in places of detention for a deliberate offence and who prior to the expunging or cancellation of the record of the sentence while under the age of 18 again commit a deliberate offence for which they are sentenced to deprivation of liberty, those who while under the age of 18 commit a deliberate offence for which they are sentenced to deprivation of liberty while serving sentence.

Conditional release or substitution of a lighter sentence may apply after the expiry of *at least two-thirds* of the original sentence in the case of those who have previously

served sentence for a deliberate offence for which conditional release or substitution of a lighter sentence was applied, if before reaching the age of 18 and before the expiry of the remaining part of the sentence they again committed a deliberate offence, for which they were sentenced to deprivation of liberty; to those guilty of an offence committed while under the age of 18: banditry, assault with intent to acquire state or social property or the property of individual citizens under aggravating circumstances, premeditated murder under aggravating circumstances, rape committed by groups or leading to especially grave consequences and the rape of juveniles.

The Fundamentals lay down that the rules relating to conditional release and substitution of a lighter sentence shall not apply in the case of those guilty of especially grave offences.

The Fundamentals of Criminal Legislation and the Criminal Codes. The Fundamentals clearly define the division of powers with respect to criminal legislation between the USSR and Union Republics. According to Article 2, the criminal legislation of the USSR and Union Republics consists of the Fundamentals which define the basic concepts and lay down the general provisions of criminal legislation of the USSR and Union Republics, all-Union laws which establish responsibility for particular offences, and the Criminal Codes of Union Republics. All-Union laws govern responsibility for crimes against the state and for military offences and, where necessary, for other offences directed against the interests of the USSR.

The adoption of Criminal Codes lies within the jurisdiction of the Union Republics. The USSR has the right to lay down basic principles and general provisions governing legislation in this area.

The general sections of the republican Criminal Codes contain norms which reproduce clauses of the Fundamentals, and norms supplementing those of the Fundamentals: (a) norms drafted in accordance with the instructions of the all-Union legislator; (b) norms adopted on the initia-

tive of republican legislative bodies. In their *special sections* the republican Codes contain norms which (a) reproduce the substance of all-Union laws, and (b) which have been adopted on the initiative of republican legislative bodies. These latter constitute the majority.

Using the powers allocated to them, the Union Republics have defined the range of acts punishable under criminal laws in different ways, and have established differing sanctions.

The procedure for serving sentences imposed by the court is governed by a special law—the *Fundamentals of Corrective Labour Legislation* of the USSR and Union Republics and by the Corrective Labour Codes of the Union Republics based upon them. One of the guarantees of the observance of the law in the process of the enforcement of sentences is that this procedure may be carried out only by institutions and bodies duly authorised by the law.

To ensure that punishment shall achieve its objectives, the law defines the basic means for the correction and re-education of convicted persons. Among these Article 7 of the *Fundamentals* lists the regime under which the sentence is served, socially useful work, political and educational work, general educational instructions and vocational training. These corrective and re-educational means, which are now embodied in an all-Union legislative measure, evolved on the basis of the experience of corrective institutions. The law permits no formal approach in the choice of means of correction and re-education. They must be applied on a strictly individual basis, in a manner taking into account the personality of the convicted person and the nature of his offence, his behaviour in places of confinement and his attitude to work.

Attaching great importance to public participation in the campaign against crime, the *Fundamentals* lay down the principle that the public shall participate in the cor-

rection and re-education of those sentenced to deprivation of liberty, exile, enforced residence and corrective labour without deprivation of liberty. It also lays down that the public shall take part in supervising institutions and organs which enforce these forms of punishment.

The definition in the Fundamentals of the legal status of persons serving sentences is an important guarantee of the observance of socialist legality in the enforcement of criminal sanctions.

Article 8 states that persons serving sentences of deprivation of liberty, exile, restricted residence or corrective labour without deprivation of liberty bear the same obligations and enjoy the same rights established by law for all citizens of the USSR, subject to the limitations which the law provides with respect to convicted persons and also those which arise from the sentence of the court and the regime laid down by the Fundamentals and corrective labour codes of the Union Republics for serving a sentence of the type in question. The same article also defines the legal status of convicted aliens and stateless persons.

The Fundamentals also lay down that procurators must in the name of the state exercise overriding supervision regarding the observance of the law during the enforcement of sentences. They must take prompt steps to prevent and terminate all breaches of the law by any person whatsoever and to bring those guilty to responsibility (Art. 10). The administration of corrective labour establishments and bodies enforcing court sentences relating to exile, restricted residence and corrective labour without deprivation of liberty must accept all the decisions and recommendations of a procurator relating to the regulations governing the serving of sentences.

Socially useful work is an important means of correction and re-education. The Fundamentals therefore explicitly state that each convicted person must work. Convicted persons as a rule work at enterprises of corrective labour institutions. The Fundamentals lay down that those serving sentences in corrective labour colonies and prisons

shall work an eight-hour day; they have one free day per week, and do not work on holidays. The length of the working day in corrective labour settlement colonies and in educational-labour colonies, and also the provision of weekly days off are determined on general grounds in conformity with labour legislation; the labour of those deprived of liberty is paid in accordance with its quantity and quality according to the scales and rates operative in the national economy as a whole, with deductions representing partial reimbursement of the maintenance costs of corrective labour institutions.

Political and educational work is carried on in accordance with the Fundamentals in all types of corrective labour institution to educate inmates in the spirit of a conscientious attitude to work, strict observance of the laws and respect for the rules of socialist community life and for socialist property, to enhance the level of consciousness, raise the cultural level and develop their positive initiatives. Compulsory general eight-year schooling is provided, as well as vocational training for those with no trade. To inculcate a collective spirit and to develop the positive initiatives of those serving sentence, and also to make use of the influence of the collective in correcting and reforming those convicted, voluntary organisations of inmates functioning under the guidance of the administrations of these institutions are formed in corrective labour establishments.

The Fundamentals also regulate other important questions relating to the procedure and conditions governing the enforcement of sentences involving deprivation of liberty. They, for example, enumerate incentives and sanctions which may be applied to inmates, and establish material responsibility for damage caused to the state while serving sentence.

The USSR Constitution (Article 14, u) places the establishment of *the fundamental principles governing legal*

procedure within the jurisdiction of the higher organs of state power and state administration of the USSR.

On December 25, 1958, the USSR Supreme Soviet approved the Fundamentals of Criminal Procedure in the USSR and Union Republics. These Fundamentals create the most favourable procedural conditions for bringing offences to light, for the exposure and just punishment of offenders and for ensuring the proper enforcement of the law so that every offender should receive his just punishment, while no innocent person should be charged or convicted.

To intensify the campaign against crime and reinforce educational influences, the Fundamentals require the court, the procurator, the investigator and the agency conducting an inquiry, to initiate criminal proceedings in every instance in which an offence is brought to light, to take all measures under the law to establish the nature of the crime and the identity of those responsible and to secure their punishment. It is at the same time stressed that no person may be charged otherwise than on grounds and in accordance with the procedures laid down by the law.

The Fundamentals enumerate a wide range of factors which rule out criminal proceedings. According to Article 5, no criminal proceedings may be initiated, and those already initiated must be dropped: in the absence of any offence; if the act committed does not contain elements of an offence; upon the expiry of the period of limitation; following an act of amnesty which renders the act committed not subject to punishment, and also following the pardon of individuals; in the case of a person who has not at the time of the commission of the socially dangerous act reached the age of criminal responsibility under the law; following the reconciliation of the victim and the accused in circumstances provided for by Union-Republic legislation; in the absence of a complaint by the victim, where proceedings may be initiated only on the basis of such a complaint; with respect to a deceased person;

with respect to a person already convicted for the same offence.

The Fundamentals develop and give concrete form to the principles of the administration of justice. They lay down the principle of the immunity of the person: no person may be arrested without a decision of a court or the sanction of a procurator. Any person subjected to illegal deprivation of liberty or detention for a period in excess of that provided for by the law or the sentence of a court must be immediately released by the procurator.

The Fundamentals fully reflect the principle set out in Article 102 of the USSR Constitution which states that justice shall be administered only by the courts. No person may be deemed guilty of a crime and subjected to criminal punishment otherwise than by the verdict of a court (Art. 7).

The Fundamentals clearly formulate the principle that justice shall be administered on the basis of the equality of all citizens before the law and the court, thus giving concrete expression to one of the most important provisions of the USSR Constitution regarding the equality of all citizens in all spheres of social and political life. No person has privileges arising from his social, property and official status, nationality, race or creed (Art. 8).

The Fundamentals also lay down a number of other principles governing the administration of justice: the hearing of criminal cases in all courts of first instance shall be before a judge and two lay assessors who shall have equal rights with the presiding judge in deciding all matters. It should be noted that cassation proceedings are heard by courts made up of three members, while hearings under judicial supervision procedures are heard by courts made up of at least three members. This is because the participation of persons with high legal qualifications is necessary.

The Fundamentals contain an important provision (Art. 10) regarding the independence of judges and their subordination only to the law in handling criminal cases. They

decide such cases on the basis of the law in conformity with the socialist concept of justice and under conditions which preclude any extraneous influence.

The Fundamentals give concrete expression to the principle relating to the language of judicial proceedings. Article 11 states that proceedings shall be conducted in the language of the Union or Autonomous Republic, or of the Autonomous Region, or, in instances provided for by the Constitutions of the Union or Autonomous Republics, in the language of the National Area or of the majority of the local population. Persons who have no command of the language in which the proceedings are being conducted have the right to make statements, give testimony, plead and file petitions in their own language, and also to have the services of an interpreter. The accused receives all documents in his own language, or in another language with which he is familiar.

The Fundamentals develop the constitutional requirement that the hearing of all criminal cases shall be public. In accordance with the USSR Constitution, proceedings in all courts are public, except when the interests of the protection of state secrets requires that a hearing be *in camera*. However, verdicts must always be pronounced in public (Art. 12).

The Fundamentals lay down that the accused shall have the right to defence. They ensure that he shall be able to exercise this right by requiring the investigator, the procurator and the court to enable him to defend himself by the ways and means established by the law, and to safeguard his personal and property rights.

The rule regarding the comprehensive, thorough and objective examination of all the circumstances of a case set down in the Fundamentals implements the demand of the Programme of the CPSU that all procedural norms be strictly observed by the court and all bodies concerned with investigations and inquiries. Article 14 requires the court, the procurator, the investigator and the person conducting the inquiry to take all the measures stipulated by the law

to ensure the comprehensive, thorough and objective examination of all the circumstances of a case, and to bring to light both those which point to the guilt of the accused and those which point to his innocence, those which aggravate and those which mitigate his guilt. They may not shift the burden of proof onto the accused. The testimony of the accused may not be sought through duress, threats or any other illegal means.

To ensure the comprehensive, thorough and objective investigation of all the circumstances relating to a case, the Fundamentals lay down the important rule that a judge, procurator or other participant may not take part in a criminal case and shall withdraw when they have a direct or indirect personal interest.

The Fundamentals set out the rules relating to evidence with great clarity. The nature of evidence is defined, and the means which may be used to bring to light the facts of the case indicated.

To ensure the strict observance of the law in criminal proceedings and to provide further guarantees for the rights of parties, the Fundamentals lay down rules governing the assessment of evidence. The court, the procurator, the investigator and the person conducting the inquiry must assess the evidence in accordance with their inner convictions based on a comprehensive, thorough and objective examination of all the circumstances of a case in their entirety, being guided by the law and by the socialist concept of justice (Art. 17). The law had hitherto spoken only of the inner conviction of judges; this principle has now been extended to the procurator, the investigator and the person conducting the inquiry.

The Fundamentals lay down that the USSR Supreme Court supervises the judicial bodies of the USSR, and also judicial bodies of the Union Republics within the limits established by the law. The Supreme Courts of the Union and Autonomous Republics supervise the judicial bodies of their respective republics. The Fundamen-

tals invest the court with decisive powers in criminal procedure. It decides all cases before it independently, acting in the name of the state.

At the same time the procurator's supervision has an important role to play in the administration of socialist justice. The Fundamentals clearly define the place of the procurator in criminal proceedings, and his special status *vis-à-vis* other parties. The law lays down that it is the duty of the procurator at every stage of criminal proceedings promptly to take all measures to put an end to all violations of the law by any person whatsoever.

Developing the constitutional principle that the accused shall be guaranteed the right to defence, the Fundamentals lay down the very important rights which the accused shall enjoy. According to Article 21, the accused has the right to know of what he is accused and to give explanations concerning the accusation brought against him; to present evidence; to lodge petitions; to familiarise himself, upon completion of the preliminary investigation, with all the material of the case; to have a defence counsel; to take part in the hearing before a court of first instance; to make challenges; and to file complaints regarding the actions and decisions of the investigator, the procurator and the court. The accused has the right to the last word.

A counsel for the defence is allowed to participate in a case from the moment the accused has been informed of the completion of the preliminary investigation and has been handed all the material in the case for study. On the basis of an order by the procurator, a counsel for the defence may be admitted from the moment the indictment is presented. In cases involving crimes by juveniles, or by mute, deaf, blind and other persons who by reason of their physical or mental deficiencies are unable themselves to exercise their right to defence, a counsel for the defence is admitted from the moment the indictment is presented.

In the case of persons who do not know the language

in which proceedings are being conducted, or who are accused of offences carrying the death penalty, the participation of a counsel for the defence is mandatory from the moment the accused is told that the preliminary investigation is complete and all the material in the case are handed to him for study. The participation of a counsel for the defence may also be mandatory in other circumstances in accordance with Union-Republican legislation. Advocates, representatives of trade unions and other public organisations, and other persons accorded the right by the legislation of Union Republics may act as counsels for the defence (Art. 22).

The Fundamentals lay down the rule that it is the duty of the court, the procurator, the investigator and the person conducting the inquiry to explain the rights of persons involved in cases and to ensure that they are able to exercise them. This is of importance in creating procedural guarantees for the rights of all those involved in criminal proceedings.

The preliminary investigation in criminal cases is conducted by investigators of the procurator's office, by investigators of Ministries of Internal Affairs in the case of offences enumerated in all-Union and Union-Republican legislation, and by investigators of state security bodies in cases involving certain types of offence covered by all-Union legislation.

The Fundamentals clearly define the procedural status, rights and obligations of a suspect. They state the grounds upon which such a person may be detained. A person suspected of an offence punishable by deprivation of liberty may be detained only on one of the following grounds: when the person was detained during or immediately after the commission of the offence; when eyewitnesses, including the victims, have directly identified the person as having committed the offence; when clear traces of the offence have been discovered on the suspected person, on his clothing, in his possession or at his place of residence. Where there are other grounds for suspicion, a

suspect may be detained only if he has attempted to escape, if he is of no fixed abode, or if his identity has not been established.

On reaching the court, a criminal case passes through the committal stage. Where there are sufficient grounds for examining a case in judicial session, the judge commits the accused for trial, without predetermining the question of guilt. From this moment on, an accused person becomes a defendant (Art. 36). In the case of offences committed by juveniles and offences carrying the death penalty, and also when the judge disagrees with the recommendations contained in the indictment, or when it is necessary to change the measure of preventive restriction adopted with respect to the accused, the case is considered by administrative session of the court.

The Fundamentals lay down a number of new general principles relating to court hearings. Court hearings decide the basic question of the guilt of a person committed for trial and his responsibility. According to Article 37, a court of first instance functions on the basis of the principle of the direct, oral and uninterrupted nature of hearings. The court must, when examining a case, make a direct scrutiny of the evidence; question the accused, the victims and witnesses, hear the findings of experts, view the material evidence and have documents and other materials read in public. Judicial sessions in each case shall proceed without interruption, with the exception of the time allocated for rest. Judges may not hear other cases before the completion of the hearing of a case which has already commenced. The Fundamentals lay down that all parties in a court hearing shall have equal rights. The accuser, the accused, the counsel for the defence, the victim and also the civil plaintiff and civil defendant and their representatives all have equal rights with respect to the submission and examination of evidence and the filing of petitions.

The hearing of a case before a court of first instance

takes place with the participation of the accused, whose presence is mandatory.

The procurator takes part in the hearing. He puts the case for the prosecution in the name of the state, makes recommendations regarding matters which may arise, supports any civil action which may be taken, etc.

Representatives of working people's social organisations may be allowed by the court to take part in the hearing of criminal cases as public accusers or defence spokesmen.

The Fundamentals lay down the limits of judicial hearings. Article 42 states that the examination of a case in court shall be conducted only with respect to the accused persons and only under the indictment under which they have been committed for trial. This is a very important guarantee. If during the course of the hearing changes are made in the indictment which infringe the right of the accused to defence, the court refers the case for a new preliminary investigation. A change in the indictment is permitted only when it does not adversely affect the position of the accused or infringe his right to defence.

The Fundamentals lay down the most important requirements which the verdict of a court must satisfy: it must be lawful and well-founded; it must be based only on the evidence examined by the court during judicial session. A guilty verdict must not be based on assumptions and shall be rendered only where the guilt of the accused has been proved during the course of the court hearing. Acquittal is mandatory when the accused's complicity in the commission of an offence is not proven (Art. 43).

The Fundamentals set out the main features of the procedure for verifying the lawful nature and validity of the verdict of a court.

Article 44 enumerates those who have the right to appeal against the verdict of a court under cassation proceedings: the accused, his defence counsel and legal representative, and the victim. The civil plaintiff, the civil defendant and their representatives also have the right to appeal with respect to that part of a judgement

which concerns a civil action. A person acquitted has the right to appeal against the motives and grounds for acquittal set out in the judgement. The procurator must lodge a protest under cassation procedures against any unlawful or unfounded verdict. The verdict of a court of first instance may be repealed by a higher court following a cassation appeal or protest; judgements of the USSR Supreme Court or of the Supreme Courts of Union Republics are not, however, subject to appeal or protest under cassation procedures.

In examining a case under cassation procedures, a court verifies whether a judgement is lawful and well-founded on the basis of the material in the case and material additionally presented. The question of the attendance of the person convicted during cassation proceedings is decided by the court. A convicted person present in court is permitted to give explanations in all instances. Defence counsel may participate.

A court conducting cassation proceedings may reduce the sentence imposed by the court of first instance or apply a law relating to a less serious offence; it may not impose a heavier sentence, or apply a law relating to a more serious offence. Should the latter be appropriate, the verdict is quashed and the case referred back for a new investigation.

Verdicts, rulings and decisions of a court which have taken legal effect may be reviewed only on the basis of protests under judicial supervision procedures. If after a verdict has taken legal effect new circumstances come to light (for example, perjury on the part of a witness) which were unknown to the court at the time when it passed judgement, the judgement is verified under review procedures applicable when new circumstances have come to light. However, in accordance with Article 50, the review of an acquittal is permissible only within the periods of limitation established by the law for criminal charges, and not later than one year after the new circumstances are brought to light.

A verdict takes legal effect upon expiry of the period during which appeal or protest under cassation procedures may be lodged. A verdict not subject to appeal under cassation procedures comes into legal effect from the moment it is pronounced. A guilty verdict is enforced immediately it takes legal effect. An acquittal and a verdict releasing the accused from punishment is executed immediately it is pronounced.

Verdicts, rulings and decisions of a court which have taken legal effect are binding upon all government and non-governmental institutions, enterprises and organisations, officials and citizens and are enforceable throughout the territory of the USSR.

The Fundamentals of Criminal Procedure and Codes of Criminal Procedure. According to Article 1 of the Fundamentals, procedure in criminal cases is determined by the Fundamentals themselves and also by other laws of the USSR and the Codes of Criminal Procedure of the Union Republics adopted in conformity with them. This means that every legislative measure relating to criminal procedure adopted by the USSR must conform to the Fundamentals. All-Union measures relating to particular procedural questions which must be dealt with in a uniform manner by all Union Republics have been adopted in conformity with the Fundamentals.

These include the Statute on the Procurator's Supervision in the USSR, the Statute Relating to Detention in Custody approved by the USSR Supreme Soviet on July 11, 1969 (which regulates a wide range of questions arising in connection with detention in custody), etc.

The Codes of Criminal Procedure not only reproduce the articles of the Fundamentals fully and verbatim. They also include additional norms. They, for example, contain whole chapters or sections dealing with the initiation of criminal proceedings. While the Fundamentals contain only three articles—15, 16 and 17—relating to evidence, the Code of Criminal Procedure of the RSFSR contains an entire chapter of 18 articles. The Fundamen-

tals refer to all-Union legislation relating to the procurator's supervision during preliminary investigation (Art. 31), while the Codes of Criminal Procedure of many Union Republics (that of the Kazakh SSR is an exception) contain special chapters dealing with this subject. Union-Republican Codes of Criminal Procedure regulate a wide range of matters not dealt with in the Fundamentals.

Civil procedure is governed by the *Fundamentals of Civil Procedure of the USSR and Union Republics* adopted on December 8, 1961.

Taking as their starting point the need further to strengthen socialist legality and to safeguard by every means the rights and lawful interests of the citizen, the Fundamentals reproduce and develop the democratic principles of Soviet law relating to civil procedure.

Procedure in civil cases in the courts of Union Republics is governed by all-Union legislation and the legislation of the Union Republic whose courts hear the case and enforce the judgement. Civil procedure in the USSR Supreme Court is governed by the laws of civil procedure of the USSR and of the Union Republic whose courts heard or should have heard the case in accordance with the rules of territorial jurisdiction.

The Fundamentals lay down general provisions governing the jurisdiction of the courts in civil cases. The courts have jurisdiction, for example, over disputes arising out of civil, labour, collective-farm and family relationships where at least one of the parties is a citizen or collective farm.

The courts also consider cases relating to alleged incorrect entries in electoral rolls, cases arising out of administrative legal relations when the law so provides, and cases involving the establishment of facts of juridical significance.

The Fundamentals lay down a series of basic postulates which establish a genuinely democratic procedure for the hearing of civil cases: any interested party has the right to seek the protection of the court for a right or lawful

interest which has been infringed or is contested; any renunciation of the right to seek redress through the courts is invalid. Cases are decided on the basis of the laws of the USSR and the Union and Autonomous Republics, decrees of the Presidium of the USSR Supreme Soviet and the Presidiums of the Supreme Soviets of the Union and Autonomous Republics and decrees of the higher organs of state administration of the USSR and the Union and Autonomous Republics. The court also applies acts issued by other organs of state power and administration within their jurisdiction.

The judgements, rulings and decisions of courts which have come into legal effect are mandatory for all state institutions, enterprises, collective farms and other cooperative and voluntary organisations, officials and citizens, and are enforceable throughout the territory of the USSR.

The Fundamentals require the court to take all the measures prescribed by the law to ensure the comprehensive, complete and objective disclosure of the real circumstances of a case and of the rights and obligations of the parties, not confining itself to statements made and material submitted. The court must also assist litigants in the exercise of their rights.

By comparison with earlier legislation, the Fundamentals give a fuller exposition of matters relating to evidence. The nature of evidence is defined, and the means by which it may be established are indicated. Each party must prove the facts to which it refers in substantiating its claims and objections. The principles governing the assessment of evidence are clearly formulated: the court must assess evidence in accordance with its inner convictions based on a full, comprehensive and objective examination of all the facts of the case in their entirety, guided by the law and the socialist concept of justice. No evidence has predetermined value for the court.

The Fundamentals also lay down other principles: the administration of justice solely by the court and on the

basis of the equality before the law and the court of all citizens, irrespective of their social, property and official status, national or racial origin or religious beliefs; the participation of lay assessors and the collegiate nature of hearings; the independence of judges and their subordination only to the law (Art. 9); that proceedings shall be conducted in the language of the Union or Autonomous Republic or Autonomous Region, or, in cases provided for by the constitutions of Union or Autonomous Republics, in the language of the National Area or of the majority of the local population (Art. 10); the public nature of all hearings except where this conflicts with the need to safeguard state secrets (Art. 11); the supervision of the activity of the judiciary of the USSR and also of the judiciary of Union Republics by the USSR Supreme Court, within the limits laid down by the law, while the Supreme Courts of Union and Autonomous Republics supervise the activity of the judiciary of their respective republics; the supervision of the strict observance of the laws of the USSR and of the Union and Autonomous Republics with regard to civil procedure by the USSR Procurator-General both directly and through subordinate procurators (Art. 14).

The Fundamentals define the rights and obligations of parties. They establish the equality of the parties, and lay down that the court shall control the abandonment or admission of a claim and composition between the parties. The court may not recognise these acts if they are unlawful or if they infringe the rights and lawful interests of any person.

The Fundamentals contain clauses dealing with many other matters.

Civil cases are heard in judicial session with due notice served on the parties. The court hears the arguments of the parties and others, examines other evidence and also carries out other procedural measures. After hearing argument and the recommendations of the procurator, the court retires to consider its judgement (Art. 34).

The Fundamentals lay down that hearings shall be direct, oral and uninterrupted; the composition of the bench shall remain unchanged; the only interruption permitted is that of time allocated for rest (Art. 35). Representatives of public organisations and groups of working people which are not parties to a case may, by a court ruling, be admitted to participation in a hearing in order to present the opinions of the organisations which they represent concerning the matter before the court (Art. 36).

The judgement of a court must be lawful and well founded. It must be based solely upon the evidence studied by the court in judicial session. In all cases the judgement must indicate the facts of the case as established by the court; the evidence on which the court's conclusions are based, and the reasons why the court rejects any evidence; the laws by which the court was guided; the court's conclusions regarding the satisfaction or rejection of a claim in full or in part; the time limit during which an appeal may be lodged, and the manner in which it may be lodged.

Judgement shall be by majority vote, set down in writing and signed by all judges. Each judge may attach his dissenting opinion.

A judgement becomes final upon the expiry of the period during which an appeal or protest under cassation procedure may be lodged. Judgements of the USSR Supreme Court and of the Supreme Courts of Union Republics however become final immediately they are pronounced (Art. 39). The Fundamentals give the court power to suspend proceedings, dismiss an action, refuse to proceed or change the venue from the court of one Union Republic to that of another Union Republic.

The judgements of all courts, except the USSR Supreme Court and the Supreme Courts of Union Republics, may be the subject of appeal under cassation procedures by the parties and other participants. Appeals must be lodged by the parties to a case within the time limits laid down by Union-Republican legislation. A procurator

may lodge a protest relating to an unlawful or unfounded judgement, regardless of whether or not he participated in the case.

Judgements, rulings and decisions which have become effective may be reviewed under supervisory procedures on the basis of protests lodged by procurators, and by chairmen and deputy chairmen of courts in whom this power is vested by law (Art. 49).

The Fundamentals also contain clauses setting out the grounds for quashing judgements in cassation proceedings, appeals and protests against rulings of courts of first instance, the supervisory review of judgements, rulings and decisions which have come into effect, the grounds for the repeal of judgements, rulings and decisions in supervisory review proceedings (Art. 51), the mandatory character of the instructions of higher courts (Art. 52), and the review of judgements, rulings and decisions which have come into effect in the light of newly discovered circumstances (Art. 53).

Matters relating to the enforcement of court judgements are considered by the Fundamentals. According to Article 54, court judgements are enforced upon becoming final. Orders by an officer of the court enforcing judgements are mandatory for all state institutions and enterprises, collective farms and other co-operative and voluntary organisations, officials and citizens throughout the territory of the USSR (Art. 55). Control over the proper and prompt enforcement of judgements is exercised by the judge (Art. 56).

The Fundamentals of Civil Procedure and the Codes of Civil Procedure. According to Article 1 of the Fundamentals, procedure in civil cases is governed by the Fundamentals themselves and by other laws of the USSR and by the Codes of Civil Procedure of the Union Republics issued in accordance with them.

The Fundamentals place matters which do not require uniform regulation and which can be fully and properly regulated with due account of local conditions within the

jurisdiction of Union Republics. Such matters include, for example, the admission of the representatives of public organisations or groups of working people which are not parties to a case to participation in a hearing in order that they may set out the view of the bodies which they represent regarding the matter before the court. Union-Republican legislation may also establish grounds additional to those set down in all-Union legislation upon which a court may suspend proceedings. Union-Republican legislation may also lay down that enforcement of judgement shall be immediate in certain cases, and establish procedures relating to prior notification regarding the time and place of hearings.

Procedure in civil cases is regulated in detail by the Codes of Civil Procedure of the Union Republics. They in the first place reproduce clauses of the Fundamentals, thus ensuring uniformity on major questions of civil procedure. Secondly, many of the norms of the Fundamentals are rendered more specific, developed and supplemented. Thirdly, they contain norms relating to matters which the Fundamentals place within the jurisdiction of the Union Republics. On a whole range of questions the Fundamentals give no rulings. Nevertheless the Codes of Civil Procedure resolve a number of questions relating to jurisdiction, fines, time limits and transcripts of proceedings, etc. It is important, however, that these questions are resolved in accordance with the Fundamentals.

8. LEGISLATION RELATING TO OFFICES OF THE STATE NOTARY

On July 19, 1973, the USSR Supreme Soviet approved an all-Union law on Offices of the State Notary. This law defined the objectives of Offices of the State Notary, the principles governing their organisation and operation,

the bodies directing their work and the basic regulations governing their activities.

According to the new law, the objectives of Offices of the State Notary are the protection of socialist property and of the rights and lawful interests of citizens, state institutions, enterprises, organisations, collective farms and other co-operative and social organisations, the reinforcement of socialist legality and the prevention of infringements of the law by means of the correct and prompt validation of contracts and other agreements, the drawing up of wills, superscriptions and other notarial functions.

Offices of the State Notary are staffed by state notaries (senior state notaries, deputy senior state notaries and state notaries).

Where Offices of the State Notary do not exist, their functions are performed by the Executive Committees of city, settlement and village Soviets. Where local conditions require it, the legislation of Union Republics may also make provision for the performance of notarial functions by the Executive Committees of district Soviets.

Under the law, notarial functions abroad are performed by consulates of the USSR. The list of consular officers authorised to perform notarial functions is set down in the Consular Regulations of the USSR.

The work of Offices of the State Notary is controlled by the USSR Council of Ministers, the Councils of Ministers of Union and Autonomous Republics, the Executive Committees of territorial, regional, area, district, and city Soviets, the Ministry of Justice of the USSR, the Ministries of Justice of Union and Autonomous Republics and also other state bodies in accordance with the legislation of the USSR and of the Union and Autonomous Republics.

Article 5 lays down the qualifications required by notaries, and the procedure for their appointment. They must be citizens of the USSR, usually with a higher education in law. They may not simultaneously be employed by any other institution, organisation or enterprise. Excep-

tions may be made in the case of those engaged in teaching or research.

Under Article 6, state notaries and other officials performing notarial acts are guided by the laws of the USSR and of the Union and Autonomous Republics, by decrees of the Presidium of the USSR Supreme Soviet and of the Presidiums of the Supreme Soviets of Union and Autonomous Republics, by decisions and regulations issued by the USSR Council of Ministers and the Councils of Ministers of Union and Autonomous Republics, by orders and instructions issued by the USSR Ministry of Justice and the Ministries of Justice of Union and Autonomous Republics, and also by ordinances issued by other organs of state power and administration within their terms of reference.

The principle of the confidentiality of notarial acts set down in Article 7 is of particular importance. State notaries and other officials performing notarial acts must preserve the confidentiality of these acts. Certificates relating to the performance of notarial acts and other documents may be issued to those citizens, state institutions, enterprises or organisations, collective farms or other co-operative and social organisations on whose instructions or in relation to whom the notarial acts have been performed. Certificates relating to the performance of notarial acts and other documents are issued at the request of courts, procurators' offices and the bodies responsible for the conduct of investigations and inquiries in connection with civil or criminal cases which are before them. Certificates relating to wills are issued only after the death of the testator.

The regulations relating to the confidentiality of notarial acts also extend to those who learn of these acts in the course of their duties.

A violation of confidentiality by a person authorised to perform notarial acts is a punishable offence.

Under the terms of Article 8, state notaries and other officials performing notarial acts must assist citizens, state

institutions, enterprises and organisations, collective farms and other co-operative and social organisations in the exercise of their rights and the defence of their legitimate interests. They are required to explain rights and obligations, and to caution clients regarding the consequences of notarial acts, to ensure that ignorance of the law and other factors are not used to their disadvantage.

State notaries and other officials performing notarial acts shall, at the request of citizens, state institutions, enterprises or organisations, or of collective farms or other co-operative and social organisations, draft contracts and statements, prepare copies of documents and extracts from them and also give advice regarding notarial acts.

Article 9 deals with the question of the language in which the work of state notaries shall be conducted.

Notarial work in Offices of the State Notary and Executive Committees of city, settlement and village Soviets is conducted in the same language in which legal proceedings are conducted in the Union or Autonomous Republic, Autonomous Region or National Area in accordance with current legislation.

The notarial work of consulates of the USSR is conducted in the language used by consulates in their work.

If a person seeking the assistance of a notary does not know the working language of the notary, the texts of documents must be translated for him by the state notary or other official performing notarial acts, or by a translator known to the notary or official.

The law defines the jurisdiction of Offices of the State Notary, Executive Committees of city, settlement and village Soviets and consular establishments of the USSR with respect to the performance of notarial acts.

It also lays down the fundamental rules governing the performance of such acts.

According to the law, notarial acts may be performed by any Office of the State Notary or Executive Committee of a city, settlement or village Soviet throughout the entire territory of the USSR except in cases where, in accordance

with all-Union or Union-Republican legislation, a particular act must be performed by a particular Office, or by the Executive Committee of a particular Soviet. Notarial acts are performed on the premises of Offices of the State Notary, or of the Executive Committees of city, settlement or village Soviets. In some cases for which provision is made by Union-Republican legislation, notarial acts may be performed elsewhere.

When performing notarial acts state notaries and other officials establish the identity of citizens seeking assistance, and of their representatives or the representatives of state institutions, enterprises or organisations, collective farms and other co-operative and social organisations.

State notaries and other officials are authorised to demand the information and documents necessary for the performance of notarial acts from state institutions, enterprises and organisations, collective farms and other co-operative and social organisations. Information and documents must be presented within the time limit laid down by the state notary or official. This may not exceed one month.

State notaries and officials of the Executive Committees of city, settlement and village Soviets performing notarial acts may not perform notarial acts in their own name or on their own behalf, or in the name or on behalf of their spouses, their own relatives or those of their spouses, or in the name or on behalf of officials of their own Office or Executive Committee.

Notarial acts and other acts equated with them performed contrary to the rules established by law are invalid.

State notaries or other officials who in performing notarial acts bring to light infringements of the law by citizens or officials are required to inform the appropriate institution, enterprise, organisation or procurator in order that the necessary steps may be taken.

If the authenticity of a document submitted to them is in doubt, state notaries and other officials performing

notarial acts may hold the document for expert examination.

The law lays down that state notaries and other officials performing notarial acts shall:

refuse to perform notarial acts if such acts are contrary to the law;

not accept documents for the performance of notarial acts if such documents do not satisfy the requirements of the law or contain information injurious to the honour and dignity of citizens.

State notaries and other officials performing notarial acts shall, at the request of the person concerned, set out in writing their reasons for refusing to perform a notarial act and explain the procedure for appeal.

An interested party who considers a notarial act which has been performed to be incorrect, or who considers a refusal to perform such an act to be unfounded may appeal to the district (city) people's court in the area in which the Office of the State Notary concerned is situated, or in the area covered by the Executive Committee of the city, settlement or village Soviet.

Disputes between interested parties regarding rights arising from the performance of a notarial act are considered by the court or arbitration board in accordance with the legislation of the USSR and Union Republics under the procedure governing civil actions.

The international commercial, economic and scientific relations of the Soviet Union are rapidly expanding. The law therefore contains a special section—Section IV—dealing with the position of aliens and stateless persons.

Article 27 states that aliens and stateless persons may seek the assistance of Office of the State Notary and also of other bodies performing notarial acts on the same basis as citizens of the USSR.

Foreign offices and organisations may seek the assistance of Offices of the State Notary and consular establishments of the USSR.

The USSR Council of Ministers may impose retaliatory restrictions upon the citizens, offices and organisations of states which impose restrictions upon the access of Soviet citizens, offices and organisations to bodies performing notarial acts.

State notaries apply foreign law in accordance with the legislation of the USSR and Union Republics, and in accordance with international treaties and agreements.

State notaries accept documents drawn up in accordance with foreign law, and also certify them, in accordance with the procedure envisaged in foreign law, provided this does not conflict with the fundamentals of the Soviet system.

All actions related to the protection of foreign property within the USSR following the decease of its owner or property due to a foreign citizen following the decease of a Soviet citizen, and also actions related to the issue of documents certifying to the right of inheritance of the said property are performed in accordance with the law of the USSR or the Union Republics.

A power of attorney certified by a state notary and intended for actions outside the country without indication of the term of validity retains legal force until it is declared null and void by its issuer.

Documents drawn up abroad with the participation of the authorities of another country or documents issued by such authorities are accepted by state notaries of the USSR, provided they are legalised by the USSR Ministry of Foreign Affairs.

Documents lacking such legalisation are accepted by state notaries of the USSR if this is provided for in the legislation of the USSR or the Union Republics or in international treaties or agreements to which the USSR or the Union Republic concerned is a party.

State notaries of the USSR perform actions entrusted to them by foreign judicial bodies in accordance with established procedure, unless:

- 1) performance of the entrusted action impinges on the

sovereignty of the USSR or jeopardises the security of the USSR;

2) the carrying-out of the instruction does not lie within the powers of Offices of the State Notary.

The instructions of foreign judicial bodies relating to the performance of particular notarial acts are carried out on the basis of Soviet legislation.

Offices of the State Notary may apply to foreign judicial bodies for the performance of particular notarial acts.

The procedure governing relations between Offices of the State Notary of the USSR and foreign judicial bodies is established by the legislation of the USSR and Union Republics, and by international treaties and agreements to which the USSR or a Union Republic is a party.

Offices of the State Notary make available evidence required for judicial proceedings in foreign courts.

If an international treaty or agreement to which the USSR or a Union Republic is a party lays down regulations for the performance of notarial acts which are at variance with those contained in the legislation of the USSR or Union Republic, those of the international treaty or agreement apply.

If an international treaty or agreement to which the USSR or a Union Republic is a party authorises Offices of the State Notary of the USSR to perform notarial acts not envisaged by the legislation of the USSR or Union Republic, Offices of the State Notary perform these acts in accordance with procedure laid down by the USSR Ministry of Justice.

If an international treaty or agreement to which the USSR or a Union Republic is a party makes provision for a notarial act which according to the legislation of Union Republics may be performed by Offices of the State Notary of several republics, or if the legislation of the Union Republics does not define the powers of the Office of the State Notary, the USSR Ministry of Justice determines which Offices of the State Notary shall perform the act in question, and in which Union Republic.

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