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Soviet Society and Law: The History of the Legal Campaign to Enforce the Constitutional Duty to Work

By

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ABSTRACT

In both the 1936 and 1977 USSR Constitutions conscientious labour in socially useful activity was decreed to be a "duty and matter of honour" for every Soviet citizen. This study examines the various approaches adopted by successive Soviet leaderships in their determined efforts to reinforce that ethos. It focuses, in particular, on the so-called "anti-parasite" laws dating back to 1957, when as a part of Khrushchev's attempt to revive popular justice, several smaller republics experimented with enactments that permitted peer justice institutions in the form of amorphous social assemblies to exile "parasites" via a procedure which bypassed the existing court system. Special attention is devoted to the criticism lodged against the laws (during their adoption and spread to the other union republics in 1961) by members of the legal profession, who complained that the wide punitive powers given to the extra-judicial bodies and the attitudes and behaviour encouraged in them would erode the respect for "socialist legality" which they had been charged with enhancing in the minds of the mass public. Although as a result of such criticism, the Khrushchev regime modified the peer justice institutions in the early 1960's, and even though his populism was absorbed by or subordinated to the normative sector of social control in Brezhnev's legal policy, the study highlights the fact that complaints of abuses and inconsistencies in anti-parasite proceedings continued to be levelled against the prosecution process. This, it is contended, was due in large part to the extreme vagueness of the notion of social parasitism itself, although the lack of a precise and consistent definition of this peculiar offence (and of the key elements which were deemed to constitute it) was actually seen as necessary and even desirable since it allowed the authorities to use the anti-parasite legislation as a weapon of suppression against a broad spectrum of socially, politically, and economically inconvenient groups within Soviet society. Nevertheless, the confusion thereby generated reduced the practical applicability of the legislation and this in combination with generally rather lax and bureaucratic law enforcement efforts meant that the state's goal of completely eradicating parasitism remained unaccomplished. The study traces the history of the Soviet battle against parasitism from the promulgation of draft anti-parasite decrees in 1957 up to the abrogation of Article 209 of the RSFSR Criminal Code in 1991. Along the way, the numerous pieces of legislation issued in the interim are examined in detail and the specific difficulties encountered in their enforcement are identified and investigated.

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INTRODUCTION

Among all the different kinds of Soviet legal regulations, the Constitution occupied the first and foremost place in proclaiming the economic emancipation of the working people as a consequence of the October revolution and the creation of a new society in the USSR. As the Preamble of the 1977 USSR Constitution put it [1], the October revolution "overthrew the power of the capitalists and landowners" and "broke the fetters of oppression"; "Soviet power has carried out the most profound socio-economic transformation, ended forever the exploitation of man by man". Similar ideas were expressed by some of the more specific provisions of the Constitution. "The labour of the Soviet people, free from exploitation, shall be the source of the growth of social wealth and the well-being of the people and every Soviet person", said the Constitution in Article 14. Instead of exploitation, as under capitalism, "the ultimate aim of social production under socialism shall be the fullest satisfaction of the growing material and spiritual needs of the people" - stated the same document in Article 15. As for the legal branches developed beyond the boundaries of constitutional law, they repeated the Constitution in this regard directly or indirectly, but only insofar as they dealt with economic relationships in the USSR. For example, the Fundamentals of Labour Legislation of the USSR and the Union Republics proclaimed in the Preamble that "with the triumph of socialism in the Soviet Union, the exploitation of man by man has been liquidated completely and forever". The Fundamentals of Civil Legislation did not use an analogous formula directly, but their proclamations about the achievement of the full and complete victory of socialism rested upon the same assumption [2].

This assumption, however, conflicted with other regulations. If labour is free, it

does not require coercion, and, vice versa, if coercion is necessary, then labour cannot be regarded as being free. Marxist-Leninist theory proceeded from the assumption that capitalism was based on economic coercion - which forced the proletariat, who were deprived of any property, to work for capitalists, the owners of the means of production - while socialism would ensure the economic emancipation of the proletariat, depriving capitalists of the means of production in favour of society as a whole. Soviet legislation confirmed the fact that the means of production were objects of socialist ownership forbidding, in principle, the acquisition of these means by citizens. Thus, Soviet citizens were compelled "to work for society" not only because they did not possess their own means of production, but also because they were strictly prohibited from possessing them. They could have consumer goods in "personal ownership". But to acquire consumer goods Soviet citizens had to work, and because the means of production were inseparable from socialist ownership, they had to work at socialist enterprises or other establishments to supply themselves and their families with the necessary goods. Marxist terminology calls this nothing other than economic coercion, and if it was said to exist under capitalism, one may speak about economic coercion under socialism on the same grounds. The replacement of the words "economic coercion" with the words "economic stimulation" in Soviet propaganda did not change the essence of the matter. Reference to distinctions between work for capitalists and work in favour of society under socialism also did not rectify the situation, even if society as a whole was actually the real beneficiary of individual labour efforts in the USSR. Meanwhile, Soviet law introduced rather more obvious compulsory methods with regard to labour activity in the form of the constitutional duty to work and criminal responsibility for evasion of work.

There was a widespread supposition in the West that Soviet law was well written,

but badly applied. Such a supposition appeared as an abstract rational deduction from two coexisting facts: Soviet law proclaimed democracy, freedom, and legality, while Soviet reality proved its inseparability from dictatorship, suppression, and arbitrariness. The irreconcilable divergence between legal promises and everyday life sometimes led to an assessment that Soviet law was a purely propagandistic phenomenon, which had nothing to do with legal regulation, and that administrative orders were the only governmental regulator of human activity in the USSR. Some authors considered the written constitution of the Soviet Union to be "a meaningless scrap of paper", behind which there lay "a genuine constitution - unwritten, or rather unpublicised, yet perfectly understood and recognised by all concerned"[3]. Others typified the Soviet Constitution as a "form without substance"[4]. This latter statement may perhaps have been true, but only in part. When speaking, for example, about the constitutional right to work (Article 38 of the 1977 USSR Constitution), the statement is hard to disprove. In proclaiming the right to work, the Constitution referred only to an economic guarantee - the absence of unemployment in the USSR, which had been reduced to almost zero by means of the low level of the average salary. Nevertheless, numerous people lost their jobs as a result of political persecution or other causes, and since neither the Constitution nor other legislation of the USSR provided legal guarantees for the right to work, no one could demand a particular job or a minimum compensation for its refusal. However, in considering the constitutional duty to work (Article 60 of the 1977 Constitution), it is difficult to come to the conclusion that it was a form without substance as this duty rested upon strong legal foundations, including criminal punishment of "parasitic existence". It is this duty to work upon which the present study will focus.

The Soviet law was created under the determining influence of Marxism-Leninism

and a new socio-political structure. Marxism-Leninism is important in understanding the essence and goals of law in the USSR. A Soviet law did not so much establish rules of order by providing a principle for the solution of disputes, but rather acted as a means of transforming, and thus guiding society toward the communist ideal. In the realm of labour this was especially apparent.

The Marxist-Leninist conception of the worker derived its philosophic meaning from a general theory of labour which the young Karl Marx had conceived as a result of his Hegelian studies. In his *Economic and Philosophical Manuscripts* (1844), Marx acknowledged as "the outstanding thing" in Hegel that he "grasps the self-creation of man as a process ... and the nature of LABOUR ... and the object man ... as the process of his OWN LABOUR" [5]. The idea that man makes himself through his work remained an axiom on which Marx built his entire interpretation of human history and society, and especially of the modern socio-economic system, industrial capitalism. But if Marx inherited this idea from Hegel, he differed from Hegel in his definition of labour. He observed critically that the only kind of work which Hegel knew and acknowledged was "the abstract intellectual" (*die abstract Geistige*) [6]. To Hegel, man was essentially a being whose labour begot thinking and whose self-creation was fulfilled in philosophy, or more precisely in Hegelian philosophy. To Marx, the economist, man's work was essentially a production of goods, most of them material in nature and designed for non-abstract and non-intellectual ends. Against the idea of "work" as a primarily spiritual phenomenon, a process of thinking, Marx maintained that it was a socio-economic phenomenon, *i.e.* primarily an activity by which man produces the material basis for his living. Moreover, it was man's striving for harmony in development as a living and working personality and for self-fulfilment in realising his human potentialities which gave life value. It was on behalf of these values that Marx rose in revolt against

capitalist society, and for that matter against most systems of the past. Against them all he lodged the accusation that they in some way or other frustrated man's striving for harmony, making him a stranger to himself rather than helping him in his self-fulfilment. This, of course, was his famous theory of "alienation". Resting upon his general theory of the human self, it proposed, simply, that man under adverse conditions becomes separated from and dispossessed of his work and the external object-world he has produced, and thereby becomes estranged from his own self, deprived of his chance for realising in his person the harmony and self-fulfilment that are his birthright as a human being.

In his critique of capitalism, Marx was concerned to demonstrate how each major feature of the system contributed to man's self-alienation, and thereby to his homelessness and moral deprivation: the economic exploitation of man by man, the class cleavage, the power of money, the increasing specialisation and division of labour, the increasing pauperisation of the proletariat, the concurrently increasing accumulation of capital, and so forth. From this proposition, for which he thought he found ample proof just by looking around him in the industrial countries of his lifetime, Marx concluded that the road to man's salvation in the modern world and the restoration of his original birthright would come about through the destruction of capitalism by revolution, and the establishment of a new social order. This new system, named socialism or communism, he further concluded, would have to be built according to the principles negating those he described as the capitalist mode of production: the abolition of private property as far as the means of production were concerned; a classless society; a moneyless economy, etc. With the destruction of the "parasitic", capitalist class - which did not participate in labour activity (thus making no contribution whatsoever toward fulfilling human needs) but instead lived off the "surplus value" produced by the

labour of the exploited class - the "alienative" character of work would be eliminated. Henceforth, labour, rather than being EXTERNAL to the worker and forced upon him, would again become his natural "life activity" and, indeed, be transformed into "the primary requirement" of all people. Marx deliberately left the design of the new system unfinished, limiting himself to a general outline and refusing to anticipate features that would be the problems of a future generation. As historical accident would have it, these problems challenged his disciples in the Soviet Union, and it is upon one of these in particular - the problem of PARASITISM - that this study will focus.

The concept of parasitism, as it arises in biological science, signifies a special form of relationship between organisms of various types, in which one organism (the parasite) lives in or on another (the host) and derives subsistence from it without rendering it any service in return [7]. In social science, the term "parasitism" is used figuratively to denote the way of life of persons who live at the expense of society or of others and contribute nothing. Such a way of life, in the words of E.S. Tenchov, a legal scholar from Ivanovo University, was

> natural for the exploiting socio-economic formations, especially - during the imperialist stage of capitalism. On the one hand, the ruling capitalist class, which possessed private ownership in the means of production, while exploiting the working people of our country parasitised on the results of their labour, misappropriated the surplus products produced by them, and on the other - the imperialist states, their bourgeoisie, transnational monopolies enriched themselves at the expense of the peoples of the dependent and developing countries. The liquidation, under conditions of socialism, of private property, of the exploitation of another's labour and of the exploiter classes themselves, has made social parasitism impossible in the stated manifestations, but it continues to hold out in other forms such as the evasion of socially useful work and subsistence on unearned income [8].

Soviet Marxists adopted a positive attitude toward the need for people to work. Lenin's analysis of work recognised its primacy for the building of a socialist society.

For him, work was not only the fulfilment of man's "species being" but was bound up with the development of the productive forces needed to bring about economic advance, to create the material basis of communism. From the outset of Soviet power, constitutional claims (and policy which derived from them) emphasised the social necessity of work in order to provide the necessities of life; work was a duty to create the conditions of the first stage of the communist mode of production. Work was seen as a human necessity and was counterposed to the idleness of a parasitical ruling class. Under the first Constitution of the RSFSR (1918), constitutional rights were restricted to those who laboured, symbolically indicating the importance of labour in the new republic. The later Soviet Constitution of 1936 proudly and somewhat prematurely proclaimed the establishment of a "socialist state of workers and peasants" in the Soviet Union. The economic foundations of this new society would be provided by the state and collective ownership of the means of production, including, among other things, all of the land, factories, transportation facilities, banks, means of communication, and agricultural enterprises. Accordingly, the state would direct all economic activity in the best interests of the people. The workers would no longer be exploited and deprived of the fruits of their labour by capitalist land and factory owners; they would contribute to society to the best of their ability and, in turn, receive social and economic benefits according to the quantity and quality of their work. In this social system, Soviet citizens had a right (Article 118 of the Constitution) as well as a duty (Article 12) to work. The fact that the articles relating to this right and duty appeared in widely separated parts of the Constitution was no coincidence or mark of questionable draftsmanship. The drafters considered the duty to work important enough to warrant inclusion in Chapter 1, which described the basic social structure of the Soviet political system.

The question of enforcement of this constitutional duty to work presented no

problem in a simple, straightforward dictatorship as practised by Stalin: unrestrained administrative discretion and police terror were brought to bear on alleged antisocial elements. Millions of people were put in forced labour camps. Even honest Soviet workers faced criminal sanctions for changing jobs without permission, absenteeism, or merely appearing more than twenty minutes late for work. When Stalin died in 1953, his successors realised that a modern industrial state cannot be built and maintained by slave labour and that the repressive features of Stalin's system had not merely intimidated its enemies, but had also stifled the much-needed creative energy of its potential supporters. The new Communist Party leader, Nikita Khrushchev, eliminated the most abhorrent abuses of power by the secret police and removed its chief Lavrentii Beria. The reduction of terror, the amnestying of prisoners, and the general normalisation of everyday life did, however, encourage some "deviant" behaviour that the regime was eager to stamp out in its drive to build communism. Thus, in an attempt to rid society of idlers, loafers, all shady individuals acquiring wealth illegally and exhibiting an unsocialist attitude toward labour, the party in 1957 launched an experimental legal campaign against "parasites" (*tuneiadtsy*).

Administration of justice in the USSR was marked throughout much of its existence by a high degree of experimentation. The Bolsheviks had scant guidelines from Marx and Engels on the nature of the post-revolutionary state and even less on crime and the law- and-order functions of that state. Their approach to problems of law and order was dominated at the outset by a destructive urge - the necessity of abolishing all Tsarist legal institutions. When confronted almost immediately with the necessity for analogous substitute institutions, however, their arsenal of ideology and experience provided them little in the way of practical solutions. A utopian euphoria stemming from the classical Marxian prescription of the withering away of legal institutions and

other state bodies and their substitution by informal mechanisms for the settlement of disputes swept through Soviet law. According to the Marxian ethic, the socialisation of the means of production would eliminate social and economic bases for crime, making courts and other legal bodies obsolete. The infractions of public morality and order which would arise in socialist society would be handled informally. This utopian emphasis on informal legal procedures is evident in legal experimentation at that time. For example, unique forms of "popular justice" at the sub-judiciary level were organised in the shape of "comrades' courts"[9]. (A broader generic term frequently used by Soviet writers to designate various forms of non-professional tribunals of this type was "social courts".) The jurisdiction of these early tribunals was limited to work-related infractions and general behaviour on the job. However, subsequent decrees expanded their jurisdiction to include theft and property damage up to fifty roubles, criminal behaviour at work and generally antisocial behaviour. Comrades' courts were soon established in housing projects and villages and given the additional power of eviction[10].

Another utopian mechanism of informal justice was the *druzhina*. These voluntary auxiliary police forces were first organised in the 1920s under the title of "commissions of social order". By January 1930 there were 2,500 such groups in the RSFSR alone[11].

A third utopian legal instrument was created in a resolution "On the Exact Observance of Laws" of the Sixth All-Russian Congress of Soviets on November 8, 1918. The resolution established the right of any citizen to complain concerning administrative action or inaction. The official receiving the complaint was obligated to investigate the matter and report his findings to the citizen. The lack of institutionalisation and statutory guidelines of the complaints procedure was attributable

to the utopian influence in Soviet jurisprudence at the time.

Lenin and his followers advocated simplicity and popularity of judicial proceedings and approved of the spontaneous forms and methods by which justice came to be rendered in the first days following the Revolution - especially those which sprang up before the first decree on courts:

> The first revolutionary courts were organised by the workers themselves...the fact that the workers began to establish their own worker-peasant courts even before the decree liquidating the old court system, was looked upon *[*by Lenin*]* as a token of the power and vitality of the proletarian revolution [12].

The first of these hastily-assembled courts was convened in early November 1917 in the Vyborg *raion* of Petrograd [13]. It had been created by the Vyborg Soviet by means of the selection of two 'judges' from amongst its own members and the confirmation of three others nominated for the purpose by social organisations in the *raion.* The jurisdiction of the courts extended to criminal cases and civil suits, and the procedure adopted was very simple. After the opening of a session, the court requested the public in attendance to assist it in deciding the case. If a preliminary examination had taken place, proceedings were started by the reading of the minutes of the findings of the Preliminary Investigation Commission and then the accused and witnesses were interrogated. The public audience had the right to direct questions to the accused and the witnesses. No special organs of accusation and defence were used. Any citizen could take the floor as prosecutor or counsel of the accused. The court did not apply any laws in its decisions for the simple reason that it did not know them (not a single jurist belonged to the court's personnel). It was guided only by its 'revolutionary conscience' and the general policy proclaimed by the Communist Party- "keeping a firm class line" [14].

Without benefit of a central plan of instruction, similar judicial bodies were also

organised by the local soviets of Kronstadt, Moscow, Smolensk, Saratov, Yaroslavl', Tver, Penza, Novgorod, Ufa, and Orenburg. In Moscow they took the form of 'judicial inquiry commissions' attached to the Military-Revolutionary Committee. Villages also witnessed the birth of such courts, as in Kamyshin, where the rural soviet chose six persons as members of a new court and then called a general meeting of the village residents to vote on their confirmation.

In the absence of formal rules, the scope of the jurisdiction of these rudimentary judicial bodies was elastic and uncertain. In practice, their competence was circumscribed by the fact that major offences, as well as all 'counter-revolutionary crimes', were tried by the martial-law, revolutionary tribunals - an institution which could pronounce a death penalty and the only body of a judicial type to be in operation in many parts of the country [15]. For the local courts with much smaller powers such instructions as existed were terse and simple. In Tomsk *gubernia*, for example, the rules laid down for the 'provisional peoples' courts' contained only four requirements: the court must enjoy the support of the population, it must be guided by conscience rather than by traditional legal rules, it must not permit any appreciable delay between an offence and the trial, and it must be open to the population of the *gubernia* [16].

The Decree No. 1 on Courts of November 23, 1917, called officially for the creation of local judicial bodies modelled along the lines of the first 'provisional' institutions. It also attempted to regularise their practice by setting definite limits to their competence: the maximum penalty they could levy was a two year prison sentence or a fine of up to 3,000 roubles; in civil suits they had jurisdiction if the value in dispute did not exceed 3,000 roubles [17]. After publication of this decree, some localities began to create local judicial bodies of a more permanent character. The Vyborg Provisional Peoples' Court reportedly was dissolved on December 11, 1917, after an

existence of slightly more than one month [18].

Such was the climate in which the history of the Soviet judicial system began; it was an atmosphere in which non-professionalism, informality, simplicity, and intimacy of the trial proceedings were virtues deliberately cultivated. But, during Stalin's rule the utopian juridical experimentation abruptly ended. The comrades' courts all but vanished, the *druzhina* continued to exist but in the late 1930s was reorganised into brigades and placed under strict central control, and criminal penalties were increased for certain classifications of crimes. The utopian notion of public participation in the administration of justice was firmly rejected in favour of a dictatorial trend in Soviet law emphasising the primacy of state administration and rule based on force unrestrained by law. Andrei Vyshinskii, in a speech before Ukrainian prosecutors in 1936, stated that "that old twaddle about the mobilisation of social active workers...all that must be put aside, something new is needed at the present time"[19]. The role of the masses in state administration was reduced and repression in the form of state coercion became the principal sanction, thus completely overshadowing the use of public influence.

Change came swiftly after Stalin's death in 1953. A return to "socialist legality" as originally conceived by Lenin became the pledge of the new leaders. Soviet jurists began attacking openly the coercive use of law to bolster state power and urged changes in Soviet criminal and civil legislation. After 1956 all criminal cases, including political crimes, had to be prosecuted in the people's courts with regular judicial procedure, and the security police could not make an arrest without the authorisation of a judge or procurator. An editorial in the Party's theoretical journal, *Kommunist*, attacked the dictatorial interpretation of legality, and stressed the need for a concept of legality designed to protect the rights and interests of citizens[20]. Legal scholars were directed

to draft new laws to implement the political programme of change. Just what was required to achieve a goal of stability of law and to put emphasis upon citizens' rights within a framework of Marxist thinking was unclear, but those who directed the technical work turned their attention to broad reform. They called for new measures to protect citizens from bureaucrats, to increase popular participation in the administrative work of government, to revise law controlling crime, to improve procedures to determine truth in trials, to bring practice into conformity with guidelines. Most notably, the Khrushchev era of Soviet history was marked by a resurgence of legal utopianism and by a back-to-Lenin movement which attempted not only to recapture some of the élan of the early days of the Soviet state but also to introduce institutional innovations harking back strongly to pre-Stalin experiments. Histories of Soviet political institutions written in the wake of the Twentieth Party Congress (1956) tended to skip lightly over the Stalin era in order to emphasise elements of continuity and similarity in the innovations and reforms which were introduced under Khrushchev with the ideas of Lenin. (It was not illegality *per se* which Soviet legal commentators in Khrushchev's time were inclined to regard as Stalin's cardinal sin, but rather the fact that he arrested the developmental process of Soviet law and put political thought itself in a state of rigidity. They asserted that the course of political evolution begun in 1917 "would have gone much faster had it not been for the harmful effect of the cult of personality". Stalin "held back the development of Soviet statecraft"[21]. A nostalgic eye began to be turned to the early days of Soviet judicial experience, toward the ideal of simplicity and how to recreate it in pristine form. This was reflected not so much in the reform of the judicial system and the new law codes enacted from 1958, where the guiding impulse was rather the urge to stability and integrity of law implicit in the term "socialist legality", as in the attempt to reactivate the social courts in one form or

another on a wide scale. Under Khrushchev a most conspicuous shift towards the 'popularisation' of justice took place. Anti-parasite laws were passed, which did not require any special legal procedure for condemning people to two to five years of compulsory labour in exile. They were officially designed to strengthen the socialist work ethic and discipline and to allow communities to participate in the dispensation of justice. However, this 'popularisation' campaign was in clear contradiction to Khrushchev's ardent emphasis on socialist legality, which implied greater reliance on due process, formalised procedures, uniformity of the law, and the protection of citizens' rights. How this new faith in legality could coexist with the spontaneous and arbitrary dispensation of justice by the community was not at all clear. Additionally, this resurgence of 'legal utopianism' incorporating Khrushchev's modified theory of the Marxist-Leninist doctrine of the withering away of state and law, which postulated a gradual replacement of the state coercive apparatus by citizen's assemblies, was bound to be disliked by both lawyers and legal bureaucrats as well as by hard-line doctrinaires who favoured a more centralised model. Nevertheless, Khrushchev was successful in his attempts to introduce at least some forms of popular participation into the justice system. They were subsequently curbed, however, as a result of a shift in his own approach as well as the more bureaucratic orientation of his successor.

This study analyses the development of and multiple functions played by the laws which penalised idleness and lack of social membership, the so-called anti-parasite laws. The purpose of the thesis is partly descriptive: it aims to see how the practice of enforcing the anti-parasite statutes unfolded (how they were used and abused) and the way in which the ideological-political theory of a particular period affected the laws and their implementation. It will hopefully become clear that although the regime's attempts to clamp down on parasitism tended to be cyclical in nature, there was in fact a

relatively clear continuous trend throughout the entire Soviet period, and efforts have been made to trace this and deduce why parasitism was always of special concern. This study aims to give a factual overview and chronological presentation of the major developments in the history of the war on parasitism in the Soviet Union - from its declaration in the Khrushchev period of the "full-scale building of communism", on through the Brezhnev era of "developed" or "mature socialism", and up to the enforced cessation of hostilities at the end of Gorbachev's doomed *perestroika* years. Chapter 1, as an initial scene-setter, gives an historical overview of the development of those pre-Khrushchev laws enforcing the socialist idea of the "universality of labour" (*vseobshchnost' truda*) - the rejection of exploitation and of the possibility of some living off the labour of others - which in practice boiled down to a legal and moral obligation to work on all Soviet citizens capable of working. We shall then follow the anti-parasite campaign through the draft publication, public discussion, and experimental adoption in eight smaller republics of "anti-parasite" laws during the late 1950s [Chapter 2]; the revision of these early laws and their application throughout the USSR in the early 1960s [Chapter 3]; further "refinements" made in the mid-1960s, the criminalisation of parasitism in 1970 (up till then it had been treated as a special offence punishable under administrative law), and subsequent amendments introduced in 1975 and 1982 [Chapters 4 and 5]; bringing the story full circle with the demise of the struggle, after the decriminalisation of this highly peculiar and uniquely socialist offence around the turn of the 1990s [Chapter 7]. Along the way, we shall observe in the campaign a quasi-dialectical process involving at least the following four responses:

1. Overzealousness and oversimplification of the issue by the campaign's promoters;
2. Sluggish and evasive bureaucratic enforcement efforts;
3. Warnings of side effects and complications by scholarly observers and advisers; and

4. Course correction and refinement by legislative and judicial bodies.

It will be shown that the original anti-parasite laws departed from the regular criminal laws and procedures in two vital respects. First, they placed most "trial" proceedings outside the courts in "general meetings" of townspeople. Public participation was a number one priority. Second, they permitted the infliction of penalties (including the maximum penalty of exiling offenders leading an "antisocial, parasitic way of life" for a number of years) other than by regular courts, laws, and procedures. Attention will be focused, in particular, on the numerous legal problems surrounding the anti-parasite legislation. We shall see, for example, how at the early stage, the utilisation of general meetings was attacked by legal critics; how the definition of punishment as a social or administrative sanction was challenged by those who saw it as a clearly punitive measure belonging within the realm of criminal law; how with the subsequent changes in the law, the ambiguous combination of administrative and criminal procedures and shifting jurisdiction over parasite cases raised further justified objections; how the persistent attempt to achieve through legislation the dual aims of punishing and educating the parasite was misleading and impractical; how the laws were challenged on constitutional grounds, as the USSR Constitution and the Basic Principles of Criminal Procedure clearly stated that no individual could be deemed guilty of an offence or subject to criminal punishment without a proper conviction and sentence by a criminal court; how the laws came under constant fire for their clear violation of international conventions, signed by the USSR, which prohibited forced or compulsory labour; etc. It will also be shown that the vagueness of the definition of "parasitism" itself allowed the authorities to apply this label to a great variety of behaviours; its meaning shifted considerably over time and it was this flexibility that gave the regime a virtual *carte blanche* in its attempts to root out

"alien elements".

Much of the material for the thesis consists of decrees and other legal documents, but other wider pronouncements such as constitutions, Party Programmes and rules, have been incorporated where it was thought necessary or helpful. Due to the great number of decrees involved, Russian Republican legislation and All-Union laws have been the prime area of study although other republican legislation has been mentioned and examined where it was felt to be of help or interest. Various sources of published information have also been utilised. Soviet criminological literature on the subject of parasitism, although not particularly notable for any critical evaluation and, indeed, rather prone toward exaggeration of the dangers posed by the phenomenon, nevertheless offer some insight into both the numerous changes in the legal handling of the problem and the preventative practices and tactics adopted over the years to halt its spread. I would like to list the following as being amongst some of the more useful works in this regard: A.S. Shliapochnikov's, *Bor'ba s tuneiadtsami-vsenarodnoe delo* (1962), *Nekotorye pravovye voprosy usileniia bor'by s paraziticheskimi elementami* (1962), *Tuneiadtsev k otvetu* (1964); I.D Perlov's *Sud i obshchestvennost' v bor'be s tuneiadtsami* (1962); V.I. Bubentsov's *Tuneiadstvo i bor'ba s nim* (1972), *Vyiavlenie, rassledovanie i preduprezhdenie tuneiadstva i brodiazhnichestva* (1972); V.I. Samorokov's *Otvetstvennost' za brodiazhnichestvo po sovetskomy ugolovnomy pravu* (1974), *Ob"ektivnye priznaki poproshainichestva* (1977); Iu.I. Liapunov's, *Otvetstvennost' za tuneiadstvo* (1982);. E.A. Khudiakov's, *Effekivnost' primeneniia norm s administrativnoi preiuditsiei. (Opyt bor'by s tuneiadstvom)* (1981); N.N. Kondrashkov's *Tuneiadstvo: puti iskoreneniia* (1986), *Tuneiadstvo: protiv zakona i sovesti* (1989); V.A.Tekut'ev, ed. *Organizatsionno-pravovye i upravlencheskie problemy bor'by s pravonarusheniiami sredi lits, vedushchikh antiobshchestvenni*

paraziticheskii obraz zhizni (1985); R.M Gotlib, *et al, Sotsial'no - pravovye i meditsinskie aspekty bor'by s tuneiadstvom, p'ianstvom i narkomanei.* (1987); and O Boronina, ed. *Ugolovno-pravovye i kriminologicheskie aspekty bor'by s proiavleniiami sotsial'nogo parazitizma.* (1987). Wide use was also made of the central and republican press; Soviet legal journals (particularly *Sotsialisticheskaia zakonnost'*, *Sovetskaia iustitsia*, *Sovetskoe gosudarstvo i pravo*, *Pravovedenie*, *Sovestkoe pravo*, *Chelovek i zakon*) and non-legal journals (principally *Sotsiologicheskie issledovaniia*, *Sotsialisticheskii trud*, *Bol'shevik*, *Kommunist*, *Sovety deputatov trudiashchikhsia*, *Sovety narodnykh deputatov*, *Vestnik statistiki*, and *Eko*); unpublished or *samizdat* materials (i.e. printed underground without censorship), émigré publications, and western academic (see below) and non-academic literature, including the Current Digest of the Soviet Press. I have cross-checked and tested as fully as possible every item of information in an attempt to establish its accuracy, both by comparing information coming from various sources and by evaluating the overall consistency of scattered data.

Special problems were encountered in studying the topic and some further word about the aims and the necessary limitations of the thesis are in order. My objective is to present a picture, as coherent as possible, of those modes of behaviour adjudged to fall within the broadly interpreted 'parasitic' category; the motive forces and causal factors behind such conduct; the characteristics of the parasites themselves, etc. The limits involved in doing this are formidable, for official Soviet publications were notoriously unreliable and shrouded in Marxist-Leninist ideology. Moreover, unlike many other nations, the USSR from the late 1920s up till the late 1980s did not publish its nation-wide statistics on crime or other forms of deviant behaviour. The inaccessibility of such statistics makes it virtually impossible to render precise judgements about the actual extent and scale of the phenomenon under analysis. The

fragmentary statistics the reader will encounter throughout the thesis are not, however, without value since they do suggest what types of offences parasites typically committed and tell us something about the characteristics of the perpetrators themselves. Thus, although no single Soviet study in particular can really be said to have contained any great amount of helpful information, when several were examined together revealing a relatively consistent picture of, for example, low average educational levels among offenders, their troubled family backgrounds, their relative youthfulness, etc., they did become rather more valuable. Of course, to some readers the use of Soviet statistics here may perhaps seem a little unsatisfactory. In answer it can only be said that the statistics are presented with caution and in the knowledge that they can only be the roughest indices at best, whether of deviant (i.e. parasitic) behaviour or of law enforcement practice. It would have been simple to exclude them entirely and base parts of the thesis on fewer sources. But interpreting the subject at hand seemed to demand that we make maximum, if careful, use of all the materials available. The statistics must therefore be viewed in the broader context of other, non-quantitative information.

It must also be noted that the use of archival material in this study is limited. When conducting field work, I was unable to obtain access to documents of any great value to the discussion. From my work on the subject I can propose two explanations for this. Firstly, due to the nature of the non-court trial proceedings under the early versions of the anti-parasite laws (when normal proceedings and court protocols were not applicable), gaining access to trial documents was largely impossible since the trial bodies ceased to exist with the conclusion of every case and any records that were kept were often discarded or lost over the course of time. Secondly, general access to court archives was extremely restricted, presumably due to the politically sensitive nature of

the materials and the regime's continued attempts to deflect attention away from the thorny issue of forced labour practices. The regularity with which parasite cases were reported in the Soviet legal press and in specialist publications, such as *Biulleten' Verkhovnogo Suda SSSR (RSFSR), Kommentarii sudebnoi praktiki, Sbornik postanovlenii plenuma Verkhovnogo Suda SSSR (RSFSR), Kommentarii k ugolovnomu kodeksu RSFSR*, partly compensates for our lack of access to trial documents by giving us at least a flavour of the prosecution process and court procedures. Lawyers were also reluctant to broach the subject of cases involving parasitism, although their reluctance was quite understandable since they had been asked to engage in a legal process, which by virtue of the vaguely defined nature of the offence in question, made the law woefully unsatisfactory from the purely legal point of view. The unparalleled period of relaxation of censorship during *glasnost'* resulted in a multitude of publications, still restrained (*glasnost'* did not entail substantial changes in the realm of legal doctrine) but sufficiently candid and revealing to constitute an invaluable source of information. An analysis of reports in the legal periodicals of these years contributed greatly to the construction of as comprehensive a picture as was possible under the circumstances. We still lack access to the whole picture. At some point in the future, when some of the problems referred to have been overcome and new information becomes available, I hope that the unavoidable gaps in this work may be filled.

Beyond the portrayal of parasitism itself, this study investigates the Soviet explanation for it. What factors or causes were seen by Soviet scholars and practitioners as accounting for the existence of parasitism in the USSR? [See Chapter 6 in particular]. The answer to this question tells us something about the theoretical orientations that were shared amongst the Soviet criminologists and will illustrate the constraints that Marxist-Leninist ideology imposed on the process of explanation.

Another major concern of the thesis is the approach adopted by the Soviet authorities in attempting to prevent parasitic behaviour and rehabilitating or correcting offenders. Here again, within the limits imposed by the often fragmentary quality of our information, the goal is a coherent analysis of the structure and operation of the correction system. Soviet concern with the effectiveness of different types of rehabilitative techniques did in fact foster a number of informative studies which occasionally provided surprising amounts of useful data on institutional success in preventing recidivism. There were, however, a great number of factors which converged to continually undermine the struggle against parasitism and these are analysed as and when they arise in the course of the study.

I would finally like to add that while the English language literature on Soviet criminal justice and crime is relatively extensive very little attention is devoted therein to the anti-parasite legislation. A number of articles appeared on the subject in the late 1950s after publication of the draft anti-parasite laws. Non-Soviet commentators such as Albert Boiter [22] and Rene Beerman [23] drew attention to the institutional unorthodoxy of the "general meeting" (or "social assembly"), but their writings tended to be rather speculative, primarily because official Soviet pronouncements about the theoretical and ideological importance of the new system, which one would have expected, did not accompany the elucidation of the draft laws by the republican newspapers. And, the topic was almost wholly ignored by the central press and scholarly journals at the time. The official silence contributed to speculation about the ramifications of the anti-parasite laws. Western observers were left to their own devices in drawing "historical analogies" and attributing motives. "Khrushchev has replaced the Stalinist dualism of law and terror by a new dualism of law and social pressure", wrote Harold J. Berman [24]. "One is free from arbitrary arrest by the secret police, but one is

not free of the social pressure of the collective...whether it be the innocuous pressure of the factory, one's co-workers, or the local Party organisation. The new dualism still stands in the shadow of the old". Leon Lipson held much the same opinion. "...the abolition of the Special Board", he stated, "may be thought by some of the Party leaders to have left a gap that ought to be filled. The anti-parasite collectives could well have been considered to be a device, less odious because newer and more public than the Special Boards, for separating from the community those elements who presented a 'social danger' but whose behaviour could not be classified as criminal action warranting regular criminal prosecution" [25].

For Friedrich-Christian Schroeder, the legislation against parasites stood not only in the shadow of Stalinist terror but generated an administration similar to the work of the Special Board of the NKVD. He saw the similarity in the exile sentence of five years, in the vagueness of the *corpus delicti*, and the exclusion of an appeal. However, the most shocking resemblance for Schroeder lay in the fact that the right of banishment exercised by the Special Board of the NKVD "developed from the right of the *Cheka* with regard to parasites. The first decree, basically conferring the right of taking into custody had the purpose of fighting violators of work discipline, the revolutionary order and the parasitic elements of the population and to confine them in forced labour concentration camps for a period of up to five years, when during the investigation, reasons for a criminal responsibility were not established" [26]. Schroeder also related the anti-parasite laws directly to pre-Revolutionary legislation going back as far as the 18th and 19th centuries. He quoted an *Ukaz* of 1760 conferring upon landowners the right to hand over to the authorities, for banishment to Siberia, their serfs for "dissoluteness and evil actions". But for him, the real source of the anti-parasite legislation was a Regulation issued on May 15, 1808 covering the peasants belonging to

the Imperial family. According to this regulation the general assembly of peasants could vote by a majority the recruiting of banishment of a member of the community who in consequence of a lack of zeal or bad behaviour was not in a position to pay taxes. "The ruling even uses the expression 'social sentence'", he noted. There was an extremely close connection, he believed, between the exile/banishment of the anti-parasite legislation and the banishment because of a reprehensible way of life on the basis of a commune's sentences of the 18th and 19th centuries. "Firstly, it is expressed in the term of the banishment: five years in both legislations. Secondly, in the similarity of the elements of the crime: 'dissolute way of life' and 'the non-payment of taxes because of negligence' in the old Russian legislation and 'parasitic way of life' in the new one. But first of all...the resemblance lies in the procedure in which the measure is taken: vote of the commune or of another smaller group, and in the absence of an appeal against the banishment sentence".

Having established the source of anti-parasite laws in pre-Revolutionary legislation, Schroeder then came to the rather surprising conclusion that "although one can not speak of a direct continuity because of the long interval between both and because of the changed circumstances, the legal institute so deeply rooted in the past, must be still vivid through literature and history" [27].

Beerman added further to Schroeder's list of old Russian enactments concerning administrative banishment in pre-Revolutionary Russia. He claimed that "the historical and sociological aspects of this practice (banishment) are worth tracing - because it supports the controversial theory of historical continuity in Soviet law, which claims that a considerable part of the law is derived from pre-Revolutionary legal institutions, despite official Soviet pronouncements, Marxist legal theory, and the abrogating decrees of Soviet authorities" [28].

To say that there was a degree of historical continuity between pre-Revolutionary decrees relating to administrative banishment and Soviet anti-parasite legislation is not to say that the continuity was deliberate. It is problematic as well as doubtful that the proponents of the Soviet anti-parasite legislation were consciously inspired by the 18th and 19th century decrees. Moreover, the reasons for administrative banishment and the conditions under which it was carried out in Tsarist Russia had little in common with Soviet administrative banishment. Stalin's victims, for example, were sentenced to forced labour in concentration camps, under appalling conditions, whereas the Tsar's subjects administratively banished to Siberia, were free there and not compelled to work. It seems rather futile to search for any continuity between the punishments prescribed by the anti-parasite laws and the measures taken at the time of serfdom, under completely different social and political conditions. The similarity of methods of punishment does not prove anything. All methods of punishment applied in the Soviet Union were used before in Tsarist Russia and can not serve as proof for the continuity of Soviet laws from Tsarist legislation.

The dualism of penal coercion and social pressure ascertained by Berman remained true. But to say that Stalin's terror was replaced by social pressure so that the new dualism stayed in the shadow of the former, was an exaggeration. Also, Lipson's suspicion was not particularly convincing. The anti-parasite legislation of 1961 could not fill in the gap formed by the abolition of the Special Board. As a replacement for the Special Board activity, the anti-parasite laws were too weak. However, both authors were right in so far as the anti-parasite legislation, especially that of 1957-1959, presented the possibility of interference and abuses of justice maybe more than any other legislation, and not only by the omnipotent and omnipresent Party, but by public organisations, collectives, neighbours, etc. The lack of an exact definition of parasitism

contributed in a large extent to this possibility.

Western interest in the anti-parasite laws waned quite significantly and rapidly after the departure of Khrushchev. Occasional articles still appeared on the subject, most notably those of Russel E. Burford Jr., and Herbert Hausmaninger published in 1974 and 1986 respectively [29], which give useful although rather brief summary accounts of legislative developments in the area. For the most part, however, the laws have been rather neglected, being referred to only sporadically (mostly in the passing and certainly in no great analytical depth) in retrospective analyses of the popular justice experiment by writers such as Peter Juviler and R. W. Makepeace [30], and in general Western works on the Soviet legal system [31]. It is therefore hoped that this study - by providing the first fully comprehensive, documented, and analytic account of the history of the enforcement of the anti-parasite laws, from their promulgation to abrogation, of the supposed functions of the laws in theory and their often problematic application in practice - will further our knowledge of one of the least-examined aspects of Soviet law, by filling in the gaps which have resulted from the unavoidably one-sided character of Soviet literature and the hitherto shallow investigation of the subject in the small body of existing non-Soviet literature. I further hope that any thoughts and findings will be of value or, at least informative beyond the merely interesting to any reader irrespective of discipline. My goal was to make this thesis equally accessible to both those readers who know a lot about the Soviet Union and rather little about criminology and those whose interests in criminology is not supplemented by any special expertise in Soviet studies.

CHAPTER 1

LABOUR AS A DUTY AND MORAL OBLIGATION

1.1 INTRODUCTION

The idea of the "universality of labour" as one of the principles of the organisation of socialist society was born in the minds of great thinkers long before the Socialist Revolution, that made it reality, took place in Russia. Friedrich Engels, in his work *The Evolution of Socialism from Utopia to Science* [1], referred to a number of the most prominent representatives of utopian socialism who in their works certainly pointed to the universality of labour as the only just basis for the organisation of distributive relations in society. Thomas More, the English humanist, was first to express the idea in his book *Utopia* [2]. *Utopia* portrayed an ideal socialist system that had achieved an abundance of goods and established a just order of distribution. The system was based on common ownership and the impermissibility of parasitism. More regarded all those who did not work as parasites, considering that all men and women, without exception, should till the land and be engaged in some trade, and that society should be organised on the principle of common, equal labour for the good of all.

The duty of every person to contribute to the public good in accordance with his strengths, abilities and age was considered a "sacred law" by Morelli[3], while Babeuf, an ideologist of the French Revolution, believed that the "right to life" was guaranteed only by work: idleness, the evasion of work, in his opinion, was a great crime meriting the death penalty [4]. In 1823, Robert Owen drew up a scheme for "communist" colonies based on the experience of the colony at New Lanark that he had run for around thirty years. He believed that labour was the source of all wealth and that when

people worked jointly, in the common interest, the labour of each produced more benefit both to himself or herself and to society [5]. What Owen did in the form of practical experiments conformed to the philosophical ideas of the French utopian socialist Claude Henri Saint-Simon, who wrote in the 19th century: "All people will work; they will all regard themselves as toilers" [6]. It was his view that all members of society should work, with the sole difference that some would work physically and others mentally:

> The obligation is imposed on everyone to devote all his energy to the benefit of humanity. The hands of the poor man will continue to nourish the rich, but the rich man is commanded to work with his brain; if his brain proves to be unfit for work, he will be compelled to work with his hands [7].

The founders of "scientific communism", Karl Marx and Friedrich Engels, in their *Manifesto of the Communist Party* (1848), also advanced the demand that labour be equally obligatory for all [8], regarding universal participation in work as a *sine qua non* for eliminating exploitation and the means for the all-round development of the individual. Engels returned to this question in his theoretical analysis of the future socialist society *Anti Dühring*; he said that the principle of "the equal liability to work for all" would be based on the totally new socialist organisation of production

> where, on the one hand, no individual can throw on the shoulders of others his share in productive labour, this natural condition of human existence; and where, on the other hand, productive labour, instead of being a means of subjugating men will become a means of their emancipation, by offering each individual the chance to develop all his faculties, physical and mental, in all directions and exercise them to the full - in which, therefore, productive labour will become a pleasure instead of being a burden [9].

1.2 The Duty to Work in Soviet Law: Early Legislative Enactments

Armed with and drawing heavily for guidance upon the theories of classical Marxism,

the Bolshevik government immediately after the October Revolution set about laying the foundations of the new socialist society. It gave itself legal power to compel people, under enforceable law, to work. Already Marx had quoted the Bible, saying "He who does not work, neither shall he eat". (The actual sentence in the Bible read: "The charge we give you on our visit is that the man who refuses to work must starve" (II Thessalonians 3:10).) This now became an axiom in Soviet labour legislation and was even incorporated into the Constitution of the RSFSR (1918) as well as that of the USSR (1936). From the outset the obligation to work was used as an instrument for forcible mobilisation of manpower according to the government's demands - to place people in whatever location or job where they could be useful for state purposes and to dispose of the regime's real or imagined opponents by imposing forced-labour punishments on them, largely in camps. In Bolshevik hands the admonition of Paul to his brethren became a programme of police work, first for the *Cheka*, then the NKVD, later the MVD, and finally the KGB. At the time of War Communism (1918-1921) Bolshevik leaders envisaged the obligation to work - or, as it meant compulsory labour - as one of the basic features of socialism. As Trotsky put it,

> Once and for all one must realise that the principle of the duty to work has replaced the principle of free employment just as radically and irrevocably as the socialisation of the means of production has taken the place of capitalist property .... The workers' state considers itself justified in placing every worker where his work is needed. And not a single serious socialist is going to contest the right of the workers' state to lay its hand upon any worker who refuses to perform the task given to him [10].

The Bolsheviks considered work not simply an economic necessity, but a most laudable social activity. Lenin frequently drew a picture of work in the future communist society, when people would be used to performing social duties without compulsion, and unpaid work for the common good would become a universal

phenomenon [11]. But he was also aware that "to create a new labour discipline, new forms and methods of attracting people to work - that is a matter of many years and decades" [12]. Of more immediate concern, however, was the problem of defending the Revolution. The key was higher productivity. This was proving difficult to achieve not only because of the open sabotage of the capitalists (who closed down their factories as a protest against the Revolution) and their agents (high ranking civil servants and employees in private enterprises who expressed their contempt for the new government by organising boycotts and strikes), but also because too many of the workers still lacked "revolutionary discipline", failing to realise that labour in the new state was not simply the means of earning a selfish livelihood but an end in itself. As regards the former, Lenin sent a note to Felix Dzerzhinskii in December 1917 which contained a draft decree, "On Fighting Counter-Revolutionaries and Saboteurs", proposing the introduction of administrative measures aimed at enlisting former members of the wealthy classes in socially useful work and legal sanctions for the evasion of work. It read as follows:

> Persons belonging to the wealthy classes, and also all employees of banks, joint-stock companies, state and public institutions shall within three days present to their house committees, written statements indicating their address, income, place of employment and their occupation. The stated persons shall be obliged, first, constantly to carry with them a copy of this statement certified by the house committees, and second, shall be obliged to acquire within one week from the promulgation of this present law, worker-consumer books, in which their weekly income and expenditures shall be entered, together with the public duties performed by the individual in question, certified by the proper committees or institutions. Persons failing to submit statements or who give false information, and likewise, persons sabotaging the work of, or declining to work in banks, state and public institutions, joint-stock companies, railways, *etc.* shall be liable to a fine of up to 5,000 roubles for each infringement, or to imprisonment for up to one year, or shall be sent to the front depending on the nature of the offence [13].

Opinions on how best to tackle workers' apathy were less clear-cut. Many leading Bolsheviks themselves strongly disapproved of coercive measures against the workers, and wanted to rely on initiative "from below" and the workers' own self-discipline. Minds were made up by the outbreak of full-scale civil war in the summer of 1918. In the life-and-death struggle with the anti-Bolshevik "white armies", the government's number one economic priority was to increase production, and for this purpose the first essential was to tighten up labour discipline, a task that was tackled largely "from above". The tendency to direct labour laws more and more to this end found its strongest expression in the conscription and militarisation of labour. Such strong measures of compulsion had not been foreseen by the Bolshevik leaders, although their whole outlook on the matter was based on the dictum "he who does not work, neither shall he eat". In the first Soviet (RSFSR) Constitution, adopted at the Fifth All-Russian Congress of Soviets in July 1918, this principle was given political substance in a different phrasing. Article 1, Chapter II(f) affirmed "universal obligation to work for the purpose of eliminating the parasitic strata of society and organising the economic life of the country". This phrase contains both a moral and an economic judgement; no one in the society was to live by exploiting the labour of others; and efficient organisation of economic life was not possible unless everyone worked. The incorporation of this phrase in the Constitution therefore meant that the whole power of the state could be used to enforce it. However, at this early stage the emphasis was placed on moral exhortation and persuasion rather than on direct measure of compulsion, at least as far as the mass of the population was concerned.

But, the sense of civic duty proved to be insufficiently developed and it was considered necessary to supplement the moral appeal by coercive measures. The first steps in this direction were taken in the autumn of 1918. The unemployed were in

September forbidden, on pain of losing their benefit for three months and of being relegated to the end of the queue, to refuse work which meant transference to another town (travel and other expenses were paid; those who after transfer did not take up their work were regarded as labour deserters) [14]. On 5 October the Council of People's Commissars passed a decree, "On Labour Books for Non-Working People" [15], Article 1 of which stated:

> In compliance with the basic principle of the Constitution that labour is obligatory for all citizens, the Council of People's Commissars pending the adoption of a decree on universal labour conscription orders the replacement of identity cards and passports by labour books.

The labour books were to serve as identity cards and as the basis for the issue of ration cards for persons living on unearned income, income from property or dividends from capital; persons employing hired labour for the purpose of profit-making; members of boards of directors; private traders, stock-brokers, middlemen; members of the free professions (unless "usefully" employed); persons without definite occupation, such as ex-officers, former lawyers, *etc.* At regular intervals the local soviets or other authorised bodies were to enter in these books data regarding socially useful work performed by their bearers. Non-compliance with this decree was punishable by a fine of 10,000 roubles or by imprisonment for up to six months. The decree, as is evident from its content, had a definite class orientation; it was directed primarily against the "parasitic elements" of the old regime, the representatives of the former exploiter classes. It was written in the spirit of the idea of Lenin, who in December 1917 drew up a draft decree on the Nationalisation of Banks and in which he wrote: "Universal labour conscription: the first step is worker-consumer books for the wealthy, control over them. Their duty is to work in the stated direction, otherwise - they are 'enemies of the people'" [16]. In his earlier work *State and Revolution* Lenin recalled Marx's *Critique*

of the Gotha Programme, where Marx had made

> a sober estimate of exactly how socialist society will have to manage its affairs .... The means of production are no longer the private property of individuals. The means of production belong to the whole of society. Every member of society performing a certain part of the socially-necessary work receives a certificate from society to the effect that he has done a certain amount of work. And with this certificate he receives from the public store of consumer goods a corresponding quantity of products [17].

This pronouncement served as the basis for formulating not only the principle "He who does not work, neither shall he eat" - which Lenin described as a "practical precept of socialism" [18], "the basis of socialism, the indefensible source of its strength, the indestructible guarantee of its final victory" [19] - but also another basic principle of socialism "From each according to his abilities, to each according to his work". Thus, a person's work was put into relation to that which he could ask for from the state for his work. In consequence, those who could but did not work would neither eat, nor have a claim against the state.

A particularly important stage in the labour legislation of the RSFSR was the publication in December 1918 of the first Soviet Labour Code [20]. Hitherto all decrees had had a provisional character; they were passed on particular matters, amended, cancelled, whenever the necessity arose. The Labour Code was the first attempt to systematise all instructions and orders, to give them permanency, and to cover in one decree all aspects of labour policy. It introduced labour service, *i.e.* obligation to work, for all able-bodied citizens between the ages of sixteen and fifty (with certain exceptions such as the sick, incapacitated, expectant mothers, *etc.*); it also introduced this interesting qualification with regard to the general principle of duty to work: "every citizen able to work has the RIGHT TO BE USED FOR WORK ACCORDING TO HIS SPECIAL ABILITY, and at the wage established for this kind of work". During the period of War

Communism such a right had very little reality outside the ranks of the proletariat. People of other classes were put to work in jobs quite remote from their former occupations. Yet this right represented a potentially important modification of the duty-to-work principle, and might have become a matter of practice later. What, in fact, developed from it, as we shall see, was another fundamental concept of Soviet labour law - THE RIGHT TO WORK. On most points, however, the Code remained a desired aim rather than a basis for a practical policy. Almost before it was published civil war and intervention forced a whole series of amendments.

On 30 November 1918, a Workers' and Peasants' Council of Defence had been set up by the All-Russian Central Executive Committee in response to a decree of 2 September which declared the Soviet Republic to be in a state of siege. This Defence Council (with Lenin as chairman, and Trotsky, Nevskii, Briukhanov, Krasin and Stalin as members) was empowered to mobilise all the forces and resources of the country. At the end of 1918 skilled workers were conscripted in what was to be the first of a long series of decrees on mobilisation of labour and militarisation of industry and transport. It would, however, be incorrect to regard these measures as the translation into practice of Bolshevik social theories. They were introduced and defended only as harsh expedients required by the imperious demands of war which frustrated all attempts at peaceful reconstruction on new lines. On the other hand, the military situation was rendered more perilous by the poor discipline and low productivity of the Russian workers, which aggravated the already disastrous state of the country's economy. For the Bolsheviks, once in power and faced with this state of emergency, it was no longer a question of socialist doctrines, but purely and simply of survival.

The most important and controversial measure taken during these years was the decree "On the Introduction of Universal Labour Conscription", passed in January 1920

[21]. During the period of War Communism industrial unemployment disappeared: from large-scale unemployment in 1918 (approximately 800,000 unemployed workers were registered at the labour exchanges [22], the country was eventually faced with shortage of labour (by 1920 there were 167.8 vacancies for every 100 applicants [23]) which necessitated strict registration not only of the unemployed, but also of the employed, for the purpose of their more appropriate distribution over the key industries. This became the task of a Main Committee for General Labour Service which was set up simultaneously with the introduction of universal conscription. The January decree began by noting that labour conscription had been brought in "to ensure the permanent and universal enlistment in socially useful work of all persons not engaged in such". It then decreed the call-up of the entire able-bodied population (men between sixteen and fifty, women between sixteen and forty) for occasional or regular labour service, to be performed in addition to, and irrespective of, their normal work; the transfer of skilled workers engaged in the forces or in agriculture to state enterprises; the distribution of labour according to the needs of the country's economy. *Gubernia*, city, and *uezd* committees for general labour service were instructed to hand over all those evading work and guilty of "labour desertion" to peoples' courts and in exceptional cases to the revolutionary tribunals. "Labour desertion" covered any failure to comply with the registration or call-up decrees; the concealment of one's trade or profession; evasion of the call-up; leaving a job without permission; absenteeism, *etc.* [24].

Besides its legislative work, the government carried out a large amount of work amongst the populace explaining the meaning and importance of the laws being promulgated. An example of this was the Workers' and Peasants' Leaflet No.49 entitled "What is Labour Desertion?" [25]. It described deserters not only as "those persons who are not engaged in work and therefore of no value to the workers' state",

but also "those who instead of useful work at a machine are engaging in speculation or are loafing about at work, 'lighting up' continually", and declared labour desertion "the most terrible evil in the labouring Soviet Republic. It is more terrible than famine, the shortage of fuel, metals and raw materials, since it is the most loyal ally and assister of both hunger and economic dislocation".

At the Ninth Party Congress in March 1920 Lenin said that the Bolsheviks were introducing labour conscription, without being afraid to apply compulsion, in order to maintain the Revolution. Nowhere had a revolution been carried out without measures of compulsion. To reconstruct their ruined economy they needed an "iron regime" [26]. Speaking at the same Congress and later at the Third Trade Union Congress, Trotsky equated the organisation of labour with "the organisation of the new society", thus giving the issue of conscription a deeper significance than that of a temporary expedient. The new society, he explained, was to be built in the interest of the majority, on socialist principles, on the basis of a centralised economic plan. This could not be done with a fluid labour force. Manpower had to be available in the same way as soldiers were, whenever and wherever needed. There was no other way to rebuild the ruined economy. For Trotsky the essence of the conscription policy lay in the power it gave to call up and direct labour. In advocating compulsory, directed labour, he rejected the Mensheviks' assertion that such labour was necessarily unproductive. Were this so, he argued, the entire socialist system would be doomed, since there was, in his view, no other road to socialism except centralised distribution of labour according to the needs of the national economic plan. In any case, what was meant by free, non-compulsory labour? The world, he said, had known slave labour, serf labour, compulsory labour regulated by the medieval craft-guilds, and finally labour that could be freely hired, called by the bourgeoisie "free labour". But, Trotsky's argument ran, under capitalism the "free"

worker was directed to his place of work by hunger and by the law of supply and demand, *i.e.* by the compulsion of the owner, whereas he would henceforth be directed to work by the economic plan [27].

As pointed out by the Menshevik K. Abramovich [28] at the Third Trade Union Congress (6-13 April 1920), Trotsky was here substituting the ethical conception of "free labour" for the juridicial one. Under capitalism the worker is of course obliged to work in order to live; but he is free in a legal and political sense; he is not like the serf, bound body and soul to the owner. The Mensheviks, in their arguments against Trotsky, thus did not deny the economic and ethical compulsion to work, but opposed the introduction by the Soviet government of juridical compulsion. But Trotsky went still further by arguing that compulsory labour was the "basis of socialism". He interpreted compulsory labour as a form of work where every worker occupied a definite place to which he was directed by the appropriate economic authorities. This, he said, was regimentation of labour not in an anarchic way, by means of buying and selling, but on the basis of an economic plan embracing the whole country, the entire working class. "This is what we understand by labour service, which has always been part of the socialist programme".

In so far as Trotsky used the words "compulsory labour" (*prinuditel'nyi trud*), "labour conscription" (*trudovaia povinnost'*) to mean the obligation of every able-bodied citizen to work, and to do so in accordance with the needs of the country, he was justified in calling it a socialist principle. But the "conscription" of labour had nothing in common with the moral compulsion to work, which was the essence of labour SERVICE. It was, moreover, not Trotsky but the framers of the Constitution who first introduced the idea of state compulsion rather than that of the ethical obligation to work by using the words *trudovaia povinnost'*, *i.e.* labour conscription, instead of "obligation

to work".

Several decades later, R. Livshits and V. Nikitinskii, in a typically exaggerated Soviet analysis of the labour conscription years, concluded that,

> For working people labour conscription was not compulsory. They constituted the overwhelming majority of the country's citizens before the Revolution, and after the Revolution they voluntarily continued to work. There was no need to make them work; they worked without compulsion. For them labour conscription became a means of redistributing manpower. The young socialist state often had to make such a redistribution of manpower, for those were the first years after the Revolution, when the Civil War was in progress, when the Revolution had to be defended against external and internal enemies. In those conditions the state retained its right to employ manpower where it considered it most needed at a given moment. That might be defence works, harvesting, famine relief, or combating epidemics. Labour conscription, *i.e.* the obligation to work where the Soviet authorities indicated, was, for those difficult years, a natural, legal and legitimate way of redistributing manpower. It can thus be said that for the majority of the population, the working people, conscription was not compulsory in nature (because they worked voluntarily) but obligatory.
>
> It was quite another matter for the elements who did not work, the remnants of the exploiter classes, deprived of political power by the Revolution and evading social labour (by virtue of property retained). It was necessary to draw them into labour and make them work, because they did not want to work voluntarily. For those elements - but only for them - labour conscription really was compulsory and functioned as the legal implementation of the principle of the socialist revolution, that he who does not work, neither shall he eat [29].

* * *

"In the final analysis it is labour productivity that decides the victory of the new social order". With these words Lenin (1919) [30] summarised the grand theme of War Communism. But his high hopes were soon defeated, and as the declining production threatened the economy as well as the Bolshevik regime with complete disaster, a retreat

in the form of the New Economic Policy (1921-1927) became unavoidable. The name was a misnomer, for in truth it meant a return to a policy of the old type, involving a relatively free market economy in contrast to the tightly controlled, monolithic system of War Communism. Much to Lenin's regret the workers had not fully co-operated with their leaders in creating the communist order; they quite unreasonably protested against the privations they were asked to bear for the sake of the Revolution and persisted in regarding Soviet enterprises in much the same light as they had regarded their former capitalist employers. In other words, they were no more disposed to work for nothing under the "dictatorship of the proletariat" than they had been under the autocracy of the Tsar. The Bolshevik leaders found themselves impelled to restore the old order within certain limits. The result of this seven year retreat into "capitalism" was a rapid revival of the nation's economy and a consolidation of Bolshevik power. By 1927, the situation was sufficiently stabilised for the Bolsheviks to resume their course toward communism but now along a different road - that of the Five Year Plan - and soon under the dictatorship of a very real person - Stalin - rather than the ideological myth, the "proletariat".

The NEP obviously required, if not an entirely new labour legislation and general labour policy, at least major adjustments in the legal and political foundations laid for War Communism. One of the basic changes brought about by NEP was the abolition of labour conscription, except in cases of emergency. In 1922 the government published a comprehensive Code of Labour Laws, designed not only to take care of the demands of the tactical situation created by NEP but also to systematise legislation on a permanent basis. (Actually, the Code remained valid on paper until the late 1950s, although very little of it survived the numerous amendments that were subsequently enacted by administrative fiat, often without even being published.) Whilst the old (1918) Labour

Code, after the introductory paragraph, opened with a declaration on the principle of general labour service, the new one began by laying down rules for the engagement of labour on a voluntary basis. Workers were given the right to take and leave employment without hindrance. The obligation to work did not lose its force, although its form was altered. Instead of direct distribution of manpower by the state, indirect regulation of the supply and demand for labour came in, taking into account the mutual interests of workers and enterprises. The labour contract became the basic form of recruiting labour instead of labour conscription, a contract guaranteeing the citizen free choice of place of work and kind of job. It was to remain the fundamental institution of all Soviet labour legislation. Through the labour contract the universality of labour combined unity of the right to work and the obligation to work. Every citizen HAD to work, but he or she had the RIGHT to choose for himself or herself the kind and place of work.

The new, more liberal trends in the recruitment of labour were, however, concurrent with a growing economic crisis and a reorganisation of the entire industrial structure, which together entailed increasing unemployment. On 1 January 1922 there were only 141,000 unemployed registered at the labour exchanges [31]; by the end of the year the number had quadrupled [32]; and by the middle of 1924 had increased to 1.369 million [33]. At the Sixth Trade Union Congress (November 1924) the Commissar of Labour contended that analysis of the unemployment statistics showed that about 20-25% of the total consisted of fictitious, that is to say "professional", unemployed, *i.e.* people not anxious to get work but desirous of drawing the dole and enjoying the privileges accorded to the unemployed. The government had already taken steps to "cleanse" the genuinely unemployed of these parasitic "*l'gotniki*". An April 1924 decree of the Peoples' Commissariat for Labour deprived the unemployed who refused to be sent to

public works of their right to benefits [34], and over the next few years several more pieces of legislation were enacted in order to remove the "bogus unemployed" from the job register: for example, in March 1927 an order was issued to the effect that "only the real unemployed" were to be registered as job applicants by employment exchanges [35]. Only those applicants were admitted to registration who had held jobs before and could prove "previous employment" of a certain length of time. These restrictions were mainly aimed against the influx of job seekers from the countryside. They also formed part of an ongoing struggle to combat "socially alien elements".

Neither the 1922 nor 1926 Criminal Codes of the RSFSR contained provisions proscribing the evasion of socially useful work. Faced with the problem of spiralling unemployment, the state could not yet resort to the means of criminal law in its fight against "parasitism". It therefore directed its efforts toward the elimination of the root causes of unemployment and toward the establishment of a "socialist morality" by conducting large-scale explanatory work amongst the masses. Despite these efforts, some sections of the unemployed continued to display "distorted perceptions" about work. We have already seen that in the first years of Soviet power it was primarily the declassed elements, the representatives of the former exploiter classes, who were unwilling to perform socially useful work for the new leaders. But there were other "social parasites", members of the so-called "anomalous contingent" (*anomal'nyi kontingent*), equally guilty of work evasion within the fledgling socialist society: vagrants, beggars, alcoholics, prostitutes, *etc.* How did the state deal with these particular non-conformists?

1.3 The Struggle Against "Social Anomalies"

The Programme of the Russian Communist Party (Bolshevik), passed at its Eighth

Congress in March 1919, called for "a resolute struggle against parasitism and sponging of any kind" and "the return to a working life of every person who has fallen out of the working routine" [36]. However, it was really only after NEP that the government planning agencies began to address the task of devising specific measures to combat the problem of social parasitism. Some measures were taken during the interim years but tended to lack co-ordination and coherence. In the case of begging, for example, the Kamyshevsk city soviet in early 1919 issued an order to the public courts which in a section entitled "On Misdemeanours Against Decency, Public Order and Public Tranquility" stipulated that they should regard all cases of "begging on the grounds of laziness or through the force of habit due to idleness" as a crime and exile these "parasitic elements" by judicial sentence [37]. Instructions issued on 7 October of the same year by the People's Commissar for Social Security specified a much less punitive approach:

> Up till now, one may well have come across people on the streets who are begging for alms. I propose that immediate measures be taken to eradicate this. Those asking for charity must immediately be taken to *raspredeliteli*, from where they can be assigned to specific jobs. Those who are suffering from an illness must be sent to hospitals or sanitoria, the healthy - to the labour exchange, semi-invalids - to labour communes or workshops for training, the *besprizornye* (homeless waifs) - to orphanages, and nursing mothers - to mothers' and children homes. Begging is a disgrace to Soviet Russia. All social security departments must forthwith set up *raspredeliteli* for the purpose of assigning beggars to the institutions noted [38].

Opinions were particularly divided on the question of how best to tackle prostitution. An Interdepartmental Commission for the Struggle Against Prostitution affiliated to the Peoples' Commissariat for Social Security RSFSR was established in 1921. One of the first directives to its employees in the provinces read: "Prostitution ... presupposes the existence of two parties - the victims being exploited (women) and

those who are exploiting (clients, pimps, *etc.*); the former, of course, cannot be subject to any repressive influence and are only in need of the social help of the state; the clients deserve the most severe moral and political condemnation. It would not at present, however, be expedient to make them the subjects of judicial, repressive pressure (this of course does not apply to clients of child prostitutes, who must be regarded as very dangerous criminals) ... for the use of a prostitute is often the result not of criminal intent, but of an inadequate social consciousness" [39]. The People's Commissariat for Internal Affairs, however, believed that this "hands off" approach afforded "base elements" far too much room in which to continue their "depraved practices". It therefore drew up a draft scheme for the creation of a "morals militia" (*militsiia nravov*) designed to imitate Tsarist police tactics of "supervision" over prostitutes. The scheme was greeted by public outcry. It especially enraged Klara Tsetkin who wrote to *Izvestiia* complaining:

> The morals militia is incapable of raising the morality of the people. Its activity, the measures connected with it, scandalously bear a character designed to shame, while opening doors widely for persecution, vengeance, extortion, *etc.*, thus impeding a prostitute's return to a working life [40].

Such public condemnation turned the proposed scheme into a virtual non-starter. Instead, a sort of middle-ground approach was adopted in the form of instructions issued by the Central Administrative Directorate of the NKVD in 1922 to the regular militia, which was ordered to fight prostitution along the following lines: by uncovering dens of debauchery and arresting all persons who were making a living from pandering and keeping brothels (they could be prosecuted under Articles 170 and 171 of the 1922 RSFSR Criminal Code and if convicted faced a minimum term of three years imprisonment); by placing prohibitions on the use of public places and places of entertainment for the purposes of prostitution; at the same time, the militia agencies

were not permitted, upon the discovery of a brothel, to take any direct repressive action against either individual prostitutes or their clients [41].

On a more general level, there was a sharp division of opinion with regard to the strategy thought best for combating the whole phenomenon of social parasitism. On the one hand, some specialists argued that vagrants, beggars, *etc.* should be considered not only "socially parasitic" but also "socially dangerous" individuals, since they were prone toward the commission of crimes [42]. According to this viewpoint, the existing practice of banishing them from and/or exiling them to particular places was the best line of approach. On the other hand, there was a growing belief that a definite distinction had to be made between socially dangerous, declassed elements and "backward", socially parasitic members of society, and that the fight against the former should be set apart from the one against social parasitism in general [43]. Thus, at a conference of the People's Commissars for Internal Affairs of the Union and Autonomous Republics held at the beginning of 1926, a motion proposing that all beggars, alcoholics, prostitutes and vagrants be deemed socially dangerous was rejected since this would have meant "having to identify them with the déclassé in general". The delegates decided, however, that the administrative agencies should be given the right to refer individual vagrants, beggars, *etc.* to the courts if they believed those individuals represented a public danger. At the same time, the practice of exiling these people was criticised: a more effective struggle could be waged against them, if they were placed in special labour colonies [44].

During 1926-1927 preventive measures were increasingly brought to the fore. Special attention was paid to those migrating from the countryside to the cities in search of work. Auxiliary employment agencies, so-called "correspondence points" had been created in rural regions: their first task was not to further employment but mainly to

curb the invasion of the urban labour market by rural migrants. Unskilled peasants who could not find work on the land nevertheless still continued to flood into the cities. They were of little practical use to the country and became victims of the ruling made when mass unemployment set in that non-union workers never before gainfully employed could not register with the labour exchanges. Moreover, because of a strict closed-shop policy, they were caught in a vicious circle of no union card - no work, no work - no union card. In short, they were left to fend for themselves. Destitute and homeless, they were forced to beg and live a wretched hand-to-mouth existence. In a number of cities Commissions for Combating Begging and Adult Homelessness were set up: during the second half of 1926 alone almost 4,500 people passed through the Moscow Commission (2,800 did so voluntarily, the rest forced to do so by the militia) [45]. These Commissions were supposed to render their clients some financial assistance in the form of a once-only allowance, but owing to the meagre budgetary resources being allocated to the social security agencies, they were often in no position to offer real help. In most *gubernii* beggars and vagrants only received about five roubles [46], which fell far below the subsistence minimum in these years.

By now, the Soviet government had a fair idea about the composition and structure of the "anomalous contingent": *e.g.* the 1926 All-Union Population census revealed that it comprised approximately 150,000 people (roughly 48,000 in urban settlements and 102,000 in rural localities), the overwhelming majority of whom were vagrant paupers - 134,000 (42,000 in cities, 92,000 in the countryside) [47]. It ordered *Gosplan* to use this data as a basis for drawing up a co-ordinated programme of state action to deal with the problem. The foundations of the programme were laid in the first Five Year Plan (1928-1932) which set the task of a "wide-ranging organised struggle against SOCIAL ANOMALIES in accordance with the national economic situation" [48]. The Plan

identified alcohol abuse as one of the main factors provoking anomalous and deviant behaviour and proposed that a struggle against this "evil" be developed in three basic directions: (i) By a reduction of the manufacture and sale of alcohol. It projected that the sale of vodka in cities would be reduced by up to 50%; but, much to the consternation of temperance activists, it further added that "the produce which is being freed in this way shall be sent, in part, to those rural districts with the highest incidence of illegal home-brewing" [49]. (At the Fifth All-Union Congress of Soviets, Iu. Sarin, the president of the "Society for the Struggle against Alcoholism", condemned the policy: "You, the workers, are liberating yourselves from vodka in the city, but are making drunkards of us, the peasants" [50].) This was to be backed up in the countryside by cultural-educational measures and by an intensification of administrative pressure against the distillation of *samogon* (bootleg vodka). The authorities had, in fact, already launched a repressive campaign against the "epidemic" of home brew. A government decree on 27 December 1927 ordered sanctions against all forms of illegal distilling, with punishments for brewing for personal use running up to one month of forced labour or a 100 rouble fine [51]. The Plan remained silent, however, on how the revenue lost by the restriction of alcohol sales would be compensated for in the budget; the state, after all, had reintroduced its vodka monopoly in the early 1920s primarily out of fiscal necessity - as a means for combating rampant inflation and stabilising the budget. (ii) By the activisation of medical-compulsory measures. Concrete indicators were set for the expansion of a network of institutions to enforce these measures: the creation of 1,250 "sobering up" stations (*vytrezviteli*); 320 surgeries for the treatment of alcoholics; 2,000 places in treatment-labour colonies; 3,800 beds in medical establishments for those suffering from alcohol-related mental illnesses such as alcoholic psychosis [52]. (iii) By the improvement of anti-alcohol propaganda aimed at educating the public to the

dangers of drinking and thus preventing alcohol problems.

The rather shaky statistical evidence available suggests that the plan for the struggle against alcoholism was partially successful. Restricted vodka sales and stepped-up militia efforts to apprehend chronic drunkards did combine to reduce drunkenness sharply in large cities [53]. Yet progress on this score appears to have been more than balanced by an expansion of private distilling in the countryside. The Presidium of *Gosplan* complained in March 1929, for instance, that "the reintroduction of the government vodka monopoly five years ago for the purpose of supplanting *samogon* in the countryside has had no effect in reducing the level of home distillation" [54]. Furthermore, the Central Statistical Administration of the RSFSR in the same year conducted the single most comprehensive study of alcohol use in the whole of the 1920s. Over the course of the year, the staff of the administration's Section of Moral Statistics gathered detailed information on official vodka sales from *Tsentrospirt* (the state agency responsible for alcohol production) and estimates of home brew consumption from over 25,000 local correspondents. Based on this and other data, the statisticians concluded that private distilling had fallen over the course of the decade, but the decline had occurred almost exclusively in the cities. Overall consumption rates in town and village had risen, rivalling pre-war totals [55].

The only "anomalies", which the Plan predicted would be completely "liquidated" during the period of its operation, were those of child homelessness and delinquency. The social upheavals of revolution and civil war had left many children orphaned and homeless, and they roamed the countryside and cities, frequently in bands, stealing and occasionally killing in order to survive. They (the *besprizornye*) numbered in the millions and presented a public-order problem of massive dimensions. Bringing these bands of homeless youth under control was scarcely accomplished when, at the end of

the 1920s, new social upheavals came with Stalin's programmes of forced collectivisation of the countryside and rapid industrialisation; and in their wake, juvenile delinquency was again on the increase. Migration from the countryside to newly developing industrial centres strained the capacities of formerly peasant families to survive as functioning units in the new surroundings and to control the behaviour of their children. The severe economic deprivations of the Five Year Plan increased these pressures, and the delinquency rate, especially in the large cities, continued to rise [56].

19.7 million and 23.4 million roubles were allocated for the struggle against begging and prostitution respectively. Over the five years, around 600 places in *raspredeliteli* and 5,000 places in temporary residence homes were to be created for both beggars and prostitutes; a further 8,000 places were to be set aside for beggars in workhouses and 9,000 in labour communes of an agricultural and handicraft type for prostitutes; the most malicious of these two categories were to be sent to labour colonies and labour *profilaktori* respectively [57]. The Plan did not specify the duties and functions of the agencies responsible for its implementation, but the gaps in this area were quickly filled in by two joint decrees of the All-Russian Central Executive Committee and Council of People's Commissars RSFSR passed in the summer of 1929. The first, "On Measures to Combat Prostitution" (26 July) [58], set down the different tasks of the People's Commissariats for Labour, Social Security, Health, Education, Justice and Internal Affairs with respect to various categories of prostitute - unemployed single women, girls who had recently been released from children's homes after reaching the age-limit, homeless indigent women, those in need of medical care, healthy professional prostitutes, *etc.* - and specified increased criminal penalties for keeping dens of debauchery, pandering and drawing minors into sexual relations. The second decree, "On Measures to Eliminate Begging and Adult Homelessness" (26 August) [59],

gave precise directives to those institutions carrying out labour re-education work amongst beggars and vagrants: *raspredeliteli* were instructed to investigate the "socio-economic status" of all those citizens conveyed to them by the militia and to ensure that they underwent a medical examination so that they could be assigned to appropriate institutions, *i.e.* handicapped persons - to invalid homes, the aged - to old peoples' homes, the young and able-bodied - to either state enterprises or agricultural colonies or labour re-education establishments with a special regime (primarily for those who had been engaging in begging professionally and whose "re-education" was thought to require a longer period of labour influence). The activities of this latter institution were regulated by a special statute [60] which stated that only those beggars and vagrants who possessed a full capacity for work and who did not merit isolation from society, that is, who were not particularly malicious, could be accepted. They were to work an eight-hour day with fixed rest days and be given a two-week holiday period per year. Violation of the internal work rules would entail the imposition of disciplinary penalties up to their transfer to an institution of a closed-type with compulsory confinement (the Statute did not expand on the exact procedure for this). In accordance with other governmental decisions, these labour re-education institutions were not required to pay local taxes and duties, legal expenses, state income and business taxes [61]. All persons released from them were to be given special assistance in job placement by the labour exchanges as well as a temporary monthly financial allowance to tide them over until they secured a permanent job and accommodation. In some places, however, for example the Central Black Earth and Western *oblasti,* employees of the social security departments were reported to have ignored or "bureaucratically perverted" their responsibilities with regard to the ex-inmates, taking no measures whatsoever to help return them to a working way of life and even depriving them of the monthly allowance.

In so doing, they basically forced the former beggars and vagrants "to re-engage in their anomalous pursuits, driving them underground, where they had no alternative but to pursue a wholly parasitic existence" [62].

Again, there is no real reliable information concerning how successful the Plan was in meeting its target of a "sizeable reduction of the anomalous contingent". According to the calculations of N. Toporkov, its number at the end of 1931 stood at approximately 75,000 (*i.e.* half that of 1926) and comprised: 37,500 homeless adults (50%), 24,000 persons who had temporarily fallen into need (32%), 10,500 professional prostitutes (14%), and 3,000 beggars (4%) [63]. But, there is other evidence to suggest that these figures woefully understated the true scale of the problem. For example, 2,200 beggars were arrested in Leningrad alone over a three month period (June to August) in 1933. They formed the basis of a study conducted by N.I. Markozov [64], who split them into two distinct categories: the disabled (812 or 37%) and the able-bodied (1,408 or 63%). The first category encompassed war and industrial invalids, those who had lost their ability to work as a result of an accident, the blind, deaf-mutes, the mentally ill, all of whom lived in either homes for invalids, hostels or with relatives. The majority of them received some form of disability allowance or were dependent on relatives, although a few had jobs in special workshops, *i.e.* were salaried workers. Their main motives for begging ranged from the semi-acceptable - to "earn" their own living so as not to be such a financial burden on their families or state institutions, to the downright despicable - to obtain money for vodka. The second category was more diverse and complex in composition. Markozov divided it into three subgroups: those who had come to Leningrad from the countryside and small towns but had been unable to find work and accommodation (721 persons); former workers who had been dismissed from the jobs on account of absenteeism, drunkenness, *etc.* and the temporarily unemployed

(536); and members of the families of collective farmers from the surrounding rural localities who were not enlisted in public work (151). He concluded that although there were some inveterate parasites within these groups, there were also many others (particularly in subgroup one) who had been forced to beg out of dire necessity. However, the atmosphere now prevailing in Stalinist Russia made the drawing of such a distinction an increasingly difficult task. By 1933 the official line of thinking was that with the virtual completion of collectivisation and the liquidation of unemployment in the Soviet Union (see below) the factors giving rise to social anomalies had been destroyed. There were no excuses whatsoever for citizens having to resort to begging, prostitution, vagrancy, *etc.* Those doing so were now identified as "class enemies" who like the *kulaks* and other similar elements opposed to the principles of socialist construction merited deportation to labour camps. Tens of thousands were shipped off to the camps in extrajudicial procedure and at the end of the decade the government proudly proclaimed the "complete and final elimination of begging and vagrancy in our country" [65].

1.4 Stalin's Labour Laws

The 15th Party Congress in December 1927 marked the close of the period of liberalism in economic policy. A formal resolution was adopted that the country was to advance rapidly and unequivocally towards socialism. It was also decided that, as industry had nearly regained its pre-war standard, the time was ripe to begin the programme of industrialisation, which was to fit the country for socialism and eventually communism. By mid-1929 the labour market showed the first signs of shortages. Some observers pointed to a "deterioration" in distribution of unemployed. Out of the 1,335,000 unemployed registered with the employment exchanges on 1 April 1929, only 349,000,

less than one-quarter, were industrial workers [66]. Bottlenecks in the supply of labour for industrial employment were already foreseeable; though no one dared yet to think that unemployment might vanish.

The First Five Year Plan envisioned a reduction of the unemployed from 1,135,000 in April 1928 to 511,000 by April 1933 [67]. The annual plan for the year 1929/1930 reckoned with a more modest decline: to an annual average of 1,106,000 against 1,224,000 in the preceding year [68]. It was not until early 1930 that the basic changes taking place in the labour market began to be understood.

The first definite drop in unemployment appeared in the winter 1929-1930. Details were given in *Voprosy Truda*, the official periodical of the People's Commissariat for Labour:

> Sharp declines in unemployment were observed in Moscow and Leningrad where it had been rampant up to the preceding year. In Moscow the total number of unemployed receded from 302,000 on 1 April 1929 to 169,000 on 1 April 1930, a decrease of 44%. The decline was still greater in industry proper where the number of unemployed fell from 51,500 to 20,500, *i.e.* more than 60% .... A heavy decline in unemployment also was recorded in Leningrad, where it was most clearly visible in industrial categories: 42.1% among metal workers, 39.0% among textile workers, 36.4% among clothing workers; at a slower pace among unskilled workers where the decrease was 22.5%, and among non-manual workers, where it was 28.7% [69].

Acute country-wide worker shortages began to hit almost all branches of Soviet industry in 1930. In particular, the inadequate manpower supply created bottlenecks in industrial construction and other important construction projects. The transformation of the labour market necessitated the introduction of new labour policies which heralded a shift from a controlled labour market to a directed labour supply, to the manipulation of manpower, *i.e.* the planned allocation of the manpower to the individual industries and individual plants.

Under a decree of the Council of the People's Commissars, "On Measures for a Planned Manpower Supply of the Plants, for the Training of the Labour Cadres, the Organisation of the Labour Market, and the Battle Against Unemployment ", issued on 14 February 1930 [70], the labour exchanges were empowered to deal severely with the jobless worker who refused an offer of a job or of vocational retraining. A whole series of subsequent measures narrowed the freedom of the unemployed to accept or reject work. They need not be discussed in detail as they were soon suspended by a Party decree of 9 October 1930 [71], which announced that unemployment was now abolished. It was an epochal step. Benefit payments to the unemployed were immediately stopped, signalling the end of unemployment insurance in the Soviet Union for the next seven decades. Some of the decree's clauses merit special attention: "The unemployed are to be given jobs not only within their vocational qualifications but also other work requiring no special skills". And: "With the sole exception of sickness attested by a medical certificate, no reasons for refusing work shall be accepted".

The "absence" of unemployment in the Soviet Union became an unimpeachable tenet and, as we shall see, served as a justification for the launch of an anti-parasite campaign in the 1950s, and as a basis for the criminalisation of parasitism in 1970.

Simultaneously with the abolition of unemployment new measures were introduced to secure a supply of manpower for the economy according to the plan and to combat the rampant over-mobility of labour. Workers who acted as "malevolent disorganizers of production" by leaving their jobs for any unacceptable reasons were excluded from employment for six months [72]. The measures adopted by the Soviet authorities to counteract labour turnover and to achieve a certain stability in the labour force ranged all the way from severe criminal punishment (jail sentences) to material rewards (vacation privileges, housing for workers, differentiation in social security benefits,

etc.). A special instrument, designed for control purposes, was the introduction in 1932 of a domestic passport compulsory for urban and industrial persons over sixteen years of age [73]. The obligation to carry a passport was, according to the text of the decree, directed against "persons not connected with either production, administration, or education". Commenting on it, *Pravda* indignantly referred to "hundreds of people, class-alien or declassed, who pour into new industrial construction projects, dream of easy money, and seek to disrupt the iron discipline of socialist work". Passports were to help purge the giant industrial construction projects and government enterprises of "floaters" and "money grabbers". The polemics could scarcely disguise the real objective, which was to tie the workers more firmly to their jobs. In fact, the passport turned into a labour passport. The decree (27 December 1932) obliged every employee to show his passport in applying for work, and every employer to enter the bearer's place of work in the passport. Seasonal workers got identification papers in lieu of passports, not valid for more than three months and only to be extended, under regulations issued on 14 January 1933 [74], upon application by plant management - *i.e.* the employer. The passport thus became an instrument for the control of workers' migrations and, indirectly, an efficacious device for binding workers to the plants. Its effectiveness was increased by the fact that it was introduced at the beginning of 1933, when cutbacks in employment were considered for the first time in ten years, as well as by newly introduced amendments to the Labour Code. Article 47 of the Code dealing with *progul* - absence from work without valid reason - had been thoroughly revamped on 15 November 1932 [75]. Employers were now obliged (not merely entitled as previously) to discharge absentees without notice: and one day of unjustified absence sufficed. A dismissed truant was to be relieved of the food cards and merchandise coupons issued to the employee in connection with his job, and was to be evicted from

any dwelling furnished to him by the plant.

The 1936 USSR Constitution set down the legal basis upon which the government could enact laws and issue decrees to limit the liberties of the workers, as, for instance, in regard to choice of job and freedom to change jobs or move to another place of work. Adopted at an extraordinary congress of Soviets on 5 December 1936, it contained a number of articles and sub-articles specifically concerning labour. There was, in the first place, Article 12. In accordance with the original Marxist party programme it established work as everybody's civic duty, not just a moral obligation of the Soviet citizen but as a legal duty (*obiazannost'*) enforceable by the state. It also confirmed the "fundamental principle of socialism", which was that everybody was required to work according to his abilities and qualifications and was to be paid according to the kind and quantity of the work he performed. At the same time, Article 118 stated the Soviet citizen's right to work and earn wages. This was a general statute and was listed first among the "Fundamental Rights and Duties of Citizens" (Chapter X). It was closely related to Article 12, on work as a civic duty, although the latter was, for special emphasis, and other reasons, placed in Chapter I, which dealt with the structure of Soviet society (social class, soviets, economic institutions, forms of property, *etc.*), rather than next to the right-to-work statute where it logically belonged. Considered by itself, the right-to-work statute appeared to be a solemn promise of the state to the citizens that they would never suffer the hardships of unemployment. Such a promise had great political appeal and was particularly calculated to impress the masses in the crisis-ridden capitalist countries. However, the statute did not stand alone, but in the shadow of Article 12, subordinate to the latter, and could neither logically nor politically be separated from the declaration that work was compulsory. Article 118 consisted of two paragraphs. The first one stated: "Citizens of the USSR shall have the right to

work, that is, the right to receive a guaranteed job with payment for their work in accordance with its quantity and quality". It said nothing about the kind or the place or condition of employment except for rephrasing the socialist rule already affirmed in Article 12 - "to each according to his work". It omitted any reference to any civic right or freedom for the individual to choose either the place or the kind of work and to move to whatever place or job he chose. The "right to work", offered as a privilege *in abstracto*, merely became another way of asserting the "duty to work" expressed in Article 12. Command and compulsion, administered from above, and not the autonomy of the working individual was the essential fact. In other words, the paragraph still left it to the discretion of the government, not to the worker's own choice, how or where he had the right to be employed (and the obligation to work). The second paragraph merely explained how the government expected to make good on this "guarantee": "The right to work shall be guaranteed by the socialist organisation of the national economy, the steady growth of the productive forces of Soviet society, the eradication of the possibility of economic crises, and the liquidation of unemployment". One final point worth noting was that the 1936 Constitution (in contrast to that of 1918) did not mention the aim of "eliminating the parasitic strata of society". This, in the words of A.S. Pashkov and B.F. Khrustalev, was a "reflection of the historical fact that the exploiting classes in the country had been completely eliminated" [76].

These two writers went on to point out that the outbreak of World War Two "dictated the necessity of introducing restrictive labour laws" [77]. In fact, the war did not cause any fundamental reversal in the labour policies of the Soviet Union. The inherent laws governing the development of a totalitarian dictatorship and manifested in the Soviet-Russian labour policies had slowly permeated the whole organisation of labour with the principle of compulsion even before the Soviet Union entered the war.

The war simply brought the development to a logical conclusion. Pointing the way, in this sense, were the measures which had been carried out already in peacetime, in the summer and autumn of 1940. On 26 June the Supreme Soviet had proclaimed the "transition to an eight-hour working-day and a seven-day working-week and ... the prohibition for workers and state employees against arbitrarily leaving enterprises and institutions" [78]. Spontaneous mobility without the employer's consent was a criminal offence from now on, liable to punishment by imprisonment for up to four months. Truancy, *i.e.* unjustified absence from work, was also made criminal and punishable with up to six months of "corrective labour". (The "truancy" concept was stretched in practice by the broadest possible interpretation: its meaning was broadened to extend beyond lateness of over twenty minutes in coming to work - this rule had been introduced in January 1939. It now also meant being late after the lunch recess, or leaving early either for lunch or at the close of the work period; "loafing on the job" (*bezdel'nichanie*) for more than twenty minutes; refusal to work overtime, *etc.* [79].) With these provisions, employment ceased to be a free contractual relationship. As a rule it began with an employment contract; once begun, however, it became a relationship founded on the principle of compulsory labour. Aside from a few cases enumerated in the statutes, employment was no longer terminable by the employee.

On 2 October 1940 came a decree establishing State Labour Reserves [80]. This was a large-scale compulsory mobilisation of young workers, combined with a new system of technical and vocational training. Then, on 19 October, the federal ministries concerned were authorised to impose upon certain categories of technicians and skilled workers compulsory transfer from one enterprise to another, regardless of geographic location [81]. With this decree, practically all elements of a system of compulsory labour were at hand. The only thing lacking was an administrative set-up to make this

system operate as a co-ordinated compulsory organisation of work processes. Nevertheless, it meant that as far as the labour force was concerned, the Soviet Union had the institutional basis ready for the war when it came the following year.

The central piece of wartime labour legislation was an Edict of the Presidium of the USSR Supreme Soviet "On Responsibility of Wage and Salary Earners Employed in War Enterprises, in Cases of Unauthorised Termination of Employment" issued on 26 December 1941 [82]. It aimed at "unconditional freezing of wages and salary earners in enterprises of the war industry". All manual and non-manual workers, regardless of sex or age, were pronounced "mobilised" and "tied for the duration of the war to the establishment employing them". An employee who quit his job without specific authorisation was a "deserter" liable to imprisonment of five to eight years. Other measures followed in rapid succession dealing primarily with wartime labour conscription [83]. The decrees governing conscription were repealed soon after the war's end. However, the labour laws of 1940, though supposedly enacted for the wartime emergency, remained formally valid until 1956. The worker remained tied like the serf of old to his place of work and absenteeism (if "unjustified") continued to be a criminal offence liable to strict punishment. Like every Soviet citizen, the worker had to suffer the terrorist practices of Stalin's police state. His movements were controlled and restricted by laws and by the legal and extralegal practices of the state police. Only in 1951, as a first sign that the pressure was diminishing, were the criminal penalties for absenteeism reduced or, in less serious cases, abolished [84]. Other violations of the Labour Code were also more leniently handled than before, though the law remained unchanged. Sanctions were quietly dropped and eventually, with the death of Stalin, both absenteeism and leaving one's job were formally decriminalised. A decree of 25 April 1956 [85] restored freedom of movement to workers, and they recovered their

right to give notice to quit. They were no longer obliged, under threat of criminal persecution, to stay put in the job they happened to hold unless they wanted to, or to let themselves be transferred to another place of work against their will. According to the decree, due to "the growth of the workers' consciousness ... the existing legal responsibility of the workers ... is no longer necessary and can be replaced by measures of a disciplinary and social nature". What followed, however, was a sequence of anti-parasite decrees authorising the use of extralegal coercion against all those Soviet citizens displaying a negative approach and negligent attitude toward their labour obligations.

CHAPTER 2

KHRUSHCHEV'S CAMPAIGN AGAINST PARASITES

2.1 INTRODUCTION

The Bolsheviks, in 1917, were obsessed with the idea of total annihilation of the existing "bourgeois" law and judicial system. For Lenin, the guiding principles of justice, infusing his *State and Revolution*, were these: smash the old state machine and set up new revolutionary organs of repression; make these tribunals simple, informal, and open to mass popular participation; be sure that law is subordinated to revolutionary goals of the party elite since no law is independent and if it does not serve the Bolshevik purposes it will be serving the purposes of counter-revolutionaries; do not hesitate to use merciless force but look forward also in practice to the eventual "withering away" of coercion. Immediately after the Revolution, an attempt was made to introduce a system of POPULAR JUSTICE: all sorts of local tribunals - provisional peoples' courts, peoples' civil courts, public honour courts, *etc.*, - were set up by the workers under the aegis of the new ruling party. Judges and peoples' assessors (lay judges) of some tribunals were elected by the people, others appointed by local soviets or their executive committees. To promote "widespread participation of the masses", terms of office were short, a month or two; trials proceeded before the public, which could question the accused or witnesses and serve as "accusers" or "defenders" without any special qualifications. The endeavours to establish popular justice were soon, however, to end in failure, and the new regime found itself forced to re-establish traditional practices of law enforcement and procedure. In the early 1920s, new legal codes were promulgated in various branches of law, and the legal system was once again placed in the hands of

professionals.

During the Khrushchev era, the concept of popular justice was resurrected. As a prelude, at the 20th Party Congress in February 1956, he launched a scathing attack against the "violations of socialist legality" that had occurred during Stalin's rule. Good communists had suffered under the "cult of personality", and it was now the task of legal science, guided by the party, to strengthen and perfect the legal system so that such abuses could never recur. The regime wanted to signal to the population that it intended to rely on PERSUASION rather than terror, that a more rational legal system was being designed to protect the rights of society and the individual. Then, beginning in 1957, Khrushchev added another dimension to law reform: the popularisation of the administration of justice. He introduced a system of dynamic social control designed to supplement or substitute the legal process with extrajudicial social pressure. Under this system, societal-level pressures were brought to bear upon socially-deviant citizens through social institutions of peer regulation. This "legal populism" took the forms and shapes of anti-parasite proceedings in amorphous social assemblies, free-wheeling comrades' courts, and frequently overly zealous *druzhiny*, or peoples' guards, patrolling the streets and public places.

2.2 THE FIRST ANTI-PARASITE LAWS

The first step in Khrushchev's efforts to enlist popular participation in punishing "antisocial elements", came in the form of "anti-parasite laws" directed against persons hard to convict for specific crimes but still living in a shadow economy of private speculation, prostitution, handouts from rich parents, vagrancy and begging. Some Soviet citizens were taking advantage of the end of Stalinist terror to acquire wealth

illegally, others were simply loafing about, exhibiting an unsocialist attitude towards work. These people could not easily be reached by the ordinary processes of criminal law, especially with the more rigorous standards introduced by the post-Stalin law reforms.

The idea of employing special non-judicial methods of trial for "anti-social, parasitic elements" first appeared as a legislative phenomenon on the Soviet scene in the spring and summer of 1957, when draft laws began to appear in republican newspapers. Estonia was the first to publish its *proekt* on 3 April 1957, ostensibly originating from that republic's Supreme Soviet and citizens were invited to discuss the provisions of the draft law publicly. Analogous actions were taken during the same month in five other union republics and during the following month by yet three other republics; all republics had published draft laws by the end of August 1957 except for the Ukraine, which delayed until May 1958 to do so [1]. In all republican versions the main provisions were substantially identical, although interesting alterations of individual features occurred in some cases [2].

The outstanding unique feature of these draft laws was the authorisation for a "general meeting" (*obshchee sobranie*) of citizens divided by residential units, whether urban or rural, to constitute itself as a trial organ for adoption of a "social sentence" of exile with regard to any neighbour accused of being a "parasite". The "general meeting" was conceived as an *ad hoc* gathering of the adults of the corresponding residential unit, conceived for the purpose of the specific trial at hand and which ceased to exist with each adjournment.

The draft anti-parasite laws meticulously refrained from making the trial of parasitic elements analogous in any way to the existing judicial procedures and wholly bypassed the state court system in the conduct and execution of parasite trials. Despite

its brevity (only five operative paragraphs in most republics), the legislation of 1957 embodied three separate laws; or perhaps more precisely, it provided three different procedures for dealing with three different types of offenders considered to fall within the general definition of "antisocial, parasitic elements". The first category were the able-bodied parasites upon whom a "social sentence of exile" might be pronounced by a "general meeting" of the accused's neighbours (Articles 1-3) [3]; second, vagrants and beggars could be sentenced to the same penalty of exile for a period of from two to five years upon the sentence of a people's court (Article 4); and, third, invalids and the disabled who engaged in vagrancy or begging could be compulsorily confined to special homes for invalids upon a decision of the executive committee of the local soviet (Article 5). These three might easily have been issued as separate legislative acts; the rationale for grouping them into a single draft law presumably was the attempt to define the concept of parasitism as something reprehensible and alien to Soviet morals and mores - a task undertaken in general terms by the long preamble to the draft law which advocated the elimination of all types of parasitic elements from contemporary Soviet society. The problem of beggars and vagrants, whether invalid or able-bodied, was nonetheless irrelevant to the unique system of "general meetings" for which the draft laws became best known, an irrelevance which the legislation indirectly acknowledged by instructing the republican Council of Ministers in each case to "work out and put into effect measures to prevent and eliminate vagrancy and begging on the part of disabled persons" (Article 5). For all practical purposes, therefore, only the first three articles of the 1957 draft laws invite special attention; the main features of these articles may be summarised as follows:

(a) There were two main categories of able-bodied antisocial, parasitic elements: "those who wilfully refuse to engage in socially useful work" and "those who live

on unearned income".

(b) Trial of such persons could be carried out by "general meetings" convoked in urban areas upon summons of a "street committee" or of a social committee of co-operation under the housing administration, and in rural areas by the executive committee of the village soviet.

(c) A quorum for a valid "general meeting" was to be a majority of the adult residents in the village or relevant housing unit.

(d) A majority of the persons present could adopt the "social sentence of exile" (*obshchestvennyi prigovor s ssylke*) by means of "open voting".

(e) Although no alternative penalty to the two-to-five year exile sentence was provided, the meeting could decide to issue a warning to the accused and to set a probationary period during which he should change his way of life.

(f) The executive committee of the appropriate local soviet had to examine the "social sentence" as to its "correctness and validity" and, upon confirming it, order the exile sentence put into execution at once.

(g) A person deliberately departing his assigned place of exile was to be declared guilty of a crime and thus criminally liable.

(h) Trial by "general meeting" was forbidden in those cases where the offence "would incur more severe punishment" if the accused were convicted under the regular criminal laws.

The foregoing basic elements were common to the draft anti-parasite laws of all fifteen republics and, in some cases, these general provisions constituted the whole substance of the republic's draft. There were, however, some minor textual variations between the republican versions. The RSFSR draft law, for instance, specified that the local soviet executive committees should take up such exile sentences "within three days" and also

provided that a single apartment house might serve as the basic residential unit from which a "general meeting" might be convoked if the house contained as many as 100 adult residents. The Kazakh and Latvian draft laws specified that the exile sentence was to be served "on the territory of the republic". The Ukrainian draft omitted the requirement that exiles have "the obligation to work at the place of exile". The Tadzhik and Latvian drafts were the only ones to define the role of the militia in the system: the militia agencies were to have the responsibility for putting the sentence of exile into effect and also the right to initiate or summon a social assembly. The Tadzhik version gave the militia exclusive right to present evidence concerning vagrancy or begging. Only the Uzbek draft stated explicitly that the sentence was to be "final" upon its confirmation by the local executive committee, although this was implicit in the other republics by the failure to provide any sort of appeal procedure. The Armenian draft made subject to criminal prosecution not only those who "leave the place of exile without permission" but also those who "refuse to fulfil the social sentence", probably a reference to the problem of what should be done if the person continued his "parasitic way of life" at the place of exile, a difficulty not otherwise contemplated in the draft legislation. The Latvian draft omitted provisions about defining the quorum for a social assembly, and the Tadzhik version made no reference to a period of probation, although providing for issuance of a warning. The Uzbek draft made the probationary period more specific by stipulating that it could be set for "up to one year". Some variations appeared in the long preamble, such as the omission of the evil of drunkenness and home-brewing from the version in some of the Muslim-area republics, but the preamble variations were mostly of an editorial nature.

The manner in which the anti-parasite law appeared and the absence of explanatory commentaries to its vague text produced considerable mystery about its origin and its

precise political purpose. But similarity of the draft laws demonstrated beyond doubt a central origin. Khrushchev had in fact gained some prominence in party circles as early as 1949 for using "general meetings" in kolkhozes of the Ukraine to combat poor labour discipline.

> Particularly interesting is the experiment of conducting general meetings in the kolkhozes of the Ukraine, where as N.S. Khrushchev has said, the honest kolkhozniks under the leadership of the party organisations have created unbearable conditions for idlers, antisocial and parasitic elements. These meetings have helped to raise labour discipline sharply in the kolkhozes and to reduce absenteeism and tardiness for work to almost zero [4].

Further details about this experiment with "general meetings" were not mentioned; a letter sent to Stalin in the name of the Ukrainian kolkhozniks and MTS specialists from the 16th Congress of the Ukrainian Communist Party in 1949, however, showed that something more than gentle admonitions was involved. It said:

> ... We will mercilessly express and fight those who do not work and do not render the needed forces toward an upsurge of the kolkhoz economy, but want to live at the expense of honest kolkhozniks and at the expense of the kolkhozes which are working well. We will employ toward violators of kolkhoz labour discipline the most decisive measures permitted by the law and by the charter on agricultural artels [5].

Meetings of kolkhozniks for the purpose of revoking the membership of idlers and thieves had been strongly urged by Khrushchev in his report to the Central Committee of the Ukrainian CP plenum on 25 May 1948:

> Rural communists, all honest kolkhozniks, while fighting against idlers, against malicious violations of discipline, against parasitic elements are clearing the way for the even more successful advancement along the path toward communism .... We must decisively fight against a formal approach to the problem of strengthening labour discipline and improvement of the organisation of labour. Some leaders do not have the necessary political acuity, have not developed a taste for questions of struggling for the strengthening of labour discipline. What is needed is Bolshevist ardour in the work.

> Bolsheviks have no right to avoid putting the question sharply when the matter concerns the fight against ... idlers, parasitic elements, pilferers of public property - against all those who sit on the shoulders of honest kolkhozniks and who prevent the kolkhoz from rapidly moving ahead.
>
> Kolkhozniks must make use of the full force of the charter on agricultural artels and Soviet laws for the calling of all foot-draggers, spongers, wasters of the kolkhoz wealth to order, and must throw them out of their ranks like weeds .... We should conduct meetings of kolkhozniks at which will be discussed the question of the state of labour discipline and improvement of the organisation of labour .... By decisively condemning idlers and self-seekers in the kolkhozes ... we will more quickly create an abundance of farm products ... [6].

All this points to Khrushchev's personal role in instigating the draft anti-parasite law. He was later hailed as the originator of the "struggle against parasitism and other survivals of the past" in a *Pravda* editorial which listed his many personal innovations of policy, such as abolition of the Machine Tractor Stations, the industrial management reform, the shorter work-day, and the abolition of income tax [7], but, that said, in the spring of 1957, there was reticence to reveal the true origin of the new draft legislation. One reason for this could have been that the educational and therapeutic value of the trial in social assemblies for the audience in attendance was one feature which possibly recommended itself to the authors of the draft law, and from this point of view it would have seemed essential that initiative in creating the system not rest upon <u>fiat</u> from Moscow, which had been the hallmark of Stalinist legislative techniques. Nor was it enough that republican and local soviets simply issue decrees and resolutions; the opening of a "broad discussion" by means of public meetings and letters to newspapers was a vital part of the plan. The desired educational effect of this discussion would flow more easily from the pitting of the ideas of citizens against each other than from a dialogue between government and people or the usual lecturer-listener procedure.

The nature of the political reasoning involved in the genesis of the anti-parasite law

was to some extent clarified in the remarks made by Khrushchev at a conference of the Belorussian agricultural leaders in Minsk on 22 January 1958, when in response to a question from the audience, he stated:

> Now about loafers. When I spoke about this at the conference in Gorky, I had in mind a draft law which is intended to grant the right to kolkhozniks, workers, employees, and the whole population to decide the question of law to handle slackers, idlers, people without definite occupation, who live on some kind of unknown means. The workers have the right to check, and if it is established that such people actually are living by dishonest work and do not want to reform, to remove (*ubrat*) them from their midst .... In other words, you should yourselves find the loafers and self-seekers and take measures [8].

But these remarks left unexplained numerous problems of a practical nature which the draft law itself had failed to come to grips with. How, for example, does the state organisationally go about "granting the right ... to the whole population" to decide questions involving punishment? Against whom and for what precise misdeeds should a social assembly take action? Only the vaguest of answers to the latter could be found in the 450-word preamble to the draft law.

"A parasitic way of life is incompatible with the principles of socialism" was the preamble's first major premise. It then went on to point out that socialist society had eliminated the "social basis for the parasitic existence of some at the expense of the labour of others", that unemployment had been abolished in the USSR; that jobs and education were freely available to everyone; that the USSR Constitution had established the duty as well as the right of everyone to work in a socialist state and had established the principle that "he who does not work shall not eat"; and that Lenin himself regarded parasites as a legacy of capitalism and as "enemies of socialism" who must be combated "by measures of social influence as well as by state coercion".

With this general ideological canvas as a background, the preamble identified the

contemporary target as "people who are leading an antisocial, parasitic way of life". This loose formula was presumed to be self-defining, and discretion was left implicitly to the social assembly in its collective judgement to designate to whom it should be applied. The prohibition for consideration of specific acts subject to criminal prosecution (Article 3) also implied that the accused person was to be judged for his "way of life" rather than isolated and single misdeeds; the type of non-conformist, non-criminal behaviour patterns to which this could apply would obviously vary. The preamble offered as further guidance two definitions which helped little to make the target more specific: parasites are "able-bodied persons who perform no useful work either for society or in the family" or they also might be persons "who live on unearned income while holding a job for the sake of appearances only".

In the imprecision of these formulas Soviet jurists found convenient pretext for attacking the anti-parasite law, as will be noted. But the draft law can be seen as logically inconsistent within its own terms of reference. The two clearest types of parasites mentioned in the law, vagrants and beggars, were not to be subject to a social assembly. Gypsies, a general group whose way of life fitted well the concept of parasitism as defined, were not mentioned; they had been dealt with in an all-union decree of 5 October 1956, which branded them as vagrants punishable in a people's court by exile for terms of up to five years with corrective labour [9]. The similarity between the penalty under that decree and that proposed in the anti-parasite draft law is noteworthy.

As several critics were later to point out, there were hardly any types of deviant or non-conformist behaviour not already covered by appropriate Soviet laws or regulations, whether it was alcoholism, vagrancy, child neglect, petty hooliganism, home-brewing, violation of the passport rules, petty speculation, or immoral living. Against whom,

then, was it deemed feasible for the social assembly to play an effective practical role?

The appearance of the anti-parasite law puzzled Western observers, because it ran counter to the trend toward legal stability and restoration of "socialist legality" which continued to be the dominant note at that time in Soviet legal literature after the 20th Party Congress. To most it seemed a retrograde step, with insufficient official explanation and justification. The official Soviet silence contributed to their speculating about the ramifications of the law. They were left to their own devices in drawing historical analogies and attributing motives [10]. The most revealing criticism of the anti-parasite law was to come from people inside the Soviet Union itself, however, and to this topic attention must now be turned.

2.3 THE PUBLIC DISCUSSION OF 1957

The invitation for public discussion which accompanied the draft anti-parasite laws of 1957 was not conceived as the usual propaganda campaign designed to muster a display of unanimous opinion; it genuinely provided room for diverse views, even to the point of public disapproval of the proposed law. The apparent intention was for the discussion to serve as a public opinion sounding-board, a sort of informal referendum on the legislation being suggested.

The 1957 public discussion in Armenia was officially described by Ia. N. Zarobian, the President of the Commission for Legislative Proposals of the Armenian Supreme Soviet, as a "truly all-people's affair" with 4,200 speakers engaging in debate in Yerevan alone [11]. In Kirgizia, a total of 229,843 persons attended 2,427 public meetings, and 326 suggestions for amendments to the proposed law were directed to the press or directly to the Legislative Proposals Commission [12]. Lecturers went into

factories to give talks on the subject. For example, employees of the procurator's office in the Shcherbakov *raion* of Moscow went to the "Calibre" enterprise where they delivered a lecture entitled "The Draft Law on Intensifying the Struggle Against Antisocial, Parasitic Elements" to around 150 "engrossed" workers of the storage section [13].

The press campaign, consisting largely of letters to the editor, reports on public meetings, volunteered articles by jurists, and press reviews of letters when they became too numerous to be published in full, was also lively, if short-lived, and provided the outside observer with the only basis for judging the "broad discussion" campaign as a whole. The press materials were dominated, not unexpectedly, by simple expressions of approval of the general intent of the law, but a significant number of items delved into more substantive matters. Participants in the press discussion can be divided into two main categories: laymen, such as government officials, political activists and ordinary workers, kolkhozniks *etc.*, who approved of the drafts; and, jurists, who actively opposed them. Opinions within the first category may, furthermore, be subdivided into three groupings: those who gave unquestioning approval to the law while supplying examples of parasitic behaviour - or even designating by name individuals to whom the new law should apply in their view; those who believed the draft law to be too lenient, offering amendments designed to make it more sweeping in jurisdiction or more severe in its penalties; and, those offering suggestions on how it could be made more workable and efficient, suggesting amendments concerning technicalities but expressing no hostility toward the law itself.

The examples of parasitism cited by those in the first subgroup covered a wide range of human delinquency: chronic drunkards, beggars, vagrants, petty speculators, pilferers of state or kolkhoz property, bogus members of kolkhozes who were actually

engaging exclusively in speculative machinations [14], gamblers and prostitutes [15], hoodlums [16], *etc.* All these conceivably would fit within the conception of parasitism as laid down in the draft law. But some letter writers mentioned cases where application of the draft law would appear highly dubious. One thought it should apply to village idiots [17], another to persons who engage in domestic squabbles or who spread dirty gossip [18], and still another to persons who change jobs frequently [19]. The crew members of the floating fish factory *Novaia Zemlia* even proposed that young able-bodied persons who neglected indigent parents be deemed parasites [20]. Amongst the more unusual categories of parasites mentioned were bus-riders who avoid paying the fare [21], housewives who do not take jobs although they have received a good education [22], people who collect food scraps to feed to privately-owned pigs [23], "uncles" and "aunties" who spend hours in queues at shops when scarce goods have arrived [24], homosexuals [25], self-employed craftsmen such as carpenters or repair workers (*shabashniki* and *kalymshchiki* [26]), and those who use the municipal water supply to irrigate an urban garden plot [27]. One frustrated individual, B. Tsavkilov, a member of the Kabardino-Balkar *oblast'* committee of the party found hope that manipulation of the waiting list for purchase of new automobiles would be ended and that a new rule would arise according to which "only honest working people" would be eligible to buy new cars [28]. One morally outraged citizen thought the anti-parasite law ought to work retroactively to ensnare a former warehouse manager who was fired for dishonesty and subsequently expelled from membership of the party, but appeared to have means to continue his former standard of living for a whole year without taking another job [29]. A characteristic of this group of correspondents was that they seemed totally unconcerned about detailed provisions of the draft law.

Those in the second group found the draft's provisions too modest or mild.

A. Karimov, a worker in the Khudzhum silk-winding plant in Samarkand proposed, for instance, that the more vicious or incorrigible parasitic elements be exiled for five to eight years [30], while O. Liapunov would have forbidden parasites on second offence ever to return to their former area of residence [31]. Some argued that the penalty be more varied, such as temporary suspension of pension [32], eviction from public housing [33], withdrawal of public services [34]. The zealots also countenanced severity by suggesting that execution of the exile sentence be speeded up [35], that arrested vagrants be sentenced and exiled within twenty-four hours [36], that the probation period granted for a parasite to reform himself be no greater than fifteen days [37]. A group of residents in an invalids' home thought breaking of the rules of the home by an inmate should be treated as a crime, subject to trial in a people's court [38]. None of these respondents found any fault with the idea of the social assembly, but a few wanted the prerogative for passing judgement on parasitic elements extended even wider: to the director of an enterprise or institution [39], to the street committees [40], to the village soviet without the necessity of convoking a general meeting [41], *etc.* In this category also belong suggestions which would represent further invasions of civil rights and personal privacy. One proposal argued that neighbours should be legally empowered to demand information from a neighbour who appeared to live beyond his means about the source of his extra income [42], while another suggested that apartment house managers keep a register of the place of employment of all residents and that all changes of job be duly noted in it [43].

The third category of opinions included some who expressed reservations about the institution of the "general meeting" but who based their view on grounds of local conditions or more or less technical considerations. The Secretary of the Kirov *raion* Party Committee, East Kazakhstan *oblast'*, N. Neganov, doubted that a general meeting

could always be used in practice. (The draft law, if one recalls, proposed that a social sentence be passed by a general meeting at which a majority of the adult residents had to be present.) Neganov gave, as an example, the village of Babrovka with an adult population of 2,000. He believed that it would be impossible to assemble the majority of its inhabitants in one spot since the village did not have a hall large enough to accommodate them all [44]. Another argued that it would be difficult and not always possible to convene a majority of the residents living on the territory of the apartment house management, street committee or village for judging the case. Moreover, it would lead to red-tape, the dropping or belated examination of cases [45]. Some objected that in rural areas ties of kinship are so close that no general meeting could possibly be unanimous [46], whereas in urban areas, on the contrary, the problem was that apartment house residents are not well enough acquainted with each other to give a social assembly its intended meaning [47]. As a substitute for the general meeting, some persons proposed trial of a job-holding parasite at his place of work by the *kollektiv* because it "often knows a man better than anyone else" [48]; others proposed trial by the local soviet [49], or by the executive committee of the local soviet with confirmation of the sentence by the *oblast'* executive committee [50]. A few suggested that the best plan would be to reactivate the dormant comrades' courts in housing administrations [51].

Other suggestions in this category were directed at filling omissions and unanswered questions in the draft law. These included such matters as who has the right to initiate a charge of parasitism [52], the absence of a parole system for exiles who reform [53] or, conversely, extension of the term of exile for those whose bad conduct warrants it [54], and the failure to specify means of compelling attendance of the accused at the trial by the social assembly [55]. Among the more constructive

suggestions was one that local soviets maintain an informal employment agency or job vacancy directory so that non-employed parasites could be referred to specific jobs [56], and a similar proposal was made that the social assembly give a reference for employment to those who promised to reform [57].

2.4 SOVIET CRITICISM OF THE 1957 DRAFT

Soviet critics of the draft laws, the majority of whom were members of the legal profession, subjected virtually every single element of its provisions to searching analysis. The matters considered most seriously by the critics may be analysed conveniently under five main headings: legality, liability, the nature of the social assembly, procedure, and penalty.

(a) Legality

The most dramatic change brought against the draft law was that it violated the Constitution of the USSR. L. Aleksandrov, a state geologist in Tadzhikistan, asserted bluntly that it was unconstitutional and should be scrapped [58]. Two lawyers in Kirgizia argued that the social assemblies could not possibly guarantee a defendant's right to defence and thus could not fulfil the guarantee of Article 111 of the Constitution [59]. ("Examination of cases in all courts of the USSR shall be open, insofar as exceptions are not provided for by law, securing the accused the right to defence" - 1936 Constitution.) P. Vazikov, a jurist in Tadzhikistan, also held that these assemblies did not correspond to the requirements of Article 102, which stipulated that "Justice in the USSR is administered by the ... courts" [60]. The deputy chairman of the RSFSR Supreme Court, G.Z. Anashkin, while addressing the question of the execution

of a social sentence, pointed out that "exile will inevitably involve arrest of the condemned person and his transfer under guard, *i.e.* with deprivation of freedom. But Article 127 of the USSR Constitution and Article 131 of the RSFSR Constitution state that "no person may be placed under arrest except by decision of a court or with the sanction of a state procurator" [61].

Appeals to constitutionality did not pass unchallenged, however. The chairman of the Legislative Proposals Commission of the Latvian Supreme Soviet, N.J. Bisenieks, replying to a "group of Riga lawyers" who questioned the draft law on constitutional grounds, declared that "some lawyers do not understand the spirit of the draft law, which is to broaden Soviet democracy and to aid in drawing the working masses into the administration of public affairs" [62]. Dr I.D. Perlov accused Anashkin and others of "reducing to naught the main idea of the draft law". He countered Anashkin's constitutional objection by claiming that Article 127 would not be violated because

> exile ... is not deprivation of freedom, since the person who receives this sentence is free. It is by no means obligatory that he be placed under arrest and transferred under guard. One has to have recourse to these measures only in cases in which the person refuses to leave for the place of exile. Then the agencies which are concerned with carrying out the social sentence are obliged to turn to the procurator for an arrest warrant. Where, then, is the contradiction between the draft law and the constitution? It is an invented one. In reality it does not exist [63].

Moreover, in a constitutional justification of the anti-parasite laws, Perlov cited Article 118 which proclaimed the duty as well as the right to work of Soviet citizens, finding therein "the right of society and the State to take action against parasites within established legal procedure".

Besides the Constitution, critics also cited basic legislative acts and law codes which the anti-parasite laws would violate. G. Arenberg, a lawyer in Uzbekistan, seized

upon the question of the exile penalty, showing not only that it was regarded as a measure of criminal punishment in three historic all-union law codes (Article 6 of the Principles of Criminal Legislation, paragraph "D", Article 6 of the Principles of Criminal and Trial Procedure and paragraph "A", Article 4 of the Law on the USSR Judicial System) but that the USSR Supreme Court had ruled on 12 July 1946 that "banishment and exile may be applied by a court only if an individual is guilty of committing a specific crime". Since the draft law, under Article 3, removed from the competence of the social assemblies any case involving the commission of a criminal act, he argued that accordingly the penalty of exile could not be put legally into the hands of such non-judicial bodies [64].

Some opponents of the draft law claimed that it ran counter to the principles of justice and to the trend toward strengthening "socialist legality". A consultant in the Tadzhik Ministry of Justice, N. Bolshakov, reasoned that prosecution for living on unearned income would be prosecution on the "suspicion" that the income was illegal or criminal, and that prosecution on suspicion would be in contradiction to the principle of socialist legality and its general presumption of innocence [65]. This argument was open to question in view of the fact that the proposal to include the "presumption of innocence" principle in the new Fundamental Principles of Criminal Legislation adopted by the USSR Supreme Soviet in December 1958 was openly rejected [66]. It is nonetheless noteworthy that its advocate used this principle to criticise the anti-parasite law, and it perhaps is no accident that one of the most forceful public arguments in favour of it was published by *Izvestiia* only two days after publication of the RSFSR's draft anti-parasite law [67].

(b) Liability

The vagueness with which the draft law characterised the persons to whom it would apply provided room for the public to draw its own inferences, and as noted previously, the public generally assumed that the law was designed to entrap petty local offenders and community nuisances. Criticising the draft law on these grounds, V. Grebenshchikov, the director of the Kazakhstan State Medical Library, thought it "somewhat extreme toward the people to whom it applies, while on the other hand it overlooks citizens whose extremely ugly behaviour merits the strictest measures of social influence" [68]. A judge of the Kazakh Supreme Court, A. Kulakhmetov, thought that inasmuch as the law was not concerned at all about crimes but "only violations of the rules of socialist community life, which are not crimes", its Article 3 was superfluous and should be deleted [69].

Other commentators tackled the terminological problem more directly. The chief engineer of a Yerevan Tyre Factory regretted that the law contained no definition of "antisocial, parasitic elements" and proposed a rewording to specifically state that those "adult, able-bodied citizens, maliciously avoiding work, living on unearned income, or engaged in vagrancy or begging" should be considered parasites [70]. Bolshakov attempted to show the limitation of the concepts of "antisocial" and "parasitic" for distinguishing persons whose cases should be tried under criminal law from those subject to the anti-parasite law. He argued that the concept "antisocial" encompassed the concept "parasitical" but was not limited to it; hooligans and malicious criminals were also "antisocial" even though the draft law would not apply to them. Likewise, the worst parasites were persons who used their official positions to pilfer socialist property, yet the anti-parasite law would not affect them [71]. A senior lecturer in the Tadzhik State University, G. Sevlikiants, thought the term "living on unearned income" completely unclear. He cited the hypothetical case of a watchman, who after working

his eight-hour shift, raised animals in his spare time, slaughtered them, and sold the meat for a profit: "According to the literal interpretation of the draft law, this individual would be liable - a patent injustice" [72]. A Ministry of Justice official stoutly denied that the watchman would be liable since "the personal labour of a worker ... includes labour on his own subsidiary plot, hence income from such a plot after payment of taxes can in no way be considered unearned income" [73].

Anashkin used the "unearned income" concept as a weapon to cast doubt upon the whole anti-parasite procedure: if "a certain citizen is living handsomely on some unknown or illegal sources of income, he is - to put it simply - committing a crime. Then why replace criminal liability by social influence?" He also wondered how it would be possible to establish that a person was "working only for the sake of appearances": "After all, the person is working. It must be presumed that he is fulfilling the obligations of the job or he would have been fired" [74]. Bolshakov proposed eliminating from the draft text all references to those "living on unearned income except those who are determined to be vagrants or beggars", inasmuch as all other types of offences already were provided for by criminal laws [75]. The public discussion even produced a defence of beggars in the person of Grebenshchikov, who noted that "a man may be in trouble temporarily [and] may be compelled to 'beg' occasionally ... The law should stipulate that it does not apply to these kinds of people, but rather to those who make a profession of vagrancy and begging" [76].

The Department of Law at the Latvian State University proposed that the concept "parasitic elements" should be defined as "all non-working, able-bodied citizens". A deputy to the republic's Supreme Soviet thought this definition too sweeping since it would encompass people "using perfectly legal sources of income, such as inheritances or winnings in the state lottery" [77]. The intent of the law may be regarded as lying

somewhere between these two views, especially since the "malicious avoidance of work" could hardly be excused by the circumstances cited by the deputy. On the contrary, the public discussion revealed that liability under the anti-parasite law was regarded as extending to all persons who did not hold approved employment (that is, engaged in "socially useful work"), and some of the criticism was directed at the draft law's vagueness in regard to this category of "parasitic elements". An assistant procurator in the Taldy-Kurgan *oblast'* of Kazakhstan proposed improving the definition by stating that it meant those "who have not worked anywhere for three months" [78]. He was echoing the proposal by Kulakhmetov who wanted to make provision for "instances when individual citizens trying to find work encounter obstacles on the part of managerial officials" [79]. An example of the latter was provided by the workers at an Alma-Ata *oblast'* training farm who reported that there were many idle among them through no fault of their own: "When we go to the director, he says 'there is no work, wait until autumn'" [80]. Other voices in defence of the non-working referred, for example, to women "forced to sit at home without taking a job anywhere because there are no kindergartens or nurseries" [81].

(c) Nature of the Social Assembly

Critics of the social assembly as an institution argued that the hearing of parasite cases should be left to the regular courts since the existing legislation precluded the passing of a sentence or application of sanctions except by the established court agencies. O. Krozhkin, a Leningrad lawyer, believed that the public's role should only be to gather evidence about parasitism which it should pass over to the procuracy and then to a people's court for sentence in accordance with existing law codes [82]. Vazikov attacked the assumption that the democratic element was stronger in an *ad hoc* public

meeting than in the elective judiciary [83], while a kolkhoz brigade leader expressed more confidence in treatment of parasites by local government organs and by the soviets than by a social assembly of the village: "Not everyone will have the courage to come to a meeting and openly vote against his neighbour and risk a beating later" [84].

Even those critics who objected to the social assembly on grounds of legal principles were careful (Stalinist terror was still fresh in their minds) not to express hostility to the institution as such. Anashkin acknowledged that the social assembly was "in complete accordance with the directives of the 20th Party Congress - which stated that it was "necessary to create such an atmosphere that persons who violate the standards of behaviour and the principles of Soviet morality will feel that the whole of society condemns their actions" - but he thought "that the functions of legal-investigatory agencies should not be transferred to social organisations" [85]. Arenberg would have left to social assemblies only educational-type functions and, in the interests of socialist legality, have them submit their decisions for verification to the procuracy and courts rather than to the executive committee of the local soviet [86]. As alternatives to social assemblies, some commentators proposed the creation of special social courts operating under the aegis of the judiciary [87], while others suggested revival of comrades' courts based upon place of residence [88]. J. Naelapea, an assistant procurator in Tallinn, argued that in order to apply a measure of punishment it was necessary to prove beyond doubt the guilt of the accused. The "general meeting", in his view, would not be up to this task. He thought it more practical to establish that parasites be brought to trial with a preliminary inquest by the militia agencies and that a review of such cases be conducted in visiting sessions (*vyezdnye sessii*) of the people's court with the participation of public accusers and defenders [89].

(d) Procedure

The question of procedure provided the ground for attack on the social assembly in some instances. In Tadzhikistan, a jurist deemed it essential that every criminal trial should be conducted under the criminal procedure code, which was patently impossible for the informal public meetings; their function at most could be "collecting evidence" to be presented in court. Anashkin wrote: "Why has the court the right to pass a verdict of exile, while the general meeting of citizens, which sometimes knows people better than the judge, cannot have this power? It is not a question, of course, of any special qualities possessed by judges and people's assessors. The point is that the functioning of a court follows a strict procedure set by law and this procedure assures, on the other hand, that the crime will be disclosed and the guilty exposed and punished, and, on the other hand, protects the citizen from unfounded conviction" [90]. Even critics who did not object to the social assembly argued that the draft law suffered from serious faults and omissions on procedural grounds. G. Sevlikiants asked that vital rules of procedure be written into the draft law rather than be left to the regulatory power of the Council of Ministers; the law (*zakon*) would be published widely, whereas ministerial decrees would be seen by a narrower circle. He would have had it specified in the law, for example, that the *raion* procurator should be present during approval of a social sentence [91]. In reply to the last point, a law student argued that the procurator under his powers of *nadzor* "can always check" on cases handled by the social assemblies and that to encumber the anti-parasite law with detailed procedural rules would be "in contradiction to the principle of conciseness of the draft law" [92]. Other procedural matters criticised included failure of the law to specify who had the right to initiate a charge of parasitism [93], demands that the quorum for the meeting should be at least two-thirds so as to avoid the passing of an exile sentence by an actual minority of the

residents [94], and demands for secret balloting [95]. The Legislative Proposals Commission of the Latvian Soviet rejected the latter proposal because "it would complicate the holding of general meetings because ballots would have to be prepared". A simpler way to solve this problem, it believed, was to have the guilty party leave during the voting [96].

(e) Penalties

The two main points of criticism directed at the penalty proposed in the 1957 draft law concerned its severity and its classification as a "social sentence". The conflicting views of Anashkin and Perlov on the latter point have been noted, but there were objections based on premises different from Anashkin's assumption that exile at some point must necessarily involve bodily arrest. Arenberg pointed out that exile with compulsory labour was a criminal punishment, a means of "state compulsion", and as such could be levied only by a court sentence as punishment for a specific criminal offence [97]. Another jurist added that no manner of redefinition could convert a measure of state compulsion into a social penalty [98]. Bolshakov did not go so far, but pointed to the incongruity of having the same period of exile as a criminal punishment for vagrants and beggars in Article 4 of the draft law as for parasites given a "social sentence" under Article 1. If the distinction was to mean anything, he reasoned, the term of exile in the latter case should be less - for instance, from six months to two years [99]. A critic of Bolshakov denied that any difference in penalties should be made, because the distinction in treatment of the two classes of offenders was merely that one had a permanent place of residence while the other did not; they were not different categories of parasites [100].

Soviet lawyers were particularly insistent that the character of the penalty made it

imperative that the proposed system for dealing with parasite elements be subordinated to the judiciary. I. Popov, a legal consultant in the Kazakh Ministry of Culture, thought the social sentence of exile must be received and approved by a people's court, not merely confirmed by the local soviet [101]. A Russian lawyer, A. Vasil'ev, commented: "Exile is a very serious type of punishment ... and confirmation by the executive committee of the local soviet is no guarantee as to the correctness of the sentence" [102].

Criticism was raised by some commentators about the use of the word "exile" (*ssylka*). A Latvian thought the word smacked too much of Tsarist times, when "revolutionary workers and champions of the people's interests were sent into exile", and offered "compulsory resettlement" (*prinuditel'noe pereselenie*) as a substitute [103].

Others thought the term of exile from two to five years far too severe and suggested that it should be levied only as a second measure after the person had first been sentenced to one year of corrective labour for parasitism and failed to reform [104]. Some believed a first sentence of exile should be ranged from one to three years, with a second from three to seven years [105]. A teacher in Tadzhikistan wanted to scrap the exile penalty altogether on the simple ground that it "is hardly the best method to reform a person" [106]. Several Riga residents argued against exile with compulsory labour, considering that it would be sufficient merely to expel people from the cities where they derived their parasitic existence, as had been attempted already in a decree which foreshadowed the anti-parasitic laws. (In February 1957 a decree had been passed in the republic which authorised punishment for "Persons Refusing to Engage in Socially Useful Work" in the cities of Riga and Liepaja; the militia agencies were empowered to deprive such persons of their right to be registered as residents of these cities and to

expel them within ten days [107].) The republic's Legislative Proposals Commission rejected this idea with the comment that merely expelling them to rural areas would be like "catching a wolf and releasing him among a flock of sheep" [108].

Failure of the draft law to provide alternative punishment was the target of sharp criticism. A RSFSR jurist wanted to know what should be done with parasitic and antisocial elements presently living in the areas to which exiled people would be sent. He argued that corrective labour at the place of residence or, as an extreme measure, deprivation of freedom, were better alternatives and would accomplish more than his physical removal to a distant place [109]. Compulsory job placement upon recommendation of the executive committee of the local soviet was another alternative mentioned [110].

A number of other points about the drafts drew criticism. Many persons objected to the absence of an appeal procedure [111], absence of provisions for parole or ahead of schedule release from the place of exile for those who quickly realise their guilt and begin to work honestly [112], and failure to specify the age limits for those subject to sentence [113]. Anashkin appears to be one of the few to object to the confusion introduced into the matter of jurisdiction by the phrase in Article 3 of the draft law that social measures could be taken if "more serious punishment" was not provided for the person accused under existing criminal legislation. He pointed out that use of this rule would actually put a great variety of cases before the social assemblies, because the punishment for many criminal acts was less than the exile term provided for in the anti-parasite law [114].

2.5 ADOPTIONS OF THE 1957 DRAFT LAW

Because the anti-parasite legislation of 1957 was put forward as draft laws rather than as decrees, the proper bodies for the next step in their ratification were full sessions of the

republican Supreme Soviets. The infrequency of sessions of these bodies would account for the pattern of staggered and somewhat tardy adoption of the proposed law in several republics. The main point of note, however, was that seven republics including the largest and most important - the RSFSR, Ukraine, Belorussia - never adopted the law in its 1957 form (which meant, in effect, that the majority of the population remained unaffected by the anti-parasite legislation). This fact can be put down almost certainly to the widespread public misgivings about the proposed law as well as to the overt and covert opposition of jurists expressed during the broad discussion.

The Uzbek SSR was first to adopt the anti-parasite law on 27 May 1957, followed two days later by the Turkmen SSR. The law, as adopted in these two republics, was virtually identical to the published drafts. Latvia became the third republic to enact the law on 12 October 1957. At the end of the year only these three republics had passed legislation. Three other republics (the Tadzhik, Kazakh and Armenian SSRs) did so in January 1958, while Azerbaidzhan enacted the law in June 1958. In slightly more than a year, therefore, only seven republics had adopted the law; the eighth and last to do so was the Kirgiz SSR on 15 January 1959 [115]. The Georgian SSR issued a decree in September 1960 with some features similar to the 1957 draft, but this is a special case to be examined more closely later.

The Latvian anti-parasite law contained some rephrasing but was basically unchanged from the original draft. Stipulations were added that the confirmation of the sentence of a social assembly must be confirmed by the local executive committee "within a period of two weeks" and that "the decision of the executive committee is final".

The adopted version of the Armenian law contained only one minor variation from the draft - a phrase was inserted to establish a definite time of "up to six months" for the

probationary period which a social assembly could grant an accused parasite.

The Kazakh anti-parasite law, as adopted, contained a number of minor innovations, while retaining all the major features of the draft. It had eight articles instead of the original five. Because many villages of the republic were very populous, provision was made that those with more than 1,000 adult residents could be subdivided by sectors for the purpose of convoking a social assembly (Article 2). The law also made provision for ahead of schedule release of exiled parasites who had reformed upon decision of the executive committee of the local soviet at the place of exile, an action initiated by petition of the individual himself after he had served at least half his term of exile (Article 7). Attempt to avoid supervision (by the militia) at the place of exile was equated with unlawful flight (Article 5) and was thus a criminal offence.

The Azerbaidzhani law also added a new article providing for ahead of schedule release from exile; it specified that the person could petition after serving one-third of his term and that decision should be made by the executive committee which originally confirmed the exile sentence.

The Tadzhik law showed only minor changes to the draft form. The provision for compulsory placement of invalids (Article 9 of draft) was dropped "because of the fact that in our republic there are no invalid homes of the closed type and the placement of [such] persons in open invalid homes would not be desirable" [116]. A phrase which had attempted to define vagrants as those "having no permanent place of residence" (Article 8) also was deleted, as "vagrancy" implied this.

The anti-parasite law reached its fullest and most definitive expression in the version adopted by the Kirgiz SSR in January 1959, since it incorporated most of the amendments and innovations already introduced by other republics. Expanded to twelve articles instead of the original five, it stipulated who had the right to originate a

proposal for exiling parasites (social organisations, street committees, social commissions on public order under the housing administration, or rural executive committees), made the militia agencies responsible for executing the "social sentence" (Article 5), added a provision that "flight during travel to the place of exile ... shall be subject to punishment under criminal law" (Article 6), specified that exile was to be served "on the territory of the Kirgiz SSR" (Article 6), provided for ahead of schedule release after completion of at least half the sentence (Article 9), and specified that the decision of an executive committee for such release or not was final (Article 4).

The adopted laws did not contain detailed procedures as to how they should be applied in practice. This was left to the decree on implementation which each republic law instructed the given republic's Council of Ministries to adopt. The general pattern suggested by the sources available is that such decrees were normally issued within two months of the laws' adoption. The Latvian implementing decree had become effective by mid-December 1957 [117]; in Armenia, the "instruction" was issued on 22 March 1958; in Azerbaidzhan, however, there was a delay in issuance of the implementing decree which led to a complaint two months after the passing of its law that "a number of sentences of exile have been adopted by general meetings of workers, but the executive committees have not put these decisions into force [because] they do not yet have the guiding instructions" [118]. The Kirgiz Council of Ministries not only was prompt in working out the implementing instruction, but also took the unusual step of publishing a detailed description of it in the main republican newspaper [119]. It is from this source that the additional details described below are mainly derived.

The convocation of a social assembly was to be arranged wholly by the group or body making the charge, which also was responsible for gathering evidence to be presented to the meeting of citizens, advertising the meeting in advance, and

summoning the accused in writing to be present. Trial *in absentia* could be permitted only if the accused had failed on a previous occasion to attend without valid reason. The presence of a member of the executive committee of the local soviet was made obligatory "to assure correct organisation of the social assembly, and an objective trial". The social assembly could hear cases involving beggars or vagrants, but its function in so doing was restricted to compiling evidence which was then handed over to the militia agencies for transmittal to a people's court.

The ministerial instructions also provided some rudimentary procedural rules for conducting a social assembly. A presiding panel of three to five persons was to be selected to run the meeting, which would begin by a reading of charges and presentation of the evidence by the chairman of the panel. The accused would then be asked to give his explanations. The views of any social organisations or other persons who verified the evidence were then to be presented, followed by an invitation to any member of the audience to speak. Sentence was to be reached by a voice vote of the majority attending and the accused removed from the room during the vote. An exile sentence was to be recorded in a "protocol of social sentence" which had to contain the following items of information: identification of the social assembly, name, age and family status of the accused, evidence that he was able-bodied, description of the specific nature of his antisocial and parasitic way of life, the length of the exile sentence, and the place of exile. If the decision were to grant the accused a probationary period to reform himself, the instruction provided that a new social assembly had to be convoked in order to consider exile for those who had failed to reform. The body which had summoned the social assembly was made responsible for communicating the protocol on exile to the executive committee of the local soviet, which was instructed to act on it within ten days at a session which the accused had been invited to attend. After confirmation, the

executive committee might grant the sentenced person up to five days to put his personal affairs in order before leaving for the place of exile. The protocol, properly countersigned by the executive committee, was then to be turned over to the appropriate MVD agencies (militia) for execution.

What should happen at the place of exile, a topic on which the anti-parasite laws themselves were silent, was clarified only in part by the Kirgiz instruction. The MVD agencies were made responsible for registration and supervision to assure that the exile remained in the locality; supplying the exile with a job and housing became the responsibility of directors of sovkhozes or managers of industrial enterprises which were to be designated by the executive committee located at the place of exile; members of the family of an exiled person could accompany him at their own expense; work schedules and conditions for the sentenced person were to be determined by the general rules and standards which prevailed locally, and such work was to count toward the individual's work record (*stazh*). The instruction specified that exile sentences could not be given to persons under eighteen years of age, to men over sixty or women over fifty-five, to invalids or pensioners, or to persons "performing socially useful work in a household".

2.6 THE ANTI-PARASITE LAWS IN PRACTICE

Although one cannot form an overall picture of the application of the law in those republics which adopted it, a sufficiently large number of reports about individual trials in the social assemblies provide a basis for some general observations. Occasionally, some statistical information was also published. The city of Riga was reported to have sent forty-two persons into exile in the first eight months after adoption of the

law [120]; there were presumably few, if any, cases in that period from rural areas of Latvia since the *khutor* (single farmstead) pattern of the countryside in the Baltic republics largely precluded convocation of rural social assemblies [121]. In the republics of Central Asia, on the other hand, application of the laws was confined almost wholly to rural localities and small settlements and was rarely used in such large cities as Tashkent and Samarkand - according to a study by the Soviet jurist A.S. Shliapochnikov of the practice from 1957 to 1960 in the Uzbek SSR [122].

A survey of individual cases indicates that those exiled from urban areas were primarily chronic drunkards and other types of human derelicts common to most big cities. It appears that there was a spate of active use of the social assemblies shortly after adoption of the laws, but the novelty soon wore off and utilisation of the system declined shortly thereafter. The number of social assemblies convened in 1959 and 1960 in the Tadzhik and Uzbek SSRs is said to have been "only a fraction" of the number in the preceding two years [123]. According to the Presidium of the Kazakh Supreme Soviet, the struggle against parasites had been especially badly organised in the Kaskelen, Uigursk, Enbekshin-Kazakh, Akusk and Alakul *raion*s where not one single social assembly had been conceived from mid-1958 to 1961, following the first ones in early 1958 [124].

The study by Shliapochnikov, presented at a meeting of the Institute of Law of the USSR Academy of Sciences, provides one of the few comprehensive reports using statistical data concerning trials by social assemblies under the early anti-parasite laws. He reported at the meeting that only 17% of the cases tried in this fashion led to sentences of exile, while all the rest were limited to a warning, with occasional setting of a probationary period [125]. It may be noted that he had previously used the figure of 25% for exile sentences [126]. Despite this inconsistency, however, there seem grounds

to conclude that the laws were not used anywhere on a large scale. The minatory value of the harsh penalty provided in itself the laws' most effective practical results. Many people without "socially useful" jobs went to work as a consequence of the propaganda surrounding the anti-parasite laws, even before the first social assemblies could be held. The chairman of the Legislative Proposals Commission told the Uzbek Supreme Soviet that in the month between publication of the draft and its adoption, in the Sredne-Chirchik *raion* the number of people active in kolkhoz production had risen from 7,066 to 8,078 and that in the Tashkent *oblast'*, a thousand applications for employment had been submitted in twenty days of this period [127]. Similarly, Bisenieks told the Latvian Supreme Soviet, even before it voted for adoption of the law in October 1957, that the "thousands of non-workers in Riga in March 1957 had gradually decreased after publication of the draft law" [128]. In Azerbaidzhan special job-placement commissions were set up under the local soviets in Baku, Kirovabad, Kiurdamir, and other cities, and 900 people were placed in jobs in a single borough of Baku even though "many of them had not engaged in socially useful work for a long time and had no desire to work" [129].

Public feeling about the operation of the laws cannot be gauged with any precision from the Soviet press, which in most cases adopted the usual propaganda posture of unanimous approval. But, one rather amusing story reported from Riga told of how eight young people had openly scoffed at the law by forming a society of drinking companions and naming it the "Society of Unofficial Parasitic Elements". "I know the law", one of them is quoted as saying. "They should not even dream of forcing me to work. Nothing will come of it" [130].

The cases tried in rural areas by the social assemblies appear to have involved mainly kolkhoz members who failed to do any work on the farm or who did not fulfil

the required minimum number of work-days (*trudoden'*) in the course of a year. For example, a general meeting of kolkhozniks was assembled in one of the agricultural artels of the Narpai *raion* in Uzbekistan. They decided that the behaviour of their fellow kolkhoz-member Irgash Iangirov, who had not worked for a protracted period of time, merited a punishment of exile for a period of five years. Another loafer, Narmat Prapov, who had not earned a single *trudoden'* in the previous six months, appealed for the chance to reform and was given a year in which to do so [131]. The inhabitants of the "Kuprik-Beshi" *kishlak* (village in Central Asia) exiled the parasites Tilliaev, Sabirov and Sapaev from the territory of the "Moscow" kolkhoz in the Fergana *raion* for three years [132]. In Moldavia, a Dmitri Oleinik was spared a social sentence of exile for failing to work in the kolkhoz of the village of Katerinovsk by promising to take a job and work honestly in a brigade of builders [133]. Similarly, a meeting of residents in one of the *auls* (mountain village in Caucasus) of the Semipalatinsk *oblast'* in Kazakhstan, restricted itself to warning the idler-citizen "A" - after he promised to take the path of an honest working life [134]. The charge of evasion of work in kolkhozes was often coupled with the complaint that such people devoted too much time to their private plots and derived "unearned income" from sale of farm products at speculative prices [135].

In urban areas most of the cases reported dealt with immoral living and drunkenness, often embellished in the press reports with details about shady financial practices by which the funds for alcohol were obtained. Ivan Rasskazov, who lived in the Kirov *raion* of Alma-Ata, was a healthy thirty year old who preferred to live on his wife's salary rather than work himself. On pay-days he would "without a twinge of conscience" seize his wife's earnings, spend them all on drink and then return home to beat her. His neighbours tried to make him see reason, but to no avail. He would say:

"My family life is my own personal business and you can't meddle in it". The court of the public (*sud obshchestvennosti*), as the press report referred to the social assembly, exiled him for five years [136]. In Leninakan, Armenia, a general meeting of residents was convoked in apartment block No.14 Sundukian *ulitsa* to discuss the behaviour of L. Karapetian, who for almost three years while not working anywhere, had been systematically getting drunk, committing hooligan acts and engaging in sharp practices (*zhul'nichestvo*). The meeting decided that he be exiled for three years and the sentence was subsequently approved by the executive committee of the city soviet [137]. Such were the major types of cases, but there were also cases of trials of "parasitic elements" at a social assembly which fell outside these patterns: an A. Kuchkarov was a graduate of an agricultural technical college, who instead of using his education to help increase production in the Five Year Plan State Cotton Farm in the Uzbek SSR, never directly worked in cotton production. Instead, he ran a vegetable stand where he cheated and stole on all sides - he illegally traded with the farm's barley and alfalfa, exchanging them for meat, he cheated his customers by short-weighing and false pricing and speculated in sunflower seeds. Being accustomed to "living on unearned income", he paid no heed to the warnings of the sovkhoz workers, and consequently was exiled as a parasite for a term of three years [138]. Then there was a certain Nikolai Ivanovich Pechugin, who specialised in buying up second-hand accordions and selling them at speculative prices after he repaired them. To conceal his illegal activities he cunningly disguised his workshop. He hung a curtain with a cross on the door with the attached note: "I am praying - No entry". His neighbours could clearly see that he was living beyond his means as well as abusing his wife and children. Called to account earlier on 15 June 1957 for speculation and hooliganism, he had promised to reform, but by November had reverted to his old ways. He was therefore charged with parasitism and

exiled from Riga for two years [139]. There were several cases of social sentences for prostitutes. Ludmila P'ianova and Valentina Ivanova were sentenced to exile from Frunze for five and two years respectively for their "amoral, parasitic behaviour" [140]. In another case, a fifty year old Tbilisi woman, Maria Vasil'chenko, who "had not worked a single day over the years", turned her flat into a brothel, where groups of idlers met to drink and dance to "wild jazz music". Her indignant neighbours thought that exile from the city "would be to her benefit" [141].

The press reports also show application of those articles of the anti-parasite laws concerning vagrancy - Vladimir Makarov was sentenced to five years exile under Article 4 of the Turkmen Law [142] - and begging by invalids [143].

A new sanction appears in some places to have been added in practice: some assemblies took the initiative to recommend to the local executive committee that a particular accused person be deprived of parental rights. *Izvestiia* reported that in the city of Ashkhabad thirty children were taken away from their parents and placed in institutions as a result of such recommendations during the first year of operation of the anti-parasite law [144].

A study of the cases reveals that Party and Komsomol members who fell into a "parasitic way of life" were not spared. A radio commentator and Party member in Riga began to drink heavily and eventually was fired from his job for habitual tardiness and being drunk on the job. He derived money for a year by exacting fees for "helping elderly people gather documents necessary to obtain a pension". His Party unit expelled him from membership and requested that the machinery be set in motion to exile him from the city [145]. A Komsomol volunteer who arrived for work in Kazakhstan began a life of carousing instead of regular work; a village meeting in Karaganda *oblast'* voted to exile him for five years [146].

Little light is shed by a study of individual cases as to the exact locations of places of exile, the mechanics of supervision of the exiles, or even such practical matters as the problem, mentioned by a Latvian woman [147], concerning who should be in charge of the exiled person's house or apartment when he was away. One press reference to the place of exile says the sentenced person was sent "to a remote region of the USSR" [148]. In Kazakhstan, certain sovkhozes were designated as places of exile, a fact revealed by a press account of a girl who ran away, asserting that she preferred life in prison to a return to exile at the Tuilek Sovkhoz in Tian Shan *oblast'* [149].

By the end of 1958 there was little visible evidence that the social assembly was being used on a large scale even in those republics which had adopted the anti-parasite law. Nowhere had the procedure produced impressive practical results; on the contrary, there was open complaint in some republics that implementation of the law was a matter of both official and public indifference. At a sitting of the Presidium of the Armenian Supreme Soviet in mid-1958, it was noted that:

> The executive committees of local soviets, the militia agencies, and the Armenian MVD have taken no practical measures to strictly implement the law passed in January of this year. Not one parasite has been expelled from Yerevan, Leninakan or Kirovakan. In the Shamshadin *raion*, three social sentences of exile were passed, but not one person was sent away. The executive committee of the Sevan *raion* soviet has taken no measures whatsoever to put the law into practice. Some soviet workers ... have interpreted the law incorrectly, considering it only as an educational means of influence [150].

The Ashkhabad city soviet, reviewing a year of operation of the law, could report only minor results: "Three hundred persons placed in jobs ... and certain speculators and swindlers banished from the city"; the report said that in consequence of the review "new measures are being planned in the struggle against parasitic elements" [151].

The experiment had run its initial course without acquiring a firm theoretical or

ideological base and apparently also without attracting an influential group to champion it publicly as contrasted to alternative methods of employing the general public in the struggle against petty offences. It was at the end of 1958, for example, that the first "public order squads" (*druzhiny*) appeared. This mass movement was reported at that time to have started spontaneously on the initiative of some Leningrad factory workers [152], who volunteered to devote part of their free time to a kind of "people's militia" [153], augmenting the work of the regular local militia in such routine duties as curbing rowdyism on streets, in parks, and at public gatherings. The movement was to receive prompt and vigorous support [154] and spread quickly throughout the whole country [155].

The existence of a body of opinion among Soviet jurists not averse to Khrushchev's policy of using the public to create social pressure on delinquent and non-conformist behaviour but insistent upon a broader and less punitive approach was indicated by the remarks of Gorkin at the historic session of the USSR Supreme Soviet in December 1958 which approved the new Fundamental Principles (*Osnovy*) of Criminal Legislation:

> In conditions of Soviet reality the broadest possibilities exist for use of the most varied forms of social influence on certain unstable persons for the prevention of violations of socialist law and order [156].

Gorkin went on to mention "the court of the broad public, comrades' and rural courts, and the pronouncement of words of censure or caution by comrades in the *kollektiv*" as methods of wielding social pressure which, "in certain cases can achieve results more effective than measures of judicial punishment". His conspicuous failure to refer to the anti-parasite law was consistent with his implicit theoretical position that social groups could only exercise "forms of social influence", whereas punishment was an exclusive

prerogative of the courts. The harsh penalty of exile clearly put the anti-parasite law on the wrong side of the fence in such a theoretical formula, a fact which Professor Golunskii, speaking at the same session, appeared to acknowledge when he stated that "the problem of the relationship between persuasion and compulsion has to be decided anew" [157].

Shortly afterward, the 21st Party Congress (February 1959) was to bestow official endorsement upon a new policy of more varied and milder approaches to the problem of public order and serve as a springboard to a whole array of experiments, including revival of comrades' courts, which pushed the anti-parasite law into the background. This, however, did not mean the end of the law. One Western student of Soviet law asserted that the anti-parasite laws were inherently incompatible with the new Fundamental Principles (which stated that no person could be imprisoned except upon sentence by a court) and would have to be repealed in those republics which had adopted them if the new principles were to have any meaning [158]. This did not happen. In fact, the Kirgiz SSR adopted the law immediately after the Principles had been ratified, an action which might be attributed to the lethargic republican legislative process, but which, under the circumstances, may also have been a token that repeal of the anti-parasite laws was not desired by the party. In any event, the anti-parasite law was to re-emerge in a dramatically altered form in 1961 and become valid in all fifteen republics.

2.7 CONCLUDING REMARKS

The battle against parasitism launched in 1957 epitomises to a large degree the general

dilemma which confronted Stalin's heirs in the period from his death to the 21st Party Congress. The relaxation of terror led to a deterioration in public discipline and order. Some Soviet citizens interpreted their new freedoms on an "anything goes" basis and by the spring of 1957 a severe public order problem had arisen in the USSR [159]. Khrushchev was aware of this, but he did not want to resort to the Stalinist methods of brute force in tackling the problem. In this light, the basic purpose of the proposed anti-parasite law was perhaps more concerned with the creation of a climate of public opinion unsympathetic to so-called "parasites" than with the actual carrying out in wholesale fashion of the severe penalty it authorised. Party policy under Khrushchev envisioned no slackening in the degree of social control and use of coercive force was not abandoned, but social control was being sought also along more sophisticated and voluntary lines. The focal point of the anti-parasite law was the educative function of the social assembly rather than the terrorising impact of the social sentence.

The 21st Party Congress was noteworthy, besides launching the new Seven-Year Plan (it proclaimed that the country had embarked on the second stage of its development - the "full-scale building of communism". The Soviet people were ordered to work harder and show greater moral strength and purity which made for even more intolerance of the idler, speculator and those enjoying conspicuous consumption without known sources of corresponding income) for inaugurating a major shift of Soviet penal policy in the direction of mildness [160]. This shift was conspicuously at odds with the spirit of the anti-parasite laws, which accordingly fell into general disuse in 1959 and 1960 [161], and the propaganda campaign against parasitism became muted and receded into the background, only to re-emerge in the autumn of 1960 with great vigour in a vast new campaign which heralded reversal of the mild penal policy.

CHAPTER 3

THE SECOND ANTI-PARASITE LAW

3.1 RENEWAL OF THE WAR ON PARASITISM IN 1960

In the autumn of 1960, a massive eight-month propaganda campaign against all types of parasitic elements broke out, noteworthy for its saturation exploitation in the press and the unrestrained virulence of its propaganda tone. The foundations of the campaign had been laid earlier by a Central Committee resolution of 9 January 1960 - "On the Tasks of Party Propaganda in Present-Day Conditions" which had declared:

> The leading place in all ideological work must be given to the struggle for strict implementation of the principle "he who does not work, neither shall he eat", against persons who shun participation in socially useful work, and for inculcating a communist attitude and developing moral incentives to work. It is necessary to strive to see to it that every Soviet person thoroughly understands the enormous socio-historical importance of his day-to-day work and sees in it the decisive condition for strengthening the homeland's might and achieving an abundance of material and cultural amenities and for the complete victory of communism. It is necessary to rear the working people in a spirit of unshakeable faith in the cause of the Party and the people, collectivism and industriousness ... and high ethical principles of the new society, and to wage an implacable struggle against ... survivals of the past - disdain for work and public duty, plundering of socialist property, bureaucracy, bribery, speculation, drunkenness and hooliganism - and against other phenomena that are alien to our system but are still to be found in our Soviet life [1].

This provided the theme of the new anti-parasite drive officially launched at a conference in the Central Committee on 6-9 September 1960 [2].

One of the apparent reasons for the renewed propaganda drive in 1960 was official disappointment with the effectiveness of the new instruments of social influence created

after the 21st Party Congress either to "expose parasites" or to reduce public apathy toward the parasitic existence of some Soviet citizens [3]. The years 1959 and 1960 witnessed some ventures into "liberalism" in dealing with criminals: punishments were reduced, parole was encouraged and much faith was put in the power of the "collective" to reform and re-educate the wrong-doer. The Congress called for creating "comrades' courts" and *druzhiny*, which would substitute organised social control for the courts and the regular militia. But, during 1960 articles began to appear in the press which complained about alleged "coddling" of criminals. What had happened, it was now argued, was that the party's policy had been "incorrectly interpreted" and this misinterpretation had led to a falsely "liberal attitude" toward criminals and parasites. As a result, crime rates were on the increase. State judicial organs were criticised for looking upon the experimental period launched by the Congress as "just another campaign rather than a reform of court practice at its core" [4] and of reacting to new forms of dealing with law violators in a "mechanical" or "percentage" fashion [5].

The most savage thrusts of the propaganda drive were aimed not merely at those who managed to live without taking a job in the socialist economy but also at persons who by cunning and private business endeavours managed to live better than the average industrial worker [6]. "Parasitism takes many forms: theft, short-changing, speculation, black-marketing, and poaching, to name only a few" [7]. The fact that parasitic elements, though small in number, "have a deleterious influence on unstable persons and lead them into morals foreign to Soviet society" was frequently cited as one of the basic motives behind the campaign [8]. Another was the link between parasitism and crime.

> The danger of parasitism lies not only in its corrupting influence. Such a corrupt code of morals, combined with boundless egoism, the striving to snatch as much as possible from society and to give it back as little as possible in return often leads to

> this, that parasites unavoidably slide down the path toward the commission of even more serious violations of Soviet laws and reinforce the ranks of criminals. The materials of court practice show that amongst those who have had criminal proceedings instituted against them in a number of *oblast's* and republics, almost one-third was made up of persons evading socially useful work and leading a parasitic way of life [9].

The campaign begun in 1960 was not confined to propaganda alone. Individual parasites were brought to trial before various types of *ad hoc* general meetings, referred to variously in the press reports as "social courts" or "courts of the public" [10]. The workers of the Red Vyborgite plant in Leningrad convened a social court on 2 September 1960 to try a twenty year old loafer and speculator Viktor Bogdanov, at the end of which the decision was taken to request the Leningrad city soviet to expel him from the city as a malicious parasite [11]. *Pravda* called it an "unusual trial" because no court or procuracy officials were present; the whole affair purportedly involved only workers in the plant, one of whom - the pattern worker G.M. Dubinin - served as a public prosecutor [12]. Several parasites were placed on trial in a Moscow *oblast'* city in what was described as a "municipal social court" [13]. From the meagre details contained in these reports it is not possible to discern the organisational features of these trials; it would appear that they had no consistent pattern and that they took various forms in different localities. In the Novosibirsk *oblast'* parasites and speculators reportedly were "called to account before special sessions of the local soviets" [14]. In the Dzerzhinskii *raion* of Perm, a door-to-door canvass was organised under the auspices of the party committee and *raion* soviet executive committee to learn the names of non-employed persons, some of whom were subsequently called before public meetings in the "Red Corner" of the housing administrations [15]. There were reports that comrades' courts also took part in the campaign: a residential comrades' court in Leningrad conducted the trial of a young man with a decision to "request the militia

agencies to expel him from the city" [16]; in Riga a comrades' court took the initiative in suggesting the convocation of the general meeting at which a parasite was condemned to expulsion from the city for two years [17].

One feature of the intensified campaign against parasites in 1960 was the broad airing of ideas on how best to organise the struggle against them - a struggle which, in the opinion of Vasily Kordzadze, a deputy to the Georgian Republic Supreme Soviet, had hitherto only been "half hearted":

> Why do we still have loafers? Simply because there is no real fight being waged against them. Why are there still speculators? Because there are people who connive in their dark machinations. Why do we sometimes receive short change or short weight? Because we ourselves permit this to go on lest people think we are "petty". Or take waiters who keep their eyes peeled for tips. We do not realise that this kind of thing is an affront to man's dignity. Here is another example. A person who does not work but openly builds himself a house. No one asks where he got the money, yet each of us tells himself that the man is a swindler. Sometimes we raise our voices in protest. But at once defenders and "peacemakers" appear and ask, "What do you want from the man?". These people talk about fighting loafers and idlers, but when the question is posed in a principled manner they find "mitigating circumstances" and start talking about humaneness .... I am a working man, and I cannot imagine a single day without working, without the collective. It seems to me that if I were to try and eat bread I had not earned, I would choke on it .... Parasites must be obligated to work and to respect the rules and laws of our socialist society [18].

A Moscow engineer proposed that "hooligans, drunkards and all other loafers" be categorically barred from living in the big cities. They should be corrected through labour under strict discipline but "under no circumstances whatsoever" be taken into the custody of a collective. "This would only be a convenient loophole for this fraternity" [19]. E. Gubina, a Leningrad resident, demanded that the working people be granted broader powers to deal with parasites:

> After all, except for "showcases" with raid materials and sermons to loafers, they have no way to fight these dregs. And

> what are these measures to the parasites? They do as much good as a poultice on a dead man. The loafers are even pleased - "Look, I'm the hero of the day!" These "heroes" must be sent to special correction colonies to be taught to respect labour [20].

This same point was raised during a conference on how to combat parasites held in the editorial office of *Literaturnaia gazeta* in late September 1960, where the advisability of exiling these people was questioned:

> Exile from the major cities is currently being invoked as an extreme penalty. But the question automatically arises - exile to where? Moscow will get rid of its spongers, but will Omsk or Tashkent receive them? How does this change anything?

The writer L. Sheinin suggested as an alternative that parasites be sent to labour colonies organised in the Virgin Lands and at the new construction sites:

> These should be institutions of an altogether new type, founded primarily on the pedagogical principles that have come down to us from Makarenko. They should have no prison bars; self-government, study, amateur talent activities and, of course, the greatest educator - labour!

This suggestion was fervently endorsed by S. Gavrilov, a brigade leader in the bearings shop of Bearings Plant No.2 in Moscow:

> Before coming here, I got together with the fellows in the shop, and I was asked to pass along what the workers are thinking. All vicious parasites should be shipped out not to the 101-Km line, which is within reach of the electric trains, but to remote and undeveloped regions. There they should be entitled to enjoy only what they themselves create [21].

Iu. Todorskii, a Candidate of Jurisprudence, pointed out that Soviet laws stipulated measures for combating only the parasites who had taken the road of crime - plunderers, speculators, *etc.*: "But what about the parasite who does not violate the Criminal Code. The law is silent about him". He believed that different administrative measures should be applied against different categories of parasites that would bar them from availing

themselves of public benefits: persons living off various kinds of unearned income should be deprived of the right to use state housing on a general basis and those renting out housing at speculative prices should be evicted from their apartments; Soviet executive committees should have the right to rescind the permit for land plots if parasitic individuals had been using the land as a source of profit; persons using their cars as a source of illicit income should be deprived of their driver's licences and, as an extreme measure, have their vehicles confiscated; parasites should be prevented from vacationing in the country's health institutions and be denied entry to sports societies, swimming pools and stadia; they should be deprived of the right to enjoy free medical assistance on a par with all the working people and be excluded from educational institutions and libraries [22]. The lawyer G. Grigorian thought most of these proposed measures sound but could not agree to the last two:

> Depriving parasites of free preventive medical assistance should not be adopted out of considerations of humaneness and the interests of protecting the health of all members of society. Barring them access to libraries would be an obstacle in educational work. Even the most malicious criminal in a corrective-labour colony enjoys free medical service and may obtain a secondary education and vocational training, read books in the library, *etc.* [23].

Grigorian, as well as a people's judge of the Lenin *raion* in Moscow [24], recommended that comrades' courts be granted greater powers in dealing with parasites, while a legal journal reported that a review of letters from its readers on the topic also thought that "the chief role in the struggle against parasites should be played by the comrades' courts, the *druzhiny*, and other social organs" [25]. Others, however, argued that the sanctions within the purview of comrades' courts (warning, public censure, fine, demotion, *etc.*) would prove too mild to be effective against so-called parasites and that they could not be expected to wield "realistic means to ensure that the parasitic elements

will take up socially useful work" [26]. Moreover, these elements normally were "beyond the reach" of the existing comrades' courts since they were not members of a workers' *kollektiv* [27].

In an article discussing an all-union decree of 5 May 1961, which extended the death penalty to economic crimes, Procurator-General Rudenko lumped "antisocial parasites" together with dangerous criminals as persons on whom the comrades' courts could not possibly wield any influence [28]. In a speech in Alma-Ata, Khrushchev also spoke of parasitic elements as persons "upon whom public censure makes no impression" [29]. This is not to say that Soviet officials excluded the possibility of a role for these courts in the struggle against parasites. In Minsk, they took part in a city-wide check on the passport system in May-June 1961 and helped "bring to light many rogues at their place of residence" [30]. Nevertheless, their role against parasites was destined to be a subsidiary one.

The renewed anti-parasite campaign stirred the pot of popular indignation, and created a general atmosphere in which the Soviet public bayed for action. But, obviously, some sort of general guidance on the matter was required in order to give more shape and coherence to the struggle. This came via an editorial in *Kommunist* [31], the official party theoretical organ. It attacked manifestations of parasitism and moneygrubbing - they were intolerable in the conditions of the full-scale building of communism. Although parasites comprised "an insignificant number among the Soviet people", the problems of parasitism was aggravated by the fact that "the parasite has MANY FACES.

> He is the man who obtains means for his contemptible existence by every possible criminal machination - the embezzler, the plunderer of socialist property, the bribetaker, the swindler, the speculator. He is the young loafer, and dealer in junk. He is the man who, having received an education at the state's expense, does not want to repay the state and after completing a higher

> educational institution or technicum refuses to be sent to work. Those who use their personal property - dachas and personal automobiles - as well as state resources, such as public transportation and even land, to derive unearned income have also taken the path of parasitism.

The danger posed by these different categories varied, but they nonetheless were all

> related by a private-property psychology, by a thirst for profit, by a desire to live at the expense of the labour of others, to grab as much as possible from society without giving it anything or trying to give it as little as possible. All of them are to a greater or lesser extent following the customs and traditions of capitalism .... The desire for a parasitic existence is an expression of bourgeois psychology and of ways inherited from the exploiting system

As a justification for the struggle to eradicate parasites, the editorial argued that the harm done to society by them was by no means commensurate to their insignificant number. It was much greater:

> By their predatory habits they bring evil to those around them and to all society. Seeing that as the country moves toward communism the ground is giving way under their feet, antisocial and criminal elements are trying to find support among backward, unstable people, enlisting them in their machinations and propounding a morality alien to socialism: "Let the fools work", "We have no concern for others", "You have to know how to live" (that is, to live at the expense of others), *etc.*"

The conclusion drawn was that the time had come to augment Soviet laws with provisions that would increase the effectiveness of the struggle against parasites:

> Many of the unseemly misdemeanours committed by these elements have not yet been given proper legal classification that would make it possible to bring administrative or criminal proceedings against them. It is not without reason that malicious parasites constantly allege that their actions fall outside the law.

In this regard, it praised an important recent legislative development, namely the adoption on 5 September 1960 of an anti-parasite decree in the Georgian SSR, making it at that time the ninth union republic to enact some type of anti-parasite legislation [32].

This decree is of more than local interest because of its striking departures in matters of substance from the draft version of 1957. Its most radical feature - one which came to dominate later revisions of the law - was the abandonment of "popular justice" meted out by social assemblies. The role of the public was reduced solely to petitioning executive committees of local soviets to initiate parasite proceedings (Article 1). The other main feature of the decree may be summarised as follows: it dealt exclusively with non-employed urban parasites, omitting rural residents and the class of parasites said to live on "unearned income" while holding a job for the sake of appearances; the urban parasites the decree had in mind could be exiled from a city for a period of from six months to two years by the decision of the local soviet executive committee; the term of exile was to be spent somewhere in the republic "with obligatory engagement in work at the place of exile". The decree further entrusted the MVD agencies with execution of the exile sentence, allowed ahead of schedule release upon decision of the same executive committee after service of half the exile term, and made wilful departure from the place of exile a criminal offence under Section 2, Article 82 of the Georgian Criminal Code.

From the legal point of view the Georgian decree appears to have been based on the right of an urban community to expel from the city by administrative decision those persons violating the internal passport regulations. The addition of an obligation to go to work at another location, however, exceeded these legal grounds and this fact perhaps explains why the added requirement was worded so vaguely and placed in a separate paragraph. Details concerning the actual implementation of the law are again sparse, though it was reported at a meeting of the Republic's Supreme Soviet in June 1961, that 200 parasites had been exiled from the city of Tbilisi alone during the first eight months of its operation [33]. But, in view of the fact that the Georgian decree of 1960 came to

grips with only a portion of the parasite problem, it is of interest mainly as a transitory variant, forming something of a bridge between the first and second versions of the anti-parasite laws whose adoption was becoming imminent.

3.2 THE 1961 ANTI-PARASITE LAWS

In 1961, the liberalising tendencies in Soviet penal policy came to an abrupt halt. Khrushchev's enthusiasm for popularising justice had by now given way to anger about disorder and to pressures for a harder line against those flagrantly violating the tenets of communist morality [34]. By the autumn of the previous year, considerable evidence existed that the use of "measures of social influence" against wrongdoers had in some ways proven a boon to criminality instead of the hoped-for panacea to eradicate it. The USSR Supreme Court noted in a new decree on 17 September 1960, that "excessively mild punishment for serious crime ... has created among certain unstable elements the attitude that there is no punishment and this has contributed to a significant degree to the committing of new crimes" [35]. Moreover, at this time the initial elan of the new institutions in crime prevention was diminishing. A *Pravda* editorial team reported from Dnepropetrovsk that thefts of state and public property had increased in the city during 1960 and that the local "*druzhiny*, comrades' courts and other social organisations have recently decreased their activity or have become altogether inactive" [36]. Robbery, theft and hooliganism were on the increase in other places also [37].

Without openly admitting failure, the regime abruptly changed course and began to rely on more traditional measures for combating crime. The USSR Procurator General indicated the meaning of this shift in policy for legal theory, when he said that the campaign to increase the role of the public in criminal proceedings had never been

intended to signify "a weakening of the role of the state in the struggle with crime". He said that the state should not hesitate to use all its power against - not only habitual criminals but - "parasites and idlers" [38]. Khrushchev, himself, was to make it clear at the 22nd Party Congress in October 1961 that the transition from state repression to public suasion did not outdate firm, professional government enforcement of law and order. The new Party Programme he presented moved to the distant future the time when "criminal punishment will be replaced with measures of public influence and education". The Programme called meanwhile for "stern measures of punishment against criminals and parasites" [39]. Such measures had already been taken.

On 5 May 1961, a new decree was issued - "On Intensifying the Struggle Against Especially Dangerous Crimes" [40]. It extended the application of capital punishment, provided new punishments to criminals who misbehaved in prison, and forbade parole to dangerous criminals and habitual offenders. The decree proved to be the first in a series which stiffened prison sentences and extended the death penalty to such crimes as counterfeiting, large-scale theft of state property, acts of terrorism in prison, attempts on the life of a policeman, dealing in the black market, aggravated rape and some cases of bribe-taking [41].

At the height of the 1961 swing toward stiffer criminal law penalties, the Presidium of the RSFSR Supreme Soviet, on 4 May, passed an *Ukaz* - "On Intensifying the Struggle Against Persons Who Avoid Socially Useful Work and Lead an Antisocial Parasitic Way of Life" [42], officially extending, for the first time, the anti-parasite law to the USSR's largest republic. Although it retained much of the flavour and terminology of the 1957 draft law, some of the cardinal features of the earlier version were drastically modified. This altered version was promptly enacted by all the other union republics, including the nine which already had anti-parasite laws: ten republics

had issued new decrees before the end of June 1961, two others acted in July, one in August, and Kirgizia became the fifteenth and last to adopt it in September [43]. Noteworthy variations may be observed in the decrees as adopted in some republics (see below), but their basic provisions were sufficiently uniform to allow one to regard the legislation as a unity; one may speak therefore of the "second anti-parasite LAW", especially in view of the fact that it became valid on an all-union scale, in contrast to the 1957 draft version which never came into force for approximately four-fifths of the USSR population.

Since the RSFSR law against parasites served as a pattern for the legislation of the other republics, it is worth a detailed examination. It reflected a new general approach to the struggle against parasitic elements, one that reduced the "kangaroo court" features of the initial acts by bringing into play the whole machinery of the state administration of justice with the judiciary as the focal point, and by reorienting the struggle against parasitism on legal foundations in close proximity to the Soviet criminal law. The idea of convocation of "general meetings" based on territorial units, for example, completely disappeared. In its lengthy preamble, the *Ukaz* stated that the country had entered the period of full-scale building of communism. Most Soviet people were working enthusiastically to create a communist society. Some, however, were still "stubbornly opposed to honest work": they were either taking work "for the sake of appearances" while in actual fact living on unearned income drawn from the state or the working people, or although able-bodied, were not working anywhere but earning their living by engaging in prohibited trades, entrepreneurial activity, speculation and begging, deriving unearned income from the exploitation of personal automobiles, by the use of hired labour, or by commercial use of their land plots. In kolkhozes, such persons, while enjoying the benefits established for collective farmers, were avoiding honest work,

engaging in home-brewing, leading a parasitic way of life, undermining labour discipline and thereby harming the artel's economy. The *Ukaz* asserted that the parasitic existence of these persons was, as a rule, accompanied by drunkenness, moral degradation and violation of the rules of socialist community life, which "have an adverse influence on other unstable members of society". Its scope was to fight parasitic elements up to the "complete eradication of this disgraceful phenomenon from our society by creating around such persons an atmosphere of intolerance and general condemnation". Article 1 of the decree was directed against, and made a procedural distinction between two categories of "antisocial parasitic elements":

1. "Adult, able-bodied citizens who do not wish to fulfil their most important constitutional duty - to work honestly according to their abilities - and who avoid socially useful work, derive unearned income from the exploitation of land plots, automobiles or housing, or commit other antisocial acts which enable them to lead a parasitic way of life", were subject to the jurisdiction of a *raion* (city) people's court which had the power to resettle culprits for a period of from two to five years in specially designated localities with obligatory enlistment in work at the place of resettlement.
2. "Persons who take jobs at enterprises and in state and social institutions or who are members of kolkhozes only for the sake of appearances and whc, while enjoying the benefits and privileges of workers, kolkhozniks and employees, are in actual fact undermining the discipline of labour, engaging in private enterprise, living on funds obtained by non-labour means or committing other antisocial acts that enable them to lead a parasitic way of life", were subject to the same punishment as the delinquents in the first category but upon the decision of EITHER a *raion* (city) people's court OR upon a "social sentence" handed down by collectives of working

people of enterprises, shops, institutions, organisations, collective farms or collective farm brigades. The decree left to the discretion of the prosecuting body the decision, as to whether to submit the case to the people's court or the assembly of a *kollektiv*.

Thus, with regard to the employment of the principle of people's competence in matters of the administration of justice, the law of 1961 was a retreat as compared with the initial laws on parasites. The practical importance of this change becomes evident in the light of reports that in subsequent practice more than 90% of all trials under this law were being channelled into the people's courts [44]. Thus, a system designed originally to bypass the state judiciary in all respects became transformed in practice into a primarily judicial procedure, albeit a special summary one.

On the other hand, whereas the jurisdiction of the 1961 law was more restrictive than in the earlier statutes, the sanctions imposed for conviction under it were expanded to include not only resettlement, but also confiscation of property acquired by means other than lawful labour, a punishment not provided for by the old legislation.

Another important innovation lay in the fact that a warning issued by a social organisation or state agency became one of the prerequisites of the trial. Anti-parasite proceedings could now not be instituted until after the offender had been given a certain period of time to change his way of life and had failed "to take the path of an honest life of labour" during the time set in the warning. This limited the application of the law to those maliciously persisting in their antisocial behaviour.

The resettlement order of a *raion* (city) people's court was to be final and not subject to appeal while "social sentences" were subject to approval by the *raion* (city) soviet executive committee whose decision was also final (Article 2).

The task of exposing parasites and verifying all the relevant circumstances in the

cases was put into the hands of the militia and procuracy agencies which were to act on the basis of the materials in their possession at the initiative of state and social organisations, or on the basis of declarations by citizens. Upon completion of the verification, the case materials were to be sent, with the procurator's sanction, to a people's court or *kollektiv* for consideration (Article 3).

If, however, during the verification and examination of case materials concerning a parasite, signs of a criminal offence were established in his actions, then the case was to be transmitted to agencies of the procuracy for regular prosecution (Article 4).

Resettlement orders and social sentences calling for resettlement were to be executed by the militia. If after arrival at the place of resettlement, the parasite continued to evade work, he could be sentenced, upon representation (*predstavlenie*) of the police agencies to the *raion* (city) people's court, to corrective labour with retention of 10% of his earnings. Should he also flinch from corrective labour, the court could replace it by deprivation of freedom under the procedure provided in Article 28 of the Criminal Code of the RSFSR.

Escape from the place of settlement or en route to it was criminally punishable in accordance with Article 186 of the RSFSR Criminal Code (Article 5).

Finally, the decree stipulated that if the parasite proved by his exemplary conduct and honest attitude toward work that he had reformed, he might, after expiration of not less than half of the term of resettlement, be released in advance upon the petition (*khodataistvo*) of social organisations to the *raion* (city) people's court of the place of settlement, with the consent of the *raion* (city) soviet executive committee at his former place of residence (Article 6).

This law set the general pattern for the legislation of the other union republics although some deviations from it are worth noting. The Azerbaidzhan decree, for

instance, provided no division of jurisdiction in parasite cases and stipulated that ALL parasites were to be resettled by either court order or "social sentence". It also included the provision that persons incapable of work or with only a limited capacity for work, who were maliciously avoiding placement in an invalid's home and who were engaging in begging or vagrancy, were subject to sending, in compulsory procedure, to a home for invalids upon the decision of the local soviet executive committee. In fact, this decree was the only one to specifically mention vagrancy. The new Georgian law abrogated the hybrid derivative version passed earlier but retained the latter's partiality for punishment handed down by executive committees of local soviets: it stated that parasites of the first category were to be sentenced by either the *raion* (city) people's court or the executive committee of the *raion* (city) soviet. Another important difference was that if the question of confiscating property acquired by non-labour means arose, then the case had to be passed over to people's courts which were given exclusive jurisdiction in this matter. Unlike the RSFSR law, the Georgian version gave not only the executive committee at the parasite's former place of residence but also the one at the place of resettlement the right to consent to his pre-term release. The Kazakh law referred to one form of parasitic activity not mentioned in the other republican legislation, namely *shabashnichestvo*. It treated as parasites, "those persons who, while using the shortage of manpower in individual economies, carry out various types of work for them for excessively high payment. After working for a short time only and making a fortune at the expense of these economies, they, for the rest of the time, loaf about and lead a parasitic way of life". Also, paragraph 3, Article 1 of this law, in contrast to that of the RSFSR, decreed that a *raion* (city) people's court or meeting of workers "while taking into account the personality of the offender, his sincere repentance and promise to reform, may limit themselves to issuing a warning with the

setting of a probationary period, during which he must change his lifestyle and take the path of an honest life of labour". The law of the Estonian SSR contained the most number of differences. First of all, it was not a mandatory order (*Ukaz*) of the Presidium of the Supreme Soviet, as were all the other new laws, but was a law passed directly by the republic's Supreme Soviet. Like the Azerbaidzhan version, it did not make the strict division of the RSFSR law in respect of the competent forum, but subjected all cases of parasitism to the alternative jurisdiction of either court or *kollektiv*. As in the Kazakh decree, the competent bodies could limit themselves to issuance of a warning if this was the offender's first prosecution for parasitism. This was the only law which specifically set the length of the probationary period given in the warning - if the individual warned had failed to take up socially useful work and to terminate his parasitic existence within "one month" he was subject to resettlement. This law, moreover, contained the unique and rather harsh provision that the property of disabled persons could be confiscated by the order of a *raion* (city) soviet executive committee if it had been acquired by antisocial acts at the expense of the state or of private citizens. If the disabled person was thereby left without means he could be committed to an invalids' home or a home for the aged (Article 2). Although all the decrees noted that drunkenness was a constituent of parasitism, only this and the Ukrainian law actually contained articles dealing directly with the problem of alcoholism. Article 3 of the Estonian law stated that "against a chronic alcoholic, who is systematically violating the rules of socialist community life or who is blighting his family, may be applied measures of social influence, including payment, according to a social sentence, of his wages or pension to his spouse or to a third party authorised for this purpose by the collective. The *raion* (city) people's court by petition of a social organisation or workers' collective may order the sending of such an alcoholic for

detoxification treatment at his own expense". Finally, the Ukrainian law, like the Kazakh one, added to the list of persons to be treated as parasites: those "who are obviously living beyond their earned income" and "persons displaying an unconscientious attitude toward their work". It, as mentioned above, also introduced measures against alcoholics. According to Article 9, all "able-bodied persons, who in consequence of the systematic abuse of alcoholic beverages have become malicious drunkards and who by their unworthy behaviour are creating abnormal living conditions for their family or house community, shall be sent by the order of a court to medico-labour wards of corrective labour colonies for a term of up to one year. If such persons have family members who are not able to work, then during their stay in these wards their wages, after appropriate deductions have been made, shall be sent to the families" [45].

3.3 THE 1961 ANTI-PARASITE LAW IN PRACTICE

The chief significance of the new law lay in its shift of emphasis from social to state channels in dealing with parasitic elements. It removed from the competence of "the people" a whole category of parasite offences, transferring them to the jurisdiction of people's courts. The procurator was given the discretion to submit the remaining cases of parasitism to the people's courts or to informal bodies. In short, the struggle against parasitism was henceforth to be confined exclusively neither to the public nor to the state organs, but rather was to be subject to the application of "combined" measures. As one legal scholar explained:

> Success in the struggle against parasitism depends on the correct and intelligent combination of the measures of social influence and state compulsion. Only by the united efforts of the courts

> and public will it be possible to achieve the complete eradication of parasitism [46].

The 1961 legislation bore the imprint of a firm official determination to reduce parasitism through vigorous and concentrated action. One sign of this official resolve was the vast amount of publicity and high-level attention devoted to the appearance of the RSFSR anti-parasite decree. Unlike the draft laws of 1957 which were generally ignored by the Soviet central press, this decree was described in detail promptly by the main party organ [47]. Articles explaining its general provisions were forthcoming from such high officials as the chairman of the RSFSR Supreme Court [48], the RSFSR Minister of Internal Affairs [49], and the RSFSR Deputy Minister of Justice [50]. The Presidium of the All-Union Central Trade Union Council also adopted a resolution calling attention to the "social and political significance" of the new decree [51]. Within a few days, the first press reports began to appear about individual parasitic cases being tried under it [52]. Editorial attention was also given to the topic [53].

Besides the propaganda effort, various types of governmental activity also reflected the determination with which the new attack upon parasitism was launched. The Kazakh Supreme Soviet created a permanent commission on questions of combating parasitism [54]. Social commissions which drew activists from the public into their membership were formed under various local Soviets, usually as a part of the Permanent Commission on Socialist Legality of the executive committee. One was formed in the Moscow *raion* of Leningrad upon the initiative of the *raion* procurator [55], and another in the Sverdlovsk *raion* of Moscow, where it managed to return more than 300 "seemingly unreformable" parasites to socially useful work [56]. In fact, these commissions existed in some places even before adoption of the new legislation. They had been operative since March 1961 both in the Lenin *raion* of Dnepropetrovsk [57]

and in the Aksuskii *raion* of Alma-Ata [58], and even earlier in the Stalin *raion* of Odessa where in 1960, with its help, over 1,300 parasites were placed in jobs [59]. Special organisational efforts to "expose and register all non-working residents" were begun in cities such as Minsk and Riga [60]. Similarly on 18 July 1961, 150 deputies in the Alma-Ata *oblast'*, aided by public volunteers, conducted selective household check-ups in Talgar in order to both uncover parasites and strengthen the passport regime. Out of the fifty-three spongers exposed, most took jobs independently, fourteen were given assistance in job-placement and seven - the "most malicious" - had parasite proceedings instituted against them [61].

Although it had lost most of its punitive powers, the general public still had a vital role to play in the fight against parasitism:

> The public has been called upon to create such an atmosphere around spongers so that the ground burns under their feet and all the prerequisites of their existence in our country are eliminated [62].

Citizens helped the militia agencies to expose parasites by informing them about suspect neighbours. In the first four months of 1962 alone, for example, the militia office in the Sverdlovsk *raion* of Perm received around 100 letters from the public telling of people living beyond their means, drunkards, rowdies, *etc.* [63]. Apartment house managers and wardens, members of street and flat committees, *dvorniki*, *etc.*, informed the militia about the movements of suspects. In Leningrad, house management committees started to post up lists naming spongers, giving their addresses and pointing out their means of subsistence [64], while during 1961 street committees in the Ush-Tobe and Taldy Kurgan *oblast*'s in Kazakhstan helped to identify 147 and 500 parasites respectively [65].

Druzhinniki also swung into action against various forms of parasitic activity.

Examples of their work included the stamping out of theft of building materials and of *shabashnichestvo* in a construction association in Belgorod [66]; keeping watch over kolkhoz markets so as to put a stop to speculation in agricultural produce [67]; notifying social organisations of enterprises about loafers living within the territory of the works [68]; rendering assistance to city committees of the All-Union Leninist Communist Youth League in the publication of their "Searchlight" newspaper which appeared two to three times per month. In the Makhachkala version of the paper, 105 articles castigating parasites and idlers were published during 1963 alone [69]. *Komsomol* members themselves were waging an energetic struggle against parasitism, especially in the Georgian SSR, where according to one report, in the first six months of 1963, they helped to enlist around 10,000 young loafers in jobs [70].

Numerous books, press articles, pamphlets, *etc.* on the subject of parasitism were published shortly after promulgation of the 1961 legislation and these provide a clear insight into its operation. Who, then, were the parasites, and for what misdemeanours were they answerable? Let us begin with the so-called *otkrytye tuneiadsty* - "open" or "undisguised" parasites - those who made no effort whatsoever to conceal the fact of their non-participation in socially useful work. Drunken "good for nothing's" figured prominently within this category: a study of the first eighteen months of operation of the RSFSR anti-parasite decree showed that "more than half of those banished from cities" were chronic drunkards [71]. Here are several examples. In 1952, Viktor Surin graduated from a Moscow legal institute. After completing military service, he enlisted in the militia but was dismissed for drunkenness in 1955. From that time, he had worked in total for only twenty days, preferring instead to live on the savings of his pensioner parents and the wages of his wife. When money for vodka was tight, he even resorted to stealing his young son's pocket-money. On three separate occasions he had

promised to take a job but never kept his word. By the order of a people's court he was sentenced to exile for a period of three years [72]. At the beginning of June 1961, the Elektrostal city people's court examined the cases of the inveterate drunkards Karpikhin and Gavrilin. Karpikhin had worked on various collective farms for a total of two-three years, but had spent his other thirty years in getting drunk and beating his wife and daughter who had to leave home. Gavrilin had served several sentences for various crimes, but each time, after serving out his punishment, he refused to work, lived off his wife, and got drunk. Both were sentenced to five years' exile with compulsory labour at their place of exile [73]. Distraught relatives of drunkards-parasites often came forward during proceedings to tell of how their lives had been made unbearable by these people; the mother of Shavkir Bataudinov, for instance, told the meeting of a workers' collective in Tashkent (which was subsequently to pass a "social sentence" of exile upon him):

> I constantly live in fear. My son is not only no support to me in my old age, but is the source of all my troubles. Without shame he is taking my last kopeks away from me. I am powerless to do anything [74].

while the wife of Nikolai Ivanovich Borodin - a blacksmith by profession, but who had not worked since 1947 - testified in a people's court of the Daghestan Autonomous SSR:

> My husband has not worked for years. He lives off me and is constantly inebriated. He steals my personal possessions and has even sold my daughter's school uniform to get his hands on money for drink. He often seizes all my wages, leaving nothing for the family to live on. Judge for yourselves whether I can go on living with such a tyrant!

By order of the court, Borodin was exiled from the city of Khasaviurt for three years, with obligatory enlistment in work at a "specially designated place of exile" [75].

Hopeless drunkards swelled the ranks of vagrants and beggars, who were described by one scholar as "the most repulsive group of spongers" [76]. Criminal liability had been introduced for engaging in vagrancy and begging in 1960 and this partly explains why the new anti-parasite decrees, unlike the original legislation, practically omitted mention of these acts. (Begging was listed in the preambles as merely one type of parasitic activity among many, and only the Azerbaidzhan decree mentioned vagrancy.) For reasons that shall become clear, more attention will be paid to this particular group of parasites later. In the meantime, however, we will note only that they formed a special category and that some, instead of being criminally prosecuted, were charged under the parasite laws [77].

Some members of the younger generation were also blatantly disregarding their constitutional duty to work and violating the rules of communist morality. They may be divided into three (frequently interrelated) groups. First, the privileged few, who did not need to work in order to eat, since they were being allowed to live upon their parents' earnings and savings. Described variously as *tikhie bezdel'niki* (silent or peaceful loafers) - they were neither engaging in heavy drinking nor committing acts of hooliganism [78] - and *beloruchki* - persons shirking (and being protected by their parents from) rough or dirty physical work [79], their main offence lay in the fact, that as one writer put it, their attitude and behaviour "raised the spectre of indolent ease" [80]; social *oblomovshchina* [81] was intolerable in conditions of the "full-scale building of communism". Second, many young school-leavers and university/college graduates were exhibiting an extreme reluctance to take up jobs after completion of their studies. For example, from the 1957 graduating class of Ukrainian secondary schools there were 26,000 who still had not got down to work by the end of the year [82]. The reason for this lay in a combination of two simple, but startling, facts: (a) The enormous

increase in the numbers of young people graduating each year from the ten-year school system (the aim of a full, ten-year secondary education for all Soviet youth was set in the late 1940s; it was officially announced at the 19th Party Congress in 1952 and was to be achieved by 1960). In 1946 the three upper grades of the ten-year schools had a population of about 850,000 students; in 1955 they had about 4,680,000 students [83]; (b) Most of these young graduates, who now held a certificate qualifying them for entry into higher education, PREFERRED to put this certificate to use because of the professional or semi-professional career it would open for them, and made every effort to "get in". However, the capacity of universities, technical institutes, and other institutions of higher education lagged behind the swelling numbers of applicants. Consequently, many of them had to be refused admission. In 1957, for instance, only slightly over one-fifth of the pupils who had completed secondary school could directly enter higher education. Over the years there developed in the country a considerable backlog of qualified young people aspiring to higher education and higher careers, but defeated in competition with their more fortunate fellow students. What were the losers to do? To be sure, the Constitution guaranteed every citizen his right to work without, however, saying what KIND of work. For anyone willing to do ANY kind of work there would presumably always have been a job somewhere. Therefore, any of these young seventeen-year-olds who went idle rather than pick up some job some place did so by their own choice, because they did not want to stoop to a "lower" kind of work. This, in other words, was voluntary unemployment.

In early 1954 the Soviet press opened a sharp campaign against these well-educated idlers and for years kept pouring scorn and invective over their heads. In April 1958 Khrushchev himself summoned up the official position in a lengthy speech, from which we cite a few telling sentences:

> Moreover, some boys and girls having graduated from the ten-year school are loath to go to work in factories, plants, collective farms and state farms, considering this an insulting proposition. Such a genteel, patronising, incorrect attitude towards physical labour is found in families here and there. When a child learns badly at school, many a parent will tell him: If you learn badly you will not get into a higher school and must instead go to a factory as a simple worker. In this fashion, many people are making a bugaboo out of physical labour. I do not have to emphasise here that this kind of attitude is an insult against the workers of a socialist society [84].

He believed that the problem would have to be attacked at its source, in the system of education. This was done in the Education Reform of 1958 - "On Strengthening the Ties Between School and Life and on Further Developing the System of Public Education". The Reform had, in the first place, a negative purpose. It meant, in effect, a retreat from the idea of the universal ten-year school which had been so enthusiastically supported by the 19th and 20th Party Congresses. Instead, the goal was now to develop an eight-year basic education for all, giving it a stronger practical orientation, the better to prepare the pupils for "life" (work), not only for further study. After this eight-year school all young people (by now aged fifteen) were to serve a period of practical work in industry or agriculture, combining that work with, if they wished, completion of their full secondary education. This would now take a total of eleven years instead of ten. The intention clearly was to put an end to the traditional "academic" type of secondary education, which was generally regarded as preparing the youngsters primarily for higher education and very little else. The Reform made the attainment of full secondary education a longer and harder process and was expressly so shaped as to prepare the pupils for practical careers as well as further study. This, theoretically, would reduce the mad rush for higher education by offering new choices at the earlier stages and would remove, as it were, the last excuse for voluntary unemployment.

In the short run, and of equal concern, was the fact that graduates of higher education institutions were often rejecting their state job assignments. Some, for example, were refusing to go to the Virgin Lands and help in the vast construction work being carried out there, preferring instead to settle in large cities where there was no need for their specialist knowledge:

> These people are like voracious locusts ... The state spends enormous sums of money on them, nothing is taken from their training - on the contrary they are still given grants. But when distribution begins some graduates avoid assignment ... and make for the cities, and if this cannot be done by legal means, then they have no objection to giving up their acquired speciality [85].

A certain Kononskii, for instance, provoked "profound indignation" in the collective of the faculty of journalism at the Urals University because unlike his fellow graduates of 1960, he refused to take up the job he had been assigned to in a Siberian newspaper. Instead, for months, he parasitised at his parents expense and then moved away and settled in one of the "warm" southern cities [86].

In his speech to a conference of agricultural workers of the Transcaucasian Republics in Tbilisi, Khrushchev called for stern action against parasites of the like:

> ... unfortunately we still have young people who receive an education and wait for an opportunity to make best use of it solely in their own personal interests. There is a kind of aristocrat who has absorbed all the worst from the past. Such people reason: "Since I have received an education, how can I go into a cow barn, how can I sit behind the wheel of a tractor or truck or go to a factory? After all, I might soil my hands in grease or soot". But this is a survival of the past. Our society is strong enough that these gentlemen loafers sooner or later will have to learn to reckon with our socialist ways. The farther we progress, the fewer parasites there will be. It is necessary to take more vigorous measures against those who do not want to abandon a parasitic way of life. Both the force of the law and the force of public opinion must be brought to bear on them. Society spent money on them when they were studying, and now society awaits payment of the debt, payment of the sums that

> these people received on credit, so to speak, during their schooling [87].

Other commentators proposed recovery of this "credit" via the insertion of a specific article into the Civil Code, allowing the state to demand repayment of the expenses it had incurred in giving these parasites an education [88].

A third group of young idlers consisted of so-called *stiliagi* (style-chasers) - modern-day fops, who loitered the streets by day and lived a "fast life" in restaurants and clubs at night, usually at their parents' expense. As two writers from Kazakhstan commented:

> *Stiliagi* have energy and time enough to dance with zest to rock-and-roll, to spend sleepless nights in drinking sessions ... to grumble about the shortage of some or other goods, to utter banalities about "freedom of the individual" from any social responsibilities, to cynically mock the most sacred concept for the Soviet person such as duty, patriotism, honest labour, respect for parents ... but these parasitic elements do not have the time or energy, and most of all, the wish to engage in socially useful work, to contribute their mite in the building of communism. Due to idleness their sense of patriotism is dulled, they develop an admiration for all things foreign [89].

P.M. Rumiantsev, a lieutenant-colonel in the Moscow militia, warned, however, against labelling all those youngsters dressing "ultra-modernly" and sporting "queer hairstyles" as *stiliagi*. By their outward appearance, he said, "they show that they are not overblessed with intelligence - but quite often they are harmless". On the other hand, the real *stiliagi* "are morally degraded and are prepared to stoop to any low down trick and baseness, right up to slandering the country that gives them food and water. The struggle against youths of this kind must become more severe and merciless" [90]. Some writers, who argued in favour of a more ruthless approach, even cited an obscure decree passed by Peter I on 5 June 1709 as a possible solution to the problem. The decree had read:

> It has been remarked by us that on the Nevsky Prospekt and at balls, young men ... in contravention of etiquette and the regulations on style, are most brash in sporting Spanish camisoles and decorated pantaloons. I am instructing the Police Chief of Saint Petersburg to be extremely zealous henceforth in rounding up these dandies, taking them to the Liteinnaia Police Station and beating them with the knout until no sight remains of these highly obscene-looking Spanish pantaloons. Title and eminence are to be disregarded, as well as the wails of those being punished [91].

In their striving to create a Western-style image for themselves, *stiliagi* more often than not had to resort to the "services" of another type of overt parasite - the *fartsovshchik*, who made his appearance in the early 1960s, when the Soviet Union began to expand its trade, cultural, *etc.* links with the West and to allow a higher number of foreign tourists to visit the country. *Fartsovshchiki* were traffickers in goods or currency illegally bought from foreigners. They bought up highly sought after items such as foreign-labelled sheepskin coats, jeans, cigarettes, records, chewing gum, *etc.*, and "lined their own pockets with unearned income" by reselling these goods to their compatriots at exorbitant prices. Viktor Bogdanov, Oleg "S", and Aleksandr Il'iashkevich were exiled under the anti-parasite laws from Leningrad, Moscow and Odessa respectively, for such antisocial, speculative behaviour [92].

Other conspicuous parasites, who "felt the force" of the new laws, included prostitutes [93], fortune-tellers [94], and a significant number of "holy" (*sviatoi*) spongers. Between 1960 and 1964, the Khrushchev regime waged an anti-religious campaign of unprecedented reach, severity and even brutality. The official rationale for the campaign was that many members of dissident religious sects were disloyal to the regime and were "religious fanatics ... who, under the guise of religion, attempted to perpetrate antisocial illegal acts, incite co-believers to refuse to fulfil civic obligations ... to refuse to participate in elections, census taking ... prevent children from going to

school, the movies, from watching television, reading literature, newspapers, and magazines ... urge co-religionists not to work in enterprises, kolkhozes, institutions, and instil contempt for socially useful work" [95]. Criminal code enforcements of religious proscriptions were applied more vigorously while the anti-parasite legislation gave a broader sweep to the campaign. I.I. Konoplev, a procurator in Simferopol, wrote about how the city had been "cleansed" of a True Orthodox Christian sect, the members of which had taken an oath to cease participation in social production [96], while S. Valsil'tsov, a deputy of the Belgorod city soviet, spoke of how the law had been applied against a group of Seventh Day Adventists, who refused to work on Saturdays, worked "in a slipshod manner" on other days, and engaged in private house repairs and speculation, giving a tenth of their income (*desiatina*) to their leader [97]. In Belorussia, a certain "A.D." established an illegal Pentecostalist sect [98], and in the RSFSR an N.S. Beletskaia organised a Jehovah's Witness one [99]; both were exiled as parasites of the "working for the sake of appearances" category (A.D. in a kolkhoz, Beletskaia in a sovkhoz) since they were actually living on the contributions of their followers. Other "backward elements" such as those who, at the behest of Orthodox priests, had given up their jobs to embark on pilgrimages, vagrant mullahs who travelled around the country by performing religious ceremonies and "healing" the sick, and individuals engaging in shamanistic practices, were also targeted [100].

One final and notable parasite of the *otkrytye* variety was, as previously, the kolkhoz shirker. A letter published by *Pravda* shortly before the appearance of the 1961 RSFSR anti-parasite decree advocated its enactment in that republic as a means of "compelling people in rural areas to go to work". Its writer, M. Kitaiev, the president of the Kalinin kolkhoz in the Saratov *oblast'*, described how he had not long ago visited the village of Elshanka - a large village with 424 households and a total of 1,362

inhabitants - and found that only 223 villagers were actually members of the kolkhoz there (that is, less individual members than the number of families) [101]. The exile of non-working kolkhozniki began in some parts of the RSFSR even before adoption of the 4 May decree [102], and continued thereafter both by means of a "social sentence" voted by the kolkhoz meeting (for example, Anir Aliev, a member of the Kirov agricultural artel, had, during the whole of 1960 earned only six *trudodni*, and in 1961 ceased to perform any type of work for the kolkhoz: he was exiled by the said method) [103] and by trials in the people's courts (the shirker Brazhnikov was exiled for five years by a people's court in the Tula *oblast'* [104] and Anatolii Kachurenko, a drunkard, who in the previous five years had only worked a total of eight months, was sentenced to the same term of exile by the court of the Konstantinov *raion* in the Stalin *oblast'* of the Ukrainian SSR [105]).

Nonetheless, more than a year after the RSFSR decree came into force, there was abundant evidence of official dissatisfaction with the state of labour discipline on the farms and little evidence that the anti-parasite legislation was regarded as a major path to improvement of the situation. The CPSU Central Committee issued a directive in September 1962 which obligated party organs "to take the necessary measures to strengthen labour discipline in sovkhozes and kolkhozes and [measures] for increasing the role of the party, Komsomol, trade union agencies, comrades' courts, and the press and radio in the struggle against shirkers, absentees, drunkards, and others who harm agricultural production ..." [106]. One Georgian kolkhoz with 886 members counted 200 who failed to fulfil the minimum work days in 1961 and seventy-four who did no work at all; 32% of the able-bodied members of another collective farm performed no work for it in 1961; and in yet another, more of the kolkhoz wage fund was spent for hired labour than for payment of the farm members [107]. Some Soviet jurists in any

case held the opinion that the anti-parasite law should not be used against kolkhozniks merely because they failed to fulfil the minimum number of *trudodni*, especially in view of the fact that a decree of the USSR Council of Ministries and the CPSU Central Committee of 6 March 1956, stipulated four specific penalties which might be applied in this circumstance: reduction of the personal plot belonging to the kolkhoznik; application of an agricultural tax at an increased rate of 50%; deprivation of the opportunity to utilise kolkhoz pastures for their own personal livestock and of the right to exchange any *trudoden'* earned for rough fodder; and, as an extreme measure, expulsion from the kolkhoz [108]. Even more distasteful to jurists were instances, such as occurred in the Riazan *oblast'*, when higher officials marked out a "planned" use of the anti-parasite law as a means of improving labour discipline; the officials of a kolkhoz received a letter from the *raion* party secretary and chief of the farm production administration ordering them "to carry out the banishment of not less than four to eight persons in accordance with the decree of 4 May 1961" with the explanation that "we regard this as essential in view of the fact that, this decree has never yet been put into practice in the Vernyi Put Kolkhoz" [109].

One claim, made repeatedly in Soviet writings, was that there were not many "pure" parasites, that is, persons doing no work whatsoever. In most cases, spongers created the appearance of working, of subsisting on wages earned; these were the so-called *skrytye* (concealed or latent) parasites. As P.K. Evdokimov, a scholar from Minsk, explained:

> At first glance they appear to be engaged in socially useful work, by occupying a specific post in an enterprise, kolkhoz, institution or organisation. In fact, such people are only taking jobs for appearance's sake in order to camouflage their anti-social activities [110].

M.P. Ipatov from Orekhovo-Zuevo, for instance, was a fireman who earned a modest

thirty-one roubles per month, yet he somehow managed to find the money to finance the purchase of two "Pobeda" cars and the construction of a house for his son. He was found to have enlarged his personal land plot illegally and to have "made a fortune by trading in the fruit and vegetables grown on it". The people's court found him guilty of parasitism: he was exiled for a period of five years and all the property "dishonestly earned" was confiscated [111]. Similarly, a certain Vasilenko, who had been a skilled engineer-technologist in the Kizliar' steel works, took a low-paid watchman-stableman job since this gave him more time to concentrate on his lucrative, but illegal, rabbit-breeding business. The city people's court ruled that he had taken work "for the sake of appearances" and ordered his exile for a term of five years with confiscation of the property acquired by "non-labour means" [112]. In Makhachkala, Shikhmedov, a speculator in living space, joined a kolkhoz in an attempt to mask his illegal activities but was exposed and exiled, while the kolkhozniki of the "Perelom" kolkhoz in the Kalinin *oblast'* of the RSFSR passed a "social sentence" exiling A.V. Ivantsov for five years on the grounds that he had been using his membership of the farm as a cover whilst engaging almost exclusively in "moonlighting" [113].

Most "latent" parasites were abusing their constitutionally proclaimed right (and duty) to work. They often, for example, far from loafing around, worked hard in officially disapproved yet not quite criminal ways. Here it was a question especially of those who were deriving and accumulating material wealth for themselves by using either articles of personal ownership or their skills to fill a need which the Soviet economy was not geared to meet, but in a manner which the regime found to be politically unacceptable. Although all land, for instance, was state-owned, Soviet citizens were allowed to have a plot of land in their personal ownership for the running of a subsidiary household economy. Some, however, were turning their plots into

purely commercial enterprises. "While forgetting that the state has allotted them a land plot for personal purposes", wrote Professor I.D. Perlov, "some people are converting it into a commodity economy, are often using hired labour for the cultivation of the plot and are extracting unearned income from it" [114]. As an illustrative example, one can cite the case of a Barnaul couple, A.V. Aristov and A.Ia. El'chisheva, who turned their plot into a high-profit yielding concern: they kept many cows, goats and pigs, built a large apiary, and sold vegetables, meat, milk and honey on the market at speculative prices. To help them cultivate the land, they employed the services of a number of "debtors" who had purchased some of their produce "on credit" and whose names the couple logged in a special debtors' book. On the unearned income derived, they "systematically engaged in heavy drinking". The people's court of the Central *raion* of the city ordered that they be exiled as parasites, under the decree of 4 May 1961, for five years with confiscation of their property [115].

As under the earlier anti-parasite legislation, numerous cases were reported concerning collective farmers who, instead of putting their full efforts into raising the output of their farms, preferred to conserve their energies and channel them into their own personal plots [116]. Unlike the shirkers mentioned above, these spongers were doing at least some work for the kolkhoz, but were reserving their hardest labours for activity that went toward satisfying their own selfish, personal interests. Soviet commentators, such as V. Peshkov, realised that "mercenary behaviour" of this kind was being provoked by the malfunctioning of the distributive system, which was leading to bottlenecks in the supply of agricultural produce:

> The question of the relationship between the kolkhoznik and the market must be addressed if one is to fully understand the reasons for parasitism. A kolkhoz family which has worked honestly and conscientiously receives agricultural produce for the *trudodni*, but frequently in amounts considerably exceeding its needs. To this is added the produce obtained from the

> cultivation of the personal plot. In some places, however, the co-operative sales organisations are not ensuring that surplus agricultural produce is bought up from the kolkhozniki. They are therefore forced to sell it at the market by themselves. This, to a certain extent, has enlivened speculative activity. Finding themselves in the market, where prices, as a rule, considerably exceed state ones and have often been inflated by the greedy interests of speculators, some kolkhozniki have voluntarily become parties to this speculation. Some of them have been tempted by the possibility of enrichment, through dishonest, speculative means, at the expense of others, have ceased to work honestly and have themselves become speculators [117].

In his speech to the 22nd Party Congress on the new Programme of the CPSU, Khrushchev rejected some proposed solutions to this problem such as the prohibition of direct sales from producer to consumer in the kolkhoz markets and the introduction of direct distribution, as being premature.

> The question of whether there should or should not be trade cannot be decided according to someone's desire or by decree. The transition to direct distribution requires the necessary material and technical base and an abundance of material goods. Until these exist we must not curtail but on the contrary must develop and improve Soviet trade. Nor is it possible to prohibit kolkhoz trade, which still plays a conspicuous role in supplying the population with food products. Collective farmers have to sell part of their produce, and the administrative establishment of fixed kolkhoz market prices suggested by some comrades is impossible [118].

He was no doubt aware of the fact that earlier attempts to regulate kolkhoz market prices had been unsuccessful. It had been tried during the autumn of 1960 in the central market in Alma-Ata, for instance, but this proved impracticable since it had not been backed up by a broad expansion of state and co-operative trade. The city *sovnarkhoz* (economic council) was unable to guarantee a regular supply of the most important produce; over the first six months of 1961 alone, it short- supplied around 400 tons of butter to the state trading network and the city was no better supplied with fish, vegetables and fruit [119]. Khrushchev saw the solution as lying in the reduction of

kolkhoz market prices via an increase in the output of agricultural produce. Administrative measures, he said, should only be applied against speculative elements. At the same time, he called for an improvement in the work of consumers' co-operatives "which should help kolkhozniki sell their surplus produce" [120]. Meanwhile, in some places, specific measures were taken against kolkhozniki working unconscientiously in the social economy of their farms. G. Nasyrov, the chairman of the Lenin kolkhoz in the Perm *oblast'* (RSFSR) wrote to the monthly *Sovety deputatov trudiashchikhsia* highlighting the financial damage caused earlier to the farms by the exaggerated private production of its members. This had come to light one year when seven *artels* were amalgamated to form one large economy. In the former *artels* each household had a personal plot of between twenty-five- and thirty- hundredth parts of a hectare in size and the number of cattle kept by them far exceeded the statutory norm. "While using the profession of a collective farmer as a cover," he explained, "the lovers of easy gain sold the produce of their private production and almost no benefit was brought to the kolkhoz, despite the fact that they demanded it care for them and give them transport facilities and other services." With a view to ensuring the *artel* members' more energetic participation in kolkhoz production, the local executive committee passed regulations under which the dimensions of personal plots were set according to labour performance. The most conscientious toilers were rewarded with plots of up to 0.15 of a hectare, whereas those farmers who, without good reason, failed to fulfil the required minimum number of *trudodni*, had theirs reduced in size to 0.05 of a hectare. A limit was also set for the number of cattle allowed under personal ownership. This policy produced immediate, positive results; in 1961, the kolkhoz sold 2,860 centners more meat and 1,600 centners more milk to the state than in 1959 [121].

Some kolkhozes, on the other hand, far from combating manifestations of

parasitism were actually aggravating the problem. The RSFSR Minister of Internal Affairs, V.I. Tikunov, criticised farm leaders for their frequent failure to ensure the proper use of land. This, he said, was playing into the hands of parasitic elements, who while reckoned to be collective farmers, were using the lack of control to set up large private farms [122]. According to Article 8 of the (1936) USSR Constitution, land occupied by collective farms was allotted for them free of charge and in perpetuity; it could not be transferred to other parties either for payment or gratuitously, since it had been withdrawn from civil circulation (Article 21 of the then Civil Code of the RSFSR). The managers of some kolkhozes, however, were leasing out plots of land to individuals who had no connections with the farm. This appears to have been quite a widespread practice in both the Uzbek [123] and Kazakh SSRs [124]. It was noted in a report from the latter republic that in the Alma-Ata, Dzhambul and Chimkent *oblast*'s there had been gross violations of the decree issued on 27 May 1939 by the SNK SSSR and TsK VKP (B) - "On Measures to Protect the Public Land of Kolkhozes Against Squandering"; land had been leased to non-kolkhozniki, persons who, in general, were not working anywhere and leading a parasitic way of life; and who were using the plots to grow vegetable crops and watermelons which when exported to the northern republics yielded high profits. Moreover, other farm managers had been presenting plots to non-members as payment for work carried out by them for the farm; in April 1960 the chairman of the Kirov kolkhoz in the Alma-Ata *oblast'* hired a twenty-six-strong *dikaia* (lit. "wild") brigade to help with the sowing of vegetables. Each brigade member was allotted 0.20 of a hectare for use as a market garden in return for the cultivation of 6.25 hectares of onion fields for the kolkhoz. Due to "lack of control", they not only doubled the dimensions of their plots but also sowed 29.8 hectares of onions, *i.e.* without permission they seized 23.55 hectares, the harvest of which they hid

during registration of the crop produced. These facts became known to the executive committee of the *raion* soviet in July 1960, which duly passed an order demanding confiscation both of the land and the crop. The kolkhoz chairman, the chief accountant and the chairman of the Revolutionary Committee all failed to act, however, with the result that the brigade was able to remove the crop, transport it to the Far East, and sell it for a huge profit; in total, 200 tonnes of onions were sold by the brigade for more than 100,000 roubles, while the kolkhoz only received 6,000 roubles. The "parasites" returned to their city apartments where they "lived in clover" for months without having to work anywhere [125].

It was particularly common for persons using their land plots as a source of profit to simultaneously maintain livestock in an amount substantially exceeding their personal requirements - again for the purpose of personal enrichment. Most were engaged in the malpractice of feeding cheap state bread to their cattle which was seen in some quarters as a proper offence for liability under the anti-parasite law [126]. In fact, a meeting of village residents in the Riazan *oblast'* actually proposed to exile a woman villager for this offence, but at the last moment relented [127]. From May 1963, this category of "parasite" faced criminal prosecution under a decree of the Presidium of the RSFSR Supreme Soviet - "On Increasing Liability for Feeding Livestock and Poultry, Bread and Other Grain Products Bought in State and Co-operative Stores" [128]. It was noted in the preamble that:

> In recent times many instances have been established in which speculative elements - livestock owners who are not employed in socially useful work - are using inexpensive state bread and other grain products to feed livestock for the purposes of personal enrichment. Some workers and employees - urban residents, collective farmers and state farm workers and employees - instead of taking care to procure feed for their livestock by permissible means, feed their animals and fowl bread, flour and groats bought in state and co-operative stores ...

> this disrupts the normal supply of bread to the working people and arouses the just indignation of citizens.

Those guilty of the said offence were to be subject to a fine of from ten to fifty roubles; if after the imposition of the administrative fine, the offence was committed anew, or regularly, or on a large scale, then the culprit was held criminally liable under an amended Article 154-1 of the Russian Republic Criminal Code which provided for punishment in the form of corrective labour for a period of up to one year or deprivation of freedom for a period of one to three years, with or without confiscation of livestock.

On the same day (6 May 1963), the Presidium passed another decree - "On Monetary Tax on Citizens Owning Livestock Who are Not Employed in Socially Useful Work and on Citizens Maintaining Livestock for Purposes of Personal Enrichment" [129]. Those required to pay the tax were: (a) workers, employees and other citizens who had in their personal possession livestock above the statutory norms [130]; (b) state farmers who had in their personal possession livestock above the norms established for them; (c) households of collective farmers in which employable members of the family for no valid reason had not put in the number of work-days established by the kolkhoz in the preceding year; (d) employable citizens who owned livestock but were not engaged in socially useful work. Individuals within groups (a) to (c) were to pay, for each head of livestock in their possession in excess of the norms established for them, the following annual tax rates: for a cow - 150 roubles; for a pig older than two months - fifty-five roubles; for a sheep or goat older than a year - fifteen roubles; for a work horse - 200 roubles; and for other work animals - 100 roubles. The "parasites" in group (d) were to pay the above rates, increased by 100%. If persons failed to pay the tax, "coercive measures of fining" were to be applied through generally established procedure.

A significant number of *skrytye* parasites were abusing their right to personal ownership of a dwelling house as a means of deriving unearned sources of income. As P.B. Orlovskii, a corresponding member of the USSR Academy of Sciences observed:

> The right of personal ownership of housing has a purely consumer nature: a citizen may build or acquire a dwelling as a personal owner only for purposes of occupancy by himself and his family. All existing legislation dealing with the right of personal ownership of housing specifies the consumer purpose of that housing. The law entirely rules out the use or disposition of housing for the purpose of deriving unearned income [Article 25 of the Fundamental Principles of Civil Legislation of the USSR and Union Republics, for instance, expressly prohibited this - D.R.C.] .... A determined struggle must be waged against survivals of a private ownership mentality. It is necessary to strengthen control over persons who rent out housing, and if the fact of speculation in living space is established, to call the parasite-speculator to account and evict him from his apartment [131].

It should be noted that according to the decree of the Presidium of the USSR Supreme Soviet - "On the Right of Citizens to Purchase and Construct Personal Homes" (26 August 1948), citizens, whose houses conformed to the dimensions it laid down - they were allowed to buy or build and inhabit ONE house of one or two storeys, with up to five rooms and with a floor space not exceeding 60 m^2 - were permitted to lease out rooms temporarily on condition that the income obtained did not form their principal means of existence. Parasitic elements, however, were attempting to improve their own personal position by charging excessive rent for surplus accommodation. They were accused of speculating in the "temporary difficulties" the state was experiencing in its efforts to satisfy the housing needs of the Soviet people. On 13 July 1961, the people's court of the Central *raion* in Sochi ordered the exile of G.I. Golubenko, an agronomist, who had built a large house with eight rooms covering a total floor space of 104 m^2. Six of the rooms, the basement and a shed were specially adapted for housing lodgers (ten in all) whom he charged an exorbitant rate of rent. By "skinning the lodgers alive",

he had derived unearned income "on a grand scale" - most of which he squandered on drink [132]. Cases were also reported of citizens leasing out their houses to state organisations. Thus, an engineer in the Kustanai *oblast'* Planning Institute had leased the second storey of his eleven-roomed house to a party reconnaissance group for fifty roubles a month [133], while a certain Nagiev, a Moscow home-owner, purchased a second property for 5,200 roubles in one of the settlements of the Moscow *oblast'*. "For the purpose of extracting unearned income", he concluded a contract with the course director of the State Powerstation Construction Institute which effectively turned the house (it had 300 m^2 of living space) into a hostel accommodating thirty students. Under the contract, the Institute paid him twelve roubles a month for each student put up, and in total he obtained some 5,040 roubles [134].

Some house-owners, fearing exposure and publicity, offered their houses "voluntarily" to local soviets or welfare organisations. In the Primorskii *raion* of Odessa, for example, senior ex-servicemen were found to be keeping both houses in dacha localities and well-equipped flats in the city. They were summoned before the committee of assistance to the *raion* military registration and enlistment office, where they were reminded about the housing shortages and the existing laws. The following day, both Colonel Lozovskii and Major-General Lavrenko submitted written requests to the *raion* executive committee asking it to take over possession of their city flats. But others, such as the retired Colonels Dzygun and Sergienko, continued to obtain unearned income through housing rental. They were expelled from membership of the Party, and by order of the USSR Ministry of Defence were demoted in rank and deprived of the right to wear uniform [135]. Other citizens, such as I.Z. Kakvaev, a surgeon in Makhachkala, did not need any "coaxing": he simply made a gift of his house to the city executive committee [136]. The motives behind generosity of this kind

were called into question by a senior-ranking procurator:

> People donating their houses to local soviets as "presents" are by no means doing this out of nobleness, but purely for the purpose of escaping exposure as parasites - in order to come out unscathed as they say. And executive committees are sometimes hurrying to accept these gifts into the communal fund .... Such haste is inappropriate. It retards the struggle against speculators and parasites. Indeed, on the contrary, it portrays them in the role of "heroes", who allegedly are voluntarily donating their private residences to the State. The actions of these new-born "philanthropists" must be examined minutely. If they have been using the house as a means of illegal enrichment, then it must be confiscated ... and not accepted as a generous gift [137].

A number of writers, including A. Surilov and I. Cheban from Kishinev, argued that the anti-parasite legislation was of limited value in the fight against those misusing their personal property rights. They cited the case of a certain G.P. Sadovnik, who from 1956 to 1961 had systematically let out his house to three families for fifty roubles per month. He himself lived, without a residence permit, in a state-owned apartment assigned to A. Larchenko. With the latter's assistance, Sadovnik had forced the tenants to pay increased rent through intimidation and extortion. But, the people's court of the Orgeev *raion* which examined the case refused to exile the "malicious parasite" on the grounds that he was engaged in socially useful work at the local creamery. The writers complained that the Moldavian anti-parasite decree of 29 June 1961 did not "provide for adequate measures to combat 'covert' (*zamaskirovannyi*) parasites of this kind" and proposed that greater punitive powers be afforded to "courts of the public" [138]. Despite this weakness, the 1961 decrees were a useful and additional weapon in the administrative fight against personal housing which started at the end of 1960. Alarmed by an increase in the speculative activities of *dachniki* or *dachevladel'tsy* - the owners of private dachas who "with the start of the summer season begin their feverish activity of extracting as much unearned income as possible by charging holidaymakers

considerable sums for the privilege of using their cottages" [139] - the USSR Council of Ministries issued an order on 30 December 1960, which forbade the allocation of land to private citizens for the building of dachas [140]. The order appears to have been a response not only to the said speculation factor, but also to growing evidence that many of these income-producing dwellings had actually been - to use the words of D. Todesas, the Director of the Construction Inspection Department of the Lithuanian Republic Council of Ministers' Soviet Control Commission - "built with dubious earnings" [141] in the first place. Khrushchev himself, spoke on this matter at a conference of leading agricultural workers of the RSFSR Non-Black Earth Zone in February 1961, where he urged the delegates to

> sensitively heed warnings from the working people and combat parasites and antisocial phenomena. It is necessary, for example, to look into the funds on which certain dishonest people live. It happens, after all, that a man works, say, at a milk-receiving centre or in a beer kiosk. He works there a year, and then you find he's built a house or dacha. The question arises: Where did he obtain the money? It is clear that on small earnings you won't build such a house at once. They say that such a person is a thief who hasn't got caught. So, comrades, let's not be formalists. Let's ask such a person outright where he got the money to build a house. It is evidently necessary to think about issuing laws that will provide for the transfer of such houses for the benefit of society [142].

Legislation to this effect was enacted some fifteen months later, when on 26 July 1962 the Presidium of the RSFSR Supreme Soviet passed a special *Ukaz* [143] ordering the confiscation without compensation of houses, dachas and other structures erected or acquired by citizens with unearned income and the transference of the buildings to the communal funds of *raion* (city) soviets, collective farms or other co-operative or public organisations. (Identical decrees were duly issued in the other union republics.) One particular study into the application of the legislation in eight union republics found that "most frequently of all, houses are being built or purchased with unearned income by

citizens, who have dealings with commodity or monetary valuables - shop managers, salesmen, storemen, suppliers, bursars, barmen *etc.* Dishonest people amongst this category of workers, by various dodges and machinations with goods and also by theft, are acquiring the sums of money needed for their unlawful ventures" [144]. A certain Nikiforov, for example, worked as a "humble" confectioner in a Voronezh restaurant where he earned only 800 roubles (in old currency) per month. He specialised in pastries and rum babas, but deceived customers by skimping on ingredients. Using the withheld flour, sugar and butter, he set up his own private production-line in cakes, which were sold through a hawker. On the illegal income amassed he built a house with outbuildings to a value of 150,000 roubles, furnished it with expensive luxuries and even gave his dog a centrally-heated kennel. The total value of all the acquired property was calculated to be in the region of some four million roubles. By order of the city people's court the house was confiscated and Nikiforov was exiled as a parasite [145]. However, expectations, such as those expressed by one commentator, that "these decrees will give our people the opportunity to wage the fight against parasites to its logical end" [146], were dashed by lax enforcement efforts. The decrees, for instance, had instructed *raion* and city executive committees to ensure a thorough verification of materials at hand by forming commissions composed of deputies to soviets and representatives of communal and finance agencies and co-operative, trade union and other public organisations. But, in some cities such Omsk [147], commissions were not assembled, while in others they remained inactive because of red-tape; during a check-up in the *raion* executive committees of Tashkent, twenty-eight case materials were discovered to have been "lying on the shelves for months, gathering dust" [148]. Several executive committees in the Kazakh SSR were criticised for "swaying to and fro instead of applying the *Ukaz* of 7 August 1962 with proper firmness": in the Pavlodar,

Tselinagrad and Northern-Kazakhstan *oblast*'s there had been no recorded cases of its application [149]. Things were not much better in some of the resort towns of the Crimea and Caucasus: the Kislovodsk city executive committee was found to have materials in its possession implicating eighty-seven home-owners, but its commission had checked only nine dispositions and only three houses had been confiscated; in Piatigorsk, information had been sent to the commission concerning 150 suspect home-owners, but only in eleven instances was the information verified; and the Yalta city executive committee admitted that it knew of at least ten private houses that had been built with unearned income but had only made moves to confiscate one [150]. (One can also note here that the anti-parasite law itself had fallen into disuse in the resort cities. A report published in *Pravda* at the beginning of August 1963 castigated local executive committees, administrative agencies and public organisations for waging virtually no struggle at all against parasites and for shutting their eyes to the spread of private-property activity:

> Every year millions of Soviet people relax, refresh and renew their strength on the sunny shores of the Black Sea, in the resorts of the Crimea and the Caucasus. The network of people's health centres, boarding houses and public-catering enterprises is widening every year. And yet, there are not enough of them. This fact is being exploited by dishonest people, profiteers, sharp dealers and crooks .... The sharp dealers ... derive especially large profits from the rental of housing to vacationers. Last year, for instance, residents of Sochi, Yalta, the Caucasian mineral springs region and the seaside cities of Abkhazia reaped several tens of millions of roubles from renting apartments, rooms and beds to vacationers. Only a small part of this sum was paid through legitimate channels on the basis of leases or through apartment bureaus or other institutions. The lion's share was pocketed by home-owners who, taking advantage of the negligence and leniency of local authorities, circumvent the law and use their houses as a constant source of large unearned incomes. Recently, personnel of the party-state control committee conducted a check in the resort areas on the fulfilment of the party and government decree on the intensified struggle against antisocial, parasitic elements .... It was found that in two *raions* of Sochi alone, there were about 1,800

> healthy, able-bodied people evading socially useful work. Quite a number of loafers reside in Kislovodsk, Piatigorsk, Gagra, Gudauty, Sukhumi and Yalta. The measures adopted by the city executive committee to enlist them in socially useful work are totally inadequate. In the chase for profit many of these loafers owning homes rent not only rooms, porches and alcoves but even barns and outdoor hammocks .... Some residents, taking advantage of the inefficiency of the trade organisations and the negligence of finance agencies, get rich with impunity through private-property activity and speculation. On the markets, beaches and streets of Sochi, Yalta, Alushta *etc.*, one can always see people selling shells, boxes, beads, home-made postcards and flowers. In the cities of the Caucasian mineral springs region there is large-scale speculation in shoes, rugs and home-made woollens. In the resort areas of Abkhazia many residents manufacture and sell *chach* and other alcoholic beverages [151].)

In sharp contrast to the official laxity, in some *raion*s of the Uzbek and Kazakh SSRs, the militia agencies rendered over-zealous assistance to executive committees in implementing the decrees. They checked up on all private home-owners "without exception", in an attempt to expose those who had built or acquired their houses on unearned income. Such "wholesale suspiciousness" was said to have provoked "justifiable censure and numerous complaints" and to have discredited not only the militia but also the decrees themselves [152].

Besides the commercial exploitation of land and the speculative use of housing, parasitic elements using private cars (the money provided from the rent of a personal automobile had been declared unearned income in 1942) [153], horses [154], motor boats [155] or, indeed any item of personal property, as a source of illicit income, faced liability under the anti-parasite laws. So, too, did those using their skills for personal gain, *i.e. shabashniki* and *kalymshchiki* (members of unofficial construction brigades), whose activities were viewed as an unconcealed form of private entrepreneurial activity:

> This category of parasite is violating the most important principle of socialism - "from each according to his abilities, to each according to his work". Taking advantage of the fact that some kolkhozes are experiencing shortages of manpower,

> especially of skilled builders, these people are offering them their services, but for exorbitantly high rates of payment. Thus, they only have to work on average for two to four months per year; they usually use the rest of the year for cultivating their land plots and marketing the produce grown, or they simply loaf about and lead an openly parasitic way of life [156].

Although the Kazakh anti-parasitic decree was the only one to specifically state that *shabashniki* were liable, there is evidence from other republics which shows that the 1961 laws were widely invoked as a means toward stamping out their activities. In the RSFSR, for example, around 35% of the total number of persons called to account under the 4 May decree during the first three months of its operation were workers of this kind [157]. Illustrative in this regard was the case concerning the Dubrovskii brothers: during the summer months they would move from kolkhoz to kolkhoz in the Stavropol Territory where they charged their clients excessive rates for building work. The income generated was huge: not only could they afford "to sit out the autumn and winter months in idleness", they had "more than enough left over" with which to acquire a second house in 1959, a new "Moskvich 402" motor car in 1960, and a motorcycle with sidecar in early 1961. By order of the Petrov *raion* people's court, on 22 June 1961, the brothers were exiled as parasites for a period of five years and their property confiscated [158]. While *shabashniki* operated predominantly in rural localities, it was reported from some republics that *dikiye* construction brigades had been expanding their sphere of operations into cities also. Thus, one four-man team, none of whom had worked in social production for five years, carried out major repairs for a school in Alma-Ata. They charged 4,500 roubles for the work - "a job which would have been done for cheaper by state or co-operative construction organisations" [159]. The Belorussian Council of Ministers, moreover, had been concerned enough about the spread of such "private entrepreneurial activity" in the republic to actually

have passed legislation trying to suppress it even before its new anti-parasite law came into force: under the decree of 17 March 1961 - "On Facts of the Enlistment of Private Persons by Enterprises, Organisations and Institutions for Carrying Out Various Kinds of Work", managers of state enterprises *etc.*, were forbidden to hire private citizens to do jobs which could be performed by state and co-operative enterprises and organisations. Those who did so were to be brought strictly to account, with the losses thereby caused to the state directly recoverable from those guilty [160].

The 1961 anti-parasite decrees were certainly far more detailed in naming the offences and offenders than both the original draft versions of 1957 and their adopted forerunners. But, the list of activities they prescribed was not definite, being more of an illustrative nature. As Shliapochnikov commented:

> The legislator by no means considers the list of antisocial acts listed in Article 1 of the May 4 *Ukaz* as one that exhausts the objective side of the offence. On the contrary, it is pointed out in Article 1 that the commission of OTHER antisocial acts that enable persons to derive unearned income and to lead an antisocial, parasitic way of life, also forms the objective side of this offence. At the same time, while only giving a rough list, ... the legislator prescribes a precise and definite criterion which permits us to judge other antisocial acts as ones which fall under this *Ukaz*. Such a criterion is the EXTRACTION OF UNEARNED INCOME, ENABLING A PERSON TO LEAD A PARASITIC WAY OF LIFE, and this distinguishes these antisocial acts from other law violations [161].

Nevertheless, the vagueness of the phrase "other (*i.e.* unspecified) antisocial acts" meant that there was still a high degree of subjectivity in the application of the new law. Any activity considered disruptive or "dangerous" had a strong chance of being labelled parasitic. Thus, it was repeatedly averred in the press that parasites were not only those who did not want to work or who were working only for appearance's sake, but also those who strove to live well while working poorly in their jobs - *letuny* ("rolling-stones", who continually change their place of work in search of higher wages);

progul'shchiki (absentees); *brakodely* (slipshod workmen); violators of labour discipline; - to name a few. They undermined production efforts, and, in the opinion of a party official from Sverdlovsk, they were "virtually indistinguishable from the parasite, who lives off the people. Their aims are akin. Both are wanting to grab a bigger slice of the cake from society without working honestly for it. But, at times, we are not repulsing these *rvachi* (self-seekers) in a fitting way. They may even be fulfilling their daily work quotas, but in the pursuit of roubles they are not paying attention to quality, are searching for easy earnings, are shirking difficult work" [162]. Parasites of an "especially dangerous" kind were operating in the medical field. Exile sentences were passed upon individuals posing as qualified doctors [163], back-street abortionists [164], and in the Mangyslak *oblast'* of Kazakhstan, a Z. Sauvova, who had given up her job in a kolkhoz to concentrate full-time on *znakharstvo* (quack-doctoring), was "sent packing": she claimed that she could treat all childrens' illnesses even though she had no medical knowledge whatsoever. Her method was very simple. She would blow up the nose of the sick child and then show the mother a fruit-stone or small coin, which she said had been lodged in the infant's throat. For each "insufflation", she charged ten roubles [165].

In summarising the discussion on offenders, we can say that the parasite indeed had "many faces". All sorts of maladjusted and poorly integrated individuals were deemed to merit exile: the drunkard, the vagrant, the beggar, the prostitute, the alleged or suspected speculator, the private entrepreneur, the idler, the person sponging off his parents or others. All that these categories had in common was in being a maladjusted minority, regarded as a source of anxiety and insecurity by the majority. This estranged minority could, by the vague definitions in the law, be extended to include any other group of whom the majority disapproved in some way. For example, there were calls

for the exile of persons hobnobbing with foreigners [166]; those manufacturing "crude and tasteless handicraft wares", like the *krasili* (itinerant stencillers of designs on wall rugs, carpets and blankets) [167] who were called idlers following an illegal trade; and even "corpulent wives who specialise in gossip and pieces of scandal" deserved expulsion according to one writer [168]. Some activities, depending on the question of intent, lay on the borderland between the criminal law and the parasite law. If we take the *tolkachi* - middlemen and agents between government enterprises, co-operatives, *etc.*, - then they were often performing perfectly legal functions as representatives of some enterprises sent to suppliers or customers, to some *sovnarkhoz* or ministry to obtain supplies or to effect sales. But their activities if carried out in an unofficial capacity as private agents, in the form of a business or for the purposes of enrichment, could draw either criminal liability (Article 153 of the RSFSR Criminal Code) or, in less serious cases, be classed as parasitic behaviour. The immense natural resources of the country offered scope to a mass of activities which could border on criminality or almost fall within the range of the anti-parasite law: fishing, especially for the extremely valuable beluga and sturgeon, hunting and fruit-gathering. The very good income from gathering cedar nuts and the extremely highly-valued ginseng root for Eastern medicine and the soft horns of the maral (Siberian deer) for the manufacture of pantocrin was mentioned frequently [169]. Other borderline cases included habitual gamblers, those possessing large quantities of state lottery tickets, and rag-pickers (*sborshchiki util-syria*) [170].

* * *

The anti-parasite law was a legal "maverick" - a misfit, a special breed, difficult to categorise. Its operation ostensibly had twin anchors, in the state judicial system and in the sphere of justice rendered by informal social groups. The parasite trial in both these

spheres, however, necessitated definitions and procedures which were unusual or exceptional. In the non-state sphere, the law provided for a "social sentence" of exile rendered by the general meeting of a *kollektiv*, but not a single major characteristic of the manner in which this sentence was arrived at was clearly prescribed in the legislation itself - a fact which may explain why this alternative method of trial was only utilised in a relatively small percentage (under 10% - see note 44) of parasite cases. Even when employed, however, the "social sentence" of exile became operative only from the moment of its confirmation by the appropriate executive committee of the local soviet. In other words, the system may be described as administrative exile by the local organs of government, augmented by public meetings which played the preliminary role of providing a forum at which such punishment could be suggested. The parasite trial in the *kollektiv* was therefore merely a mass educational device, with hardly any attributes of a judicial proceeding.

Parasite trials in the state judicial sphere raised a number of questions, revolving round the claims made by Soviet jurists that violation of the anti-parasite laws was an ADMINISTRATIVE not a CRIMINAL offence [171]. Parasitism, they said, was not a criminal charge and the accused sent into exile did not acquire a criminal record. But, if parasitism was not a crime, why was the trial held in a people's court? If the parasite was held liable only for an administrative offence, on what basis could he be given the undeniably criminal punishment of exile? Soviet writers found a provisional solution to this dilemma of definition and legislative inconsistency by designating the parasite law as a separate and "special" category both in regard to the legal norms and the sanctions which it contained.

The first question to be clarified is the relation between parasitism and crime. This is made easier by distinguishing between a broad and narrow usage of the concept of

parasitism in Soviet writings. In the broad sense, it included confirmed criminals, those reaping profit on any scale from unauthorised economic activity, the idle children of indulgent and affluent parents, and so forth. One legal journal described parasitism in the following manner:

> Parasites are first and foremost people who derive the means of their existence by criminal activity. These include those who steal socialist property, embezzlers, bribers, speculators, extortionists, dealers in contraband, bootleggers, chronic alcoholics, and hooligans. Parasitism appears in various forms but its essence is always the same: easy living at the expense of the work of others. The psychology of parasitism is the psychology of private property [172].

Such a broad definition clearly exceeded the bounds of parasitism set by the anti-parasite legislation of 1961. Some observers had proposed the addition of an article to the criminal code specifically making parasitism a criminal offence [173], but this view was rejected in favour of the law which treated it as being almost, but not quite, criminal. Perlov elaborated this topic in some detail:

> From parasitism to crime is but one step. A parasite is always on the lookout for ways to obtain unearned income so that he will have the possibility of leading a parasitic way of life ... The parasite is by nature a foe of any kind of social order ... Parasitism is in itself a violation of the Constitution, a violation of Soviet laws, and is now subject to severe liability ... The parasite is a hundredfold more dangerous for society [than those committing petty breaches of the peace - D.R.C.] because today's parasite is tomorrow's criminal. A parasite is a potential criminal. Sometimes it is almost impossible to draw the line between parasitism and the crimes punishable under the criminal code - the line where one could say here ends the parasitic way of life in its pure form, so to speak, and there begins criminality. The line between the two is rather flexible [174].

Perlov, was attempting to delineate, if possible, the distinct offence of parasitism within the meaning of the anti-parasite decree. For him, as for other commentators, it was vital to eliminate from the definition all individual cases in which elements of a crime might

be present, for under such circumstances criminal charges had to be filed and the anti-parasite law was inapplicable.

Nevertheless, the majority of "non-criminal" parasite cases were, as we have said, conducted before regular state courts (which in such cases were said to be acting administratively rather than judicially) with the essential difference that normal rules of criminal trial procedure were not automatically applicable (since parasitism was not a "crime"). Pressed to find a suitable definition for this legal oddity, the best that Soviet lawyers were able to say was that the anti-parasite law constituted a "special type of administrative influence" [175]. This ambiguous phrase may be interpreted as summary justice, which was not foreign to Soviet judicial practice: in 1956-1957 simplified trial procedures were introduced to deal with cases of petty hooliganism [176] and petty speculation [177]. However, there can be no comparison between the anti-parasite law and these laws since the maximum penalty under them was "arrest" for fifteen days. Moreover, such cases were heard by a single (professional) judge, whereas anti-parasite ones were tried before a panel consisting of a judge and two lay assessors, as in normal criminal trials (see below). With respect to the parasite trials conducted by a *kollektiv* with no recourse to the regular judiciary, Soviet legal literature seemed to take the attitude that the less said about it the better.

Meanwhile, the very fact, that in contrast with most other administrative offences, violators of the anti-parasite law were (for the most part) tried in the courts proved to be an important safeguard of the rights of persons charged under it, for the USSR Supreme Court thereby obtained supervisory jurisdiction to review decisions and began to require the courts in such cases to observe some of the basic guarantees of the Code of Criminal Procedure.

3.4 SUPREME COURT RULINGS IN PARASITE CASES

Amid complaints of abuses and inconsistencies in the application of the anti-parasite measures, the Supreme Court issued a ruling on 12 September 1961 (hereafter Ruling No.6) [178] severely criticising the "serious shortcomings" evident in the campaign against parasites. There had been cases, it complained, when courts, after having ascertained that there had been signs of a criminal offence in the actions of persons called to account for parasitism, instead of forwarding the case materials to the agencies of the procuracy had "limited themselves to measures of administrative influence, thus giving criminal elements the opportunity to escape more severe criminal liability". Such a malpractice was reported, for instance, to have occurred in the cases of Timofeev, citizen "S" and Esmagombetov, all of whom were sentenced to five years' exile as parasites (by the people's courts of the Arkhangelsk, Kalinin and North-Kazakhstan *oblast*'s respectively [179]), when they should have rightly been convicted under the provisions of the Criminal Code dealing with the theft of state property. As one concerned observer noted in this regard:

> It is clear that such misuse of the law on the intensification of the struggle against parasitic elements leads to a weakening of the struggle against crime. The criminal ... instead of being made to serve a criminal punishment is getting off lightly only with exile. This is a kind of amnesty, for the parasite-criminal [180].

The Supreme Court complained further that sentences below the minimum provided by the legislation were being passed by the people's courts. Numerous cases of one-year exile sentences were detailed in the press [181], and this perhaps shows that some lower courts had taken too seriously the assertion that anti-parasite penalties were not criminal. Of greatest concern, however, was the fact that some people's courts "without checking the case material and submitting it to an exhaustive examination" were exiling

persons incapable of working for some reason or other. The law had erroneously and "in violation of socialist legality" been applied against pensioners [182]; persons with physical [183] or mental disabilities [184]; persons suffering from serious illness which impeded their ability to work [185]; pregnant women [186], women with minor children [187] and those engaged in housekeeping [188] - all of whom were supposed to be exempt from liability; and individuals who had been forced to give up their jobs in order to care for sick relatives [189]. Mistakes of this kind had been committed - the Ruling continued - because "some courts are adopting a simplified procedure for the examination of the material on persons .... They do not analyse the submitted evidence during the trial and do not summon and interrogate witnesses even when it is necessary; in some individual cases, the courts ... are not even hearing the explanations of the accused themselves". It proceeded to lay down regulatory details concerning the summary procedure to be utilised in parasite cases: three-man court panels (a judge and two lay assessors) must preside at all trials under the anti-parasite law; trial of parasites *in camera* or without participation of the accused (*zaochno*) was not allowed; rules of evidence would apply in these trials; the accused must be given the right to "give explanations"; a trial record must be kept; the court's decision must cite concrete details about the parasitic activity of the accused; it also must state the specific grounds for whatever verdict was rendered. Iu. Severin, a senior consultant of the Supreme Court, complained at this time that judges had varying conceptions about the rights of the accused in parasite trials; he proposed that they should have at the minimum the right to challenge the composition of the court, to be acquainted with the evidence collected during the investigation, to have an opportunity to explain the evidence, to submit petitions for introduction of additional evidence and to make other requests which would help to establish facts [190].

Participation in parasite trials of social accusers and other spokesmen of the public was made permissible, but not obligatory, by Ruling No.6. It also settled one other procedural point when it authorised suspension of a parasite trial (in cases where it was necessary to obtain more evidence and when an extra period of time had been given to the accused to find work) and the return of the case for further investigation.

When the Supreme Court next officially reviewed the judicial practice in its Ruling No.3 of 18 March 1963 [191], it found that despite the instructions given in Ruling No.6, the lower courts, in many cases, were still wrongly executing the anti-parasite legislation. It lashed out even more sharply against "gross violations of legality" committed by "some courts which underestimate the preventive significance of the legislation ... and incorrectly perceive their only role to be the pronouncing of an exile sentence upon the person against whom the charge has been made". Every aspect of the lower courts' performance was subject to close scrutiny and criticism. They were criticised for failing to make use of the right conceded to them in the earlier ruling to grant suspects extra time for securing employment and changing their behaviour; for not always taking into account the reasons causing the interruption in the working activity of suspects; for applying administrative measures illegally against persons not liable; for failing to clear up circumstances which characterise the personality of the accused and to ascertain his sources of unearned income; for treating "malicious antisocial elements" leniently, whilst setting unnecessarily protracted terms of exile for less dangerous offenders; for violating the time period set for hearing cases; and, for underestimating the "educational value" of parasite trials and the necessity of hearing these trials in "visiting sessions" of the court. All these defects, the Supreme Court explained, were the result of "the underestimation by some court officials of the necessity of strict compliance with legality in the examination of these cases and the poor control over the

work of people's courts by the Supreme, *krai* and *oblast'* courts". It charged the lower courts to eliminate these defects and introduced additional procedural rules designed to "raise the quality of the trial" in parasite cases: the accused was accorded the right to become acquainted with the evidence and the right of defence counsel if desired; defence became obligatory if the procurator took part in the trial; testimony of witnesses was to be under oath; the accused was also allowed the right of petition for the admission of additional witnesses or documents; all evidence presented by the militia or investigative agencies of the procuracy was to be verified in the court proceeding; the accused was to have the opportunity to give "additional explanations" after the presentation of all evidence; and the sentence was required to show that the defence testimony of the accused had been clearly refuted. The Ruling also urged judges not to agree to the trial of a parasite case if the evidence submitted by the militia was incomplete or if doubt existed about the applicability of the anti-parasite law against the given individual.

One simple solution to procedural questions would have been a Supreme Court order for application to parasite trials of the regular trial procedure codes; this point of view was supported by several speakers at the plenary meeting of the RSFSR Supreme Court in December 1962. Other spokesmen, however, took the extreme opposite view that none of the regular rules of procedure should be applied. G.F. Dobrovolskii, a member of the court, spoke at the session in favour of a compromise view which held that "it would be incorrect to subject the trial of these cases mechanically to the appropriate rules in the Code of Criminal Procedure, but the basic postulates common to both criminal and civil procedure must be observed" [192]. The resolution adopted by the RSFSR Supreme Court on this occasion stated simply: "Some courts mechanically apply in the trial of cases for parasitism the rules of the Code of Criminal Procedure and

this is wrong" [193]. An example of "mechanical application" cited by the RSFSR decree was the practice in some Perm people's courts of warning witnesses at parasite trials of their liability under the criminal code for giving false testimony; this practice, interestingly enough, was made standard shortly afterward for all parasite cases by Ruling No.3.

A comparison of the various court instructions discloses that much was done in the first two years after adoption of the 1961 anti-parasite decrees to circumscribe the conduct of such trials within traditional rules of trial procedure, even though such rules were introduced piecemeal rather than in wholesale fashion. These were small legalistic accomplishments, however, compared to the broader problem of how judicial guarantees could be established to prevent misuse by officials of the anti-parasite legislation. Awareness of this problem constituted the real significance of Ruling No.3, which was companion piece to another ruling adopted on the same day by the Supreme Court devoted to the matter of "strict observance of law in the trial of criminal cases" [194].

I.D. Perlov perceived in the anti-parasite law of 1961 five guarantees or checks against misuse of the system: (1) preliminary investigation was by normal routine in the hands of the militia and the procuracy; (2) the case was sent to trial in a people's court or workers' *kollektiv* only with approval of the state procurator; (3) trial of a case could not take place without participation of the accused; (4) confirmation of social sentences by the executive committee of the local soviet was required; and (5) protest by the procuracy was possible against either the sentence of a court or the decision of the executive committee confirming the social sentence [195]. Shliapochnikov cited the same list of guarantees, revising the third point in a way which stressed that the parasite trial was supposed to "establish the fact of the commission of the offence covered by the

law after a warning" [196]. Perlov concluded:

> Observance of these requirements of the law should ensure correct trial of cases and preclude the possibility of mistakes. Nevertheless, mistakes do occur. They are few but every one of them entails serious consequences and affects the fate of a living human being. Yes, it is a fact that one encounters individual cases where honest workers were groundlessly sent into exile as "parasites" [197].

The story related by a young Ukrainian girl, Rima Volevich, in early 1962 in a letter to *Izvestiia* provides one pointed example which may be added to those cited by Perlov:

> A great misfortune has overtaken me. At six o'clock on the morning of July 13, I was awakened and taken to the militia station. They kept me, hungry and half-dressed, until five o'clock in the afternoon without giving me any explanation. Then they sent me to court. And in only ten minutes it was decided that I be exiled from Kiev for two years. I could not understand why I was being treated like a criminal. Today I am twenty years old. Perhaps I did something wrong, or maybe something is wrong with me. But I have neither father nor mother ... [198].

Upon investigation, it was discovered that the orphan girl had been the victim of a poison-pen letter written by an envious neighbour who hoped to get the girl's apartment if she were expelled from the city. In this case, it was the militia which had committed the breach of "legality" and the procuracy failed to serve as a restraining influence against a gross injustice. The absence of a preliminary warning was one of several guarantees not observed in this case [199]. The idea of issuing formal warnings to parasitic elements and the setting of a time period within which they had to take up an honest working life had been present also in the original anti-parasite laws, but was treated therein as only the alternative choice to exile given to the general meeting of citizens as outcome of a trial. Warnings, as we have seen, were assigned a different role under the 1961 legislation, becoming a prerequisite stage to the instigation of proceedings against individuals. In practice, this meant that local militia agencies

should issue an official warning to a suspect that he must take a job in the national economy within a few days; in some cases the period was set at only two, three, five or seven days; the usual practice in Moscow was to set a ten-day period [200]. Some people's courts refused to pass sentence on the grounds that this period was inadequate [201]. The problem arose because none of the republican decrees (except the Estonian version) specified the length of the warning period; it was to be left flexible and set depending on the specific circumstances of each case, the characteristics of the offenders' personality and the actual possibility of him securing employment corresponding to his qualifications and skills. But as two observers explained:

> Sometimes the time period given to get fixed up in work has been insufficient and has been set without taking into consideration whether a person is able to go to work outside the limits of his town or *raion* [202].

Setting "unrealistic" periods for getting a job was one of several abuses of the warning system which the USSR Supreme Court attempted to correct in its guiding instructions. In Ruling No.6, for example, it instructed people's courts to suspend the parasite trial and set a new warning period if the hearing showed that the period set in the militia warning was insufficient or if the individual had been unable to get a job because of "any other circumstances beyond his control". The meaning of the latter stipulation was made clearer in the Ruling which called for sterner judicial attitudes toward "illegal actions by officials, such as the filing of unsupported charges against certain people, seizing their passports, work-books, and other documents necessary for getting a job, and detention or arrest of the accused in the absence of evidence that he would refuse to appear in court".

The Supreme Court stipulated in Ruling No.6 that a parasite trial had to be terminated if the accused had secured a job by the time of his appearance in court, even

if he exceeded the time limits set in the preliminary warning; in this ruling, the Court was giving substance to its declaration that the basic aim of the "measures of administrative influence" provided in the anti-parasite legislation was not to send people into exile but rather "to get these people to take up socially useful work and to warn other people against similar antisocial behaviour". At the 22nd Party Congress, L.F. Il'ichev, head at that time of *Propagit*, also stated that the main object of the legislation was contained in the re-educational methods of persuasion and prevention:

> One should not be carried away by administrative punishment and forget that the main scope of the anti-parasite legislation is re-education by means of persuasion and warning. A formal and soulless approach in this matter is not permissible [203].

It may perhaps strike the reader that Soviet commentators were being rather cynical when referring to the educational and persuasive character of the legislation which was primarily of value because of the fear that it engendered in citizens; one mitigating factor, however, was that in Soviet usage the word for "warning" (*preduprezhdenie*) was also the word for "prevention" when applied to criminality. One may observe the effect of this linguistic curiosity by using the two translations interchangeably, as in the following comment by Perlov:

> The very fact of the adoption and promulgation of the anti-parasite laws and decrees exerted great educational and preventive (warning) influence on persons who have avoided socially useful work for a long time. The overwhelming majority of these people broke with the parasite way of life and went to work without use toward them of any kind of measures of administrative influence and even without any special warnings to them by the appropriate agencies .... This phenomenon can be observed everywhere. And it is in this that the power and warning (preventive) significance of the adopted legislations consists ....
>
> If it is possible to get a parasite engaged in socially useful work without exiling him to specially designated localities - by means of education, persuasion and warning (prevention) - then the goal sought by the legislation will have been fulfilled. The administrative measures should be utilised only when the

> measures of education, persuasion, and prevention (warning) have been exhausted and have failed to yield the expected results. At first persuade and then, if that doesn't help, compel - these are the principles which must be applied in the fight against parasitism [204].

Perlov went on to point out that the warning process was itself an important and effective part of the system: in the Tomsk *oblast'* only 2% of those warned had failed to get a job and were later exiled [205]. Similar statistics were reported from other areas also: in the Arkhangelsk *oblast'* only 3% of the parasites warned had to be resettled [206]; in Belorussia 90% of the persons warned ceased their parasitic existence [207], while the corresponding numbers in the Ukraine and RSFSR were put at 95% [208] and 96% [209] respectively.

The permission granted to people's courts to adjourn parasite trials with the setting of a new warning period had the effect of reintroducing this feature as one of the possible terminal decisions to parasite cases, although this was not provided for in the text of the 1961 laws (except for the version adopted in Kazakhstan, which also retained provision for the territorially-based "general meeting" of citizens). In Moscow, this appears to have been standard judicial practice from the outset; officials of the RSFSR Ministry of Justice revealed in private conversation with Western law-specialists that there were 10,000 cases under the anti-parasite decree in Moscow in 1961, resulting in exile sentences for 2,000 while the other 8,000 escaped with a new warning [210]. In a move apparently designed to increase the percentage of persons released with warnings, Ruling No.3 urged the people's courts "to consider the question of the possibility of granting the accused an additional probationary period for changing his conduct and securing a job, especially in cases in which a petition requesting this has been submitted by a social organisation or a *kollektiv* of workers". By this means the institution of social custody (*poruki*) was officially extended to the parasite trial. Some courts,

however, were more than reluctant to allow it [211].

Although the exile sentence was declared in the anti-parasite legislation to be final and not subject to appeal when pronounced by the court of first instance or after confirmation by the executive committee of the local soviet, in actual practice the door was not altogether closed to redress of error or "individual violations of legality". Inasmuch as the sanctions provided in the 1961 decrees were "measures of an administrative character, the procurator therefore has the right to protest the decision taken by an executive committee or the decrees of people's courts based upon the Statute on Procuracy Supervision" [212]. Even under the early anti-parasite decrees, according to Shliapochnikov, the procurators of some republics exercised this right [213]. Dissatisfaction was expressed by some Soviet jurists that, in contrast to the special administrative procedures for cases of petty hooliganism and petty speculation, the procurator had no right to protest the outcome of a parasite trial directly to the trial court of first instance but, rather, had to direct his protest to the Presidium of the next higher court, a situation which duplicated the procedure in criminal cases [214]. Shliapochnikov also expressed concern about extension of the prerogative of protest and "with a view to strengthening the guarantees of legality", recommended that chairmen of courts from the *oblast'* level upward should possess the right to protest, in supervising procedure (*v poriadke nadzora*), the outcome of parasite cases conducted in lower courts; he noted that no republic except the RSFSR had specified this right to exist [215]. The exile penalty itself remained the most controversial aspect of the system introduced by the anti-parasite law. Complaints from local populations about the transfer of hundreds of parasitic elements [216] from large cities to their localities were voiced with regularity in the press. At the beginning of the campaign in 1960 a Stalingrad resident contemptuously asked where Leningrad proposed to find an "island

of oblivion" to which it could expel its parasite elements [217]. The newspaper *Trud* expressed agreement with its readers who argued that no educational influence would be exerted merely by resettling individuals from large cities to small ones and objected to "turning over small towns and settlements which we love and are proud of into exile centres" [218]. Sovkhoz officials in a rural *raion* of the Donets *oblast'* to which more than 200 parasites from Ukrainian cities had been sent reportedly told a newspaper correspondent the following:

> S. Cherednichenko (chief agronomist): "Our rural people say 'if the city folk can't educate them what do they expect of us? After all, the working class is much stronger; so why send them to the village?'".
>
> P. Mishchenko (sovkhoz party organisation secretary): "The sovkhoz workers are saying: 'Parasites are sent here in exile. Does that mean we have been in exile all our lives?'" [219].

A militia officer in the Krasnoiarsk Territory complained that the first year's experience with exiled parasites from Moscow and Leningrad at a Siberian sovkhoz had brought unforeseen and undesirable results:

> The law demands one thing and something quite different takes place on the spot. The law is not observed. We speak a great deal about the transfer of criminals into social custody and about rehabilitation at places of confinement, but not a word is said about rehabilitation of parasites. Certain people explain this by the fact that the parasites are not supposed to be criminals but a special variety of violators, so to speak. Exile them to remote regions and that is the end of the matter.
>
> But that is wrong .... From the moment of his arrival at the place of exile the resmelting of slag into steel should begin, but it does not. Parasites are left to their own devices and nobody checks on them. The result is that the person who took a crooked path and was exiled in order to be reformed through labour has arrived in a "seventh heaven". He is not forced to work, and he gets money and packages sent by friends or relatives [220].

Another correspondent visiting the same kolkohz at that time also reported that local officials believed the parasites had been given too much freedom and that a more

vigorous regimen should be established for them, but he also noted that managers often refused to employ the exiles and were secretly pleased if the parasite decided to run away [221].

A host of legal dilemmas for local officials in the areas to which parasites were sent were caused by the lacunae on this topic in the anti-parasite law itself. Some of the most perplexing jurisdictional conflicts were outlined by the procurator of the Khakasak Autonomous *oblast'*, another of the "specially designated places of exile". He wrote of the problems he had encountered with the early release provision (Article 6 of the RSFSR *Ukaz*). How, he asked, was one to parole a parasite if the people's court at the place of exile, seeking approval of the executive committee in his home district, found that he had been so transient before exile that no local government knew him sufficiently to vouch for him? Moreover, in cases when new facts, not known to the sentencing court, had come to light upon the exile's arrival (a certain Aliamova announced that she was pregnant) or when an exile became too sick to work or was impaired by injury (a certain Popov was blinded in an accident) thus making compulsory labour impossible, the court had to obtain permission for their release from the procurator who had handled their cases back home. He argued that such matters ought to be put into the hands of the court at the place of exile because attempts to obtain the necessary approval usually took so long that the persons in question had to endure "more unnecessary physical suffering". In some cases he had released the parasite on humanitarian grounds without permission even though he knew that this was "contrary to the established procedure" [222].

It is clear from published reports that not all exiles were reformed. This was partly due to the "many shortcomings of the organisational-cultural and educational work being carried on with parasites in the places of resettlement" [223]. In Ruling No.3, the

Supreme Court complained that sometimes insufficient attention was being paid to the fact that the re-education of those exiled to a large extent depended on the creation of a suitable working and living environment for them and on the quality of the educational work carried on with them. Some parasites had not been provided with proper accommodation and even the necessity of giving them work had been disregarded in some places [224]. The organisation of general educational and professional-technical training for exiles was seen to be an important part of the re-education process since many lacked a trade and even a basic education. But, besides giving them new skills it was deemed equally important to involve them in the social life of the community at the place of exile since, as Shliapochnikov noted, "the labour process itself is still insufficient for the person's re-education". He quoted Makarenko, who had written:

> You can force a person to work as much as you like, but if at the same time you don't educate him politically and morally, if he doesn't take part in political and social life, then this work will simply be a neutral process, without giving a positive result [225].

One major problem, however, was that enterprise managers and farm officials were often flatly refusing to hire exiled parasites. Typical in this regard was the director of the Uchum sovkhoz in the Uzhur *raion* (Krasnoiarsk *krai*), who told a *Komsomol'skaia pravda* correspondent that "as long as I work, I shall never hire a single parasite. Even if they should fire me for it, I wouldn't hire them. As for those who want to leave, good riddance! Who wants workers who need nursemaids and watchmen to stand over them?" [226]. Some commentators spoke about the problem of "mutual contagion", observing that it was wrong to exile idlers to common residences and that it would be more appropriate to disperse them in order to eliminate mutual enforcement of a contempt for work:

> The exiles are generally settled in a single building and given jobs together in a single brigade. Therefore, the parasites have only themselves to go by, only others such as themselves to take an example from. And thus groups that not only do not want to work but keep others from working take shape among the exiles. They disorganise and demoralise others, or they run away .... The parasites should be so dispersed as not to permit a concentration of them in any one village. They should be settled in different homes and assigned to different brigades. This rule should continue to be strictly followed [227].

V. Titov, a journalist with *Krokodil*, noted that some parasites were being placed together in collectives with poor labour-discipline records and doubted that this environment would "help a parasite emerge into the great life of labour ... It would be better ... to disperse them singly or in small groups among healthy workers' collectives" [228].

In an effort to strengthen local control over exiled parasites, the Presidium of the RSFSR Supreme Soviet passed a decree on 6 May 1963 which authorised a jail sentence of from three to fifteen days for persons who were maliciously violating the regulations established for them at their places of exile [229]. It did nothing, however, to dampen the criticism of the exile provision, which became even more vociferous and specific in press reports during 1964. A procurator in the Amur *oblast'* was especially critical:

> The very principle of exiling parasites to remote regions of the country is wrong and does not ensure the re-education of these people. Parasites as a rule are exiled from cities ... with a large working class, who have a high social awareness and who can exert the strongest social influence, and are settled in remote regions where there are fewer opportunities for influencing the antisocial elements .... The collective where the parasite has lived is relieved of the duty of re-educating him, and the job is shifted to another collective .... The people who arrive here do not improve, continue to lead a parasitic way of life, disturb the public order, commit even graver crimes and, on top of that, demoralise others ... special settlement colonies for parasitic elements should be set up. These colonies should be run on a cost-accounting basis [230].

A Takzhik youth newspaper reported that the reform-through-labour intention of the exile sentence had been thwarted in some cases by the unavailability of jobs at the place of exile [231], while a survey of opinion among officials in Novosibirsk showed "unanimity" for the view that "the system is in need of serious corrections" [232]. A report from a Zaporozhye *oblast'* settlement (Ukraine) where large numbers of parasites were in exile asked: "Who is it that gets punished?" The article noted that no one really believed in the possibility of rehabilitation of parasites and that the local party secretary had said: "What can we do? Hold soul-searching meetings? We have held them and they don't help. It does not help to shame them. Punishment does not frighten them. The construction site leaders therefore follow the line of least resistance and try to get rid of the exiles at any cost [233]". In other words, the deterrent power of the whole anti-parasite legislation itself was being called into question.

The 1961 decrees, as mentioned, made provision for two other penalties besides exile: confiscation of property acquired by non-labour means and corrective labour with deduction of 10% of one's wages. The latter was made automatically applicable by action of a people's court at the place of exile if the convicted parasite failed to go to work. The decrees remained silent on the subject of how long this punishment was to last but it appears to have been generally accepted that it should not exceed one year [234]. The confiscation measure was aimed primarily at those parasites working "only for the sake of appearances" while actually living on unearned income. Guiding instructions from the Supreme Court (*i.e.* Ruling Nos. 6 and 3) interpreted this to mean that ALL the property of the accused parasite acquired by unearned means should be confiscated by the state at the time of the exile sentence, but that the court decree had to contain an exact description of the property subject to confiscation [235]. Property legitimately earned or inherited could not be confiscated [236]. The guiding

consideration behind the confiscation penalty was expressed by a Latvian who asked that steps be taken to prevent the parasite "going off to his new place and very quietly taking with him all the property he has acquired dishonestly" [237]. Both the Latvian and Estonian decrees allowed the confiscation of unearned property also at the time of issuance of a warning, thereby divorcing confiscation from the exile sentence.

While the confiscation provision did not go so far as to place on the accused the burden of proof to show he acquired his property honestly, as suggested by some extremists [238], the system was clearly difficult to apply with strict observance of legality and standards of documentary proof by the investigative agencies as demanded by others [239]. The Supreme Court, in Ruling No.3, took steps to prevent indiscriminate damage to the small-fry operation of private plots by specifying that confiscation could be applied only if it could be proved that the profit from the private plot constituted an amount large enough to be regarded as enrichment.

A Moscow judge proposed additional safeguards to thwart cagey parasites who had the foresight to register their unearned property in the names of relatives or friends; he would have required the accused parasite to file a special civil suit in order to have excluded from the inventory of his property subject to confiscation any items about which ownership was in doubt [240]. The legal complexity inherent in all cases of confiscation made them almost inevitably a judicial matter and the Georgian anti-parasite decree specifically stated the obligation for judicial handling of all cases of confiscation by the people's court, although the preliminary decision in favour of applying confiscation could be made by the *kollektiv* or by the executive committee of a local soviet [241].

* * *

It is impossible to say how many parasites were warned, reformed or exiled under the

1961 decrees since no all-union statistics were ever published with regard to such matters. What can be said with certainty, however, is that all was not well. Despite the Supreme Court rulings, press reports continued to paint a grim picture of abuse of the legislation by officials and carelessness in its execution, both of which were frequently leading to illegal convictions. The effectiveness of the basic sanction of exile was beginning to be queried while the other sanction - that of confiscation of improperly acquired property - was said to be being applied too rarely and too casually [242]. The authorities were further criticised for being more prone to proceed against those who were not working and to neglect that rather important category of parasite who, although in a job, were using it for the sake of appearance only. B. Kim, for instance, a procurator in Kazakhstan, voiced his concern over evidence which pointed to the fact that the militia and procuracy were picking mostly on unfortunate derelicts such as drunkards and beggars since they were easier to unmask than those who were dutifully reporting to work each day but who nevertheless were subsisting primarily on unearned income extracted from the exploitation of housing, land plots, automobiles and private enterprise. He urged an increased exposure of these "latent" parasites especially since "dangerous crimes are often revealed when they are called to account" [243]. But studies indicated that the majority of exiles still tended to be parasites of the *otkrytyi* type; 72% of those exiled from Moscow, for example, had no definite occupation, who before resettlement had not worked for a protracted period of time and had ignored warnings to go to work; they had been living on money sponged from their parents or relatives or on casual earnings and most of them were "drunks or hooligans or engaged in petty speculation" [244]. Similarly, it was reported from Leningrad that the "overwhelming mass" of exiles were those who had been "flagrantly violating the rules of socialist community life", and that more than half were alcoholic ex-convicts who

openly flaunted their parasitism [245]. Elsewhere, the investigative agencies were accused of failing to wage the struggle against parasites with sufficient persistence; of displaying an "inadmissible placidity and conciliatoriness (*primirenchestvo)* toward those taking jobs only for the sake of appearances" [246], of taking action "only against those whose parasitism is striking to the eye" [247]. The Soviet public too, did not escape censure:

> Too many citizens are unwilling to involve themselves in the struggle, are hiding behind the Philistine saying "It is no concern of mine". They are not helping the militia to expose the worshippers of the money-box, the knights of profit (*rytsari nazhivy*). This is undermining the whole campaign [248].

By 1963, the professionals and the courts had clearly taken over from the public in the handling of parasite proceedings. General meetings at places of employment heard only 10% of all cases in 1961-1963 in Lithuania, and only 2% in the Tatar ASSR [249]. The Supreme Court implicitly approved this trend in Ruling No.3, suggesting that only a suitable role for the public might be provided through the use of "visiting sessions" of people's courts held at workplaces, places of residence or clubs.

Popular justice, modified while Khrushchev was still leader, was progressively eroded and subordinated to professional legal controls under his successor Leonid Brezhnev. Emphasis was now placed more and more in social control from above rather than on "spontaneity" from below. Gradually, Khrushchev's peer justice institutions were co-opted from above and integrated into the state's struggle against deviance.

CHAPTER 4

THE ANTI-PARASITE LAWS REVISED: THE FIGHT AGAINST PARASITISM IN THE BREZHNEV YEARS

4.1 THE AMENDMENTS OF 1965

On 20 September 1965, a year after Khrushchev's fall from power, the RSFSR anti-parasite law was substantially revised due to pressure from the legal establishment [1]. The amended version differed from the original in many respects. Its preamble dropped the earlier references to specific parasitic activities and made no mention of that category of parasite taking work for the sake of appearances only. What remained was a limited, more general definition of the parasite: "adult, able-bodied individuals, who stubbornly refuse to work honestly, who lead an antisocial, parasitic way of life". Moreover, Article 1 of the new decree introduced important procedural changes: the power of collectives to order exile was abolished; persons charged with violating the law were now subject to being assigned by the local soviet executive committee to employment "in enterprises (or construction projects) located in the *raion* of their permanent place of residence or in other places within the given *oblast'*, *krai*, or autonomous republic". The penalty of exile was retained but only for the metropolitan parasites of Moscow (both city and *oblast'*) and Leningrad Baku, in Azerbaidzhan, Frunze in Kirgizia and Kishinev in Moldavia [2]; exile sentences for a period of two to five years could be passed only by order of a *raion* (city) people's court in these cities. Mandatory job placement and exile orders could be imposed only if a person had not taken up honest work within a month after being warned to do so by militia agencies or a social organisation. The decisions of both executive committees and courts were final and not subject to appeal. The management and social organisations of enterprises (or

construction projects) where parasites were assigned to work were obligated to provide them jobs and to carry on educational work with them. No changes were made to the punitive provisions of the original version of the law for refusal to work at the place of exile or conscription, for escapes, *etc.* Likewise, no real change was made in the provision for ahead of schedule release except that the decision to allow such release was now placed within the jurisdiction of the people's court in the place of exile, a jurisdiction which some courts, as mentioned, had earlier assumed on their own initiative.

This new version of the law was undoubtedly more liberal than its predecessor. By removing all exile powers from the public it eliminated the possibility of communitarian abuse (the public had no role except in the initial declaration to the militia on the existence of a possible parasite). The decree tacitly acknowledged the serious problems that had arisen in the localities which had previously been designated to receive exiles, for they were now to stay at home (except in Moscow, *etc.*). The month's warning period that now had to be given was not entirely new, but the procedure had been clarified, as irregularities had previously given rise to complaints. All mention of confiscation of property was omitted, presumably due to the fact that the legal complexities it involved made it more advisable to deal with such matters through the Criminal Code of the RSFSR (Articles 21, 22, 35, 88, 154, *etc.*).

The new, simplified definition of parasitism focused on two basic elements: the avoidance of socially useful work and the engagement in a parasitic way of life. Such a definition was still general enough to cover all kinds of non-conformist behaviour or attitudes and was probably prompted by the increase in dissident activities and the intensified efforts by the state to suppress them. The distinction between the punishment being meted out to "big city parasites" and to other offenders was again probably aimed at political dissidents whose removal from larger cities was deemed

politically desirable. The best documented early instances of application of the anti-parasite law for political rather than the intended socio-economic reasons were the Iosif Brodskii case of 1964 (an off-beat Leningrad poet, whose "anti-Soviet" freelance writing and translating were not regarded by the court as constituting socially useful work. The accusers at his parasite trial charged him with having written pornographic poems and corrupting the young, attacking such lines as, "I love another homeland", "I have long thought about going beyond the Red line", and "I felt like spitting on Moscow". He was sentenced to five years and sent to a state farm near Archangelsk. [3]) and the Andrei Amalrik case of 1965 (a dissident historian in Moscow) [4]. Both were victims of anti-parasite trials manipulated by the KGB and, behind it, by the Party, which had by the mid-1960s shifted responsibility for monitoring dissidence from local Party organisations to the KGB. Brodskii's prosecution was instigated by a retired MVD captain serving as a Leningrad *druzhinnik*, a man, who according to Efim Etkind, a defence witness at the trial, was used by the Leningrad KGB "to organise the 'public indignation' around the parasite Brodskii, his trial, the press coverage and the necessary intrigues ..." [5]. The Party interest and probably indirect involvement through the KGB was confirmed after the trial when the three literary witnesses for Brodskii were reprimanded "for political short-sightedness, [and] lack of vigilance" by the Leningrad branch of the Union of Soviet Writers. The reprimands were preceded by speeches by officials of the writers' union, defending the writer Voevodin who had served as the main prosecution witness against Brodskii. Their speeches seemed to echo arguments they probably had first heard in the Regional Party Committee. One speech in particular clearly implied the Party-KGB presence behind the trial:

> There you were, naively refuting the charge of parasitism against Brodskii, but do you really think that's what it was all about? He is an anti-Soviet, he slanders Marx and Lenin in his letters and diaries .... But would it have been better for him to have been tried not for parasitism but for anti-Soviet activities and

> statements? What if his trial had been openly political? According to the existing law, he would not be a free man in some northern village, but a prisoner in a strict regime camp, and he wouldn't thank you for that! He was lucky, they were kind to him - the KGB agreed to be indulgent and let him be tried by an administrative court, so that only an administrative sanction was applied to him. Administrative, not criminal. Surely you see the difference. And yet there you are, the three of you, turning up at the court and upsetting everything. You start by trying to prove that Brodskii can't be tried for parasitism. That means that you want him to be tried for anti-Sovietism and sent to a camp. It's lucky for you that Voevodin came to the rescue [6].

In the Amalrik case, the KGB officer assigned to co-ordinate the surveillance of him even attended the trial. The court retired to consider its verdict and Amalrik recorded:

> They deliberated for forty minutes, though usually, when a "parasite" is being tried, it takes no more than five, and sometimes they don't even bother to leave the courtroom. The judge and his assessors were not completely isolated from the outside world during their deliberations; several times I heard the phone ring .... Much depended on the attitude of the Moscow department of the KGB, which, through Goncharenko, had been in charge of my case from the outset [7].

Later, while serving his exile term, Amalrik was permitted a brief leave of absence to visit his dying father. While in Moscow, he paid a visit to his militia interrogator who immediately disclaimed any responsibility for his expulsion from Moscow. Confirming the political involvement in the case, the police official told him "As you know yourself ... it wasn't me who expelled you but the Committee [KGB]. They just wanted to do it through us, though we did our best to get out of it" [8]. The investigator added that the head of the Moscow KGB had blocked the city procuracy's attempt to seek a reversal of the exile sentence. Referring to Amalrik, the KGB general had said "Let him stay where he is". And that he did until many months later, when his lawyer managed to bypass the local political authorities and get his case before the RSFSR Supreme Court which

overturned the verdict as unjustified [9].

It should also be noted, however, that the policy of exiling metropolitan parasites was fully consistent with the Party's attempts to prevent any increases in the crime rates of the larger cities, a phenomenon which was always portrayed as a typical consequence of capitalist-style urbanisation. To achieve this goal, the authorities introduced very strict controls over the urban population. For example, offenders who were incarcerated for terms of five years or more were forbidden to return to their houses in major cities; citizens with criminal records, and especially those convicted for violent crimes, were strictly forbidden to settle in these cities. The system of internal passports and permits and of compulsory registration further helped to alleviate the crime-related problems in big cities by displacing them into smaller towns and suburbs.

The annexed version of the law was a considerable step towards greater legality and away from the harsh measures of the original law. But, in spite of the improvements, it still remained unsatisfactory in certain respects. In particular, an anomalous situation was retained wherein the penalty of exile remained for vaguely defined offences and was stiffer as an administrative penalty than were many of the penalties for the supposedly more serious and more severely punished violations listed in the criminal codes [10]. The striking disparity between the measures applied against parasites in the large cities and their counterparts in the provinces came under fire in the Soviet legal press for being unjust and contrary to the requirement of equal treatment for all those committing the same offence [11]. The penalty of exile itself continued to be criticised for a number of reasons. First, in practice it simply was not accomplishing the objective of re-educating the parasites toward a more positive view on work; it was difficult to organise actual control over their behaviour, and in several cases the parasites began to exert a harmful influence on unstable elements in the local populations [12]. It was also recognised that the administrative sanction of exile, even though restricted to residents

of Moscow *etc.*, nevertheless violated procedural guarantees (right to counsel, appeal) that a person accused of a criminal offence was entitled to under Soviet law [13]. The 1965 law, like its predecessor, did not set down specifically the period of time upon the expiry of which a person evading socially useful work and leading a parasitic way of life could be considered a parasite and called to account. This matter was left to the discretion of the militia, which in the opinion of two Russian lawyers was far from ideal since the question was often being decided in arbitrary fashion. They called for the introduction of precise guidelines in order to counteract this [14]. In addition, the new law failed to specify how long the compulsory labour sanction was to remain applicable: a generally held view was that parasites placed in jobs in enterprises (construction projects) should be obligated to work there for no less than two years, and ideally for three years at least [15]. However, perhaps more importantly, this sanction too, soon came to be seen as a rather ineffective means of re-educating offenders, since it did not protect them from the negative influence of other parasites placed in the same enterprise (construction project) and because the standard of the educational work carried on with them in most of the enterprises often left much to be desired [16].

As before, there continued to be difficulties with administering the scheme. Communities to which people were resettled objected strenuously to being populated by ne'er-do-wells [17]; many enterprises and construction sites obliged to employ "parasites" were content to see them depart after a brief period and did not inform the authorities; many proceedings involving parasites were subject to inordinate delays [18]. Press reports condemned the marked slackening off of the struggle in some areas. The procurator of the Voronezh *oblast'*, for example, slated the executive committees of the local soviets for "inadequately supervising the work of the militia" which had "effectively ceased to expose parasitic elements". The procurator's office while checking up on the execution of the 1965 law discovered that there were "450

individuals in the *oblast*'s who, without good reason, had not been working for more than three months, who had repeatedly been conveyed to medical 'sobering-up' stations (*meditsinskii vytrezvitel'*): fifty-seven able-bodied citizens who had been avoiding the payment of maintenance had been living on casual earnings; seventy-three out of the number who were warned about the necessity to take work did not respond but no kind of measures were taken against them. Thus, Goncharov and Elfimov on more than one occasion were warned about employment by militia officials of the Central *raion* of Voronezh, but they continued to avoid work and remained unpunished". According to the procurator, the relaxation of the struggle against parasites had led not only to a visible increase in their numbers but also to an upsurge in the number of crimes committed by them: in 1968, they were responsible for 23% of all recorded crimes, including 28% of hooligan acts and 26% of all cases involving the theft of personal property of citizens. Moreover, 40% of them had previously been convicted: "After release from prison, they had not got down to work, had been arrested by the militia for petty hooliganism and other infractions but had not in good time been registered as parasites" [19]. Matters were reportedly not much better in the U*krai*nian town of Nikolaev, where the procurator V. Dragomirov, noted:

> It has become clear that certain officials of the internal affairs agencies, house-management committees and committees for the struggle against parasites have not been applying any measures of influence toward them. Sometimes militia officers, after having unmasked such people, are taking written undertakings from them in which they promise to reform. The officers think the matter finished and so control over the actual placement of parasites in work is very rarely exercised.

He also pointed out that some parasites had successfully evaded punishment by working for a brief time, only to resume parasitic lifestyles after the wind had blown over. Worse still, the behaviour of those compulsorily placed in jobs by the executive committees of *raion* soviets had been neglected: thus, the executive committee of the

Lenin *raion* soviet in 1967 had assigned five parasites to work in enterprises but "only one ever got down to work, and after two weeks he was dismissed for absenteeism. And, again nobody responded to this. The executive committees of the Lenin and Zavodskii *raion*s do not even keep a register of those people who are not working anywhere and leading an antisocial, parasitic way of life" [20].

The awareness of both the difficulties and shortcomings in the implementation of the 1965 law coupled with evidence indicating an escalation in the scale of the parasitism problem - the number of persons criminologically qualified as parasites was steadily growing: in the RSFSR from 8.7% of all sentenced persons in 1962 to 17% in 1968, a growth of 68% [21] - led an increasing number of commentators to call for the criminalisation of parasitism. As one jurist remarked:

> The introduction of criminal liability for malicious parasites will create real conditions for an unremitting, dogged struggle against this ugly phenomenon which causes socialist society so much harm and, at the same time, will provide those accused with due process of law protections and ensure a strict observance of socialist legality [23].

What, one may ask, did he mean when saying that parasitism caused "so much harm"?

4.2 THE DANGERS OF PARASITISM

There appears to have been a general consensus amongst commentators that there were three main dangers associated with the phenomenon. Firstly, parasitism caused serious damage to the Soviet economy:

> While examining parasitism as an antisocial phenomenon, it must be said that it objectively removes from the economic potential of the state a certain proportion of able-bodied manpower, leads to an exacerbation of the labour-shortage problem and thus, to a certain degree, weakens productive forces [24].

As a result, the socio-economic development of the country was being held back. Such a state of affairs was considered all the more intolerable in view of the fact that there was evidence indicating that the majority of those prosecuted for parasitism belonged to the younger (approximately three-quarters of them were aged under forty - see Table 4.1), that is, potentially most productive sections of the populace. Instead of joining the most active and dedicated "builders of communism" - the *peredovniki* and *udorniki*, who were "displaying true labour enthusiasm by working tirelessly and selflessly for the common good", these individuals were "undermining the authority of the most important constitutional duty and impeding society's progress toward communism by effectively reducing its productive capabilities" [25]. Not only were they failing to contribute their share toward the goal of producing the much needed increase in the aggregate social product and to participate in the creation of national income, they were also not paying anything into the state coffers since the unearned income upon which they were subsisting, due to the illegal methods of its extraction, was not subject to taxation. Moreover, the state was incurring much unnecessary expense by having to wage a struggle against them, money which would have been better spent on the likes of housing construction, the public health and social services, education, defence, *etc.*

TABLE 4.1

PROSECUTION OF PARASITES (BY AGE GROUP) IN THE RSFSR

	% of all Prosecuted Year	
Age Group	1961	1965
Under 21	5	3.3
21-29	30	28.4
30-39	37	41.3
40-55	26.4	25.1
Over 55	1.6	1.9

Sources: A.S. Shliapochnikov, Nekotorye pravovye voprosy usileniia bor'by s paraziticheskimi elementami, Uchenye zapiski (VIIuN), Vypusk 14, Moscow, 1962, p.10.

P.F. Grishanin, Sotsial'naia kharakteristika lichnosti osobo opasnykh retsidivistov, (Trudy VSh.MOOP, RSFSR), Vypusk 12, Moscow, 1965, p.50.

Secondly, parasites exerted a corrupting influence upon other unstable citizens, especially those with "a low level of consciousness" [26]. They did so either indirectly, by way of bad example:

> One must say bluntly that the seductiveness of the parasitic way of life is very strong for all backward elements. Those persons, and first and foremost the young Soviets, who have not developed a need and habit to work conscientiously, who are not experiencing happiness or satisfaction in their jobs or who have lost these attributes, take to a life of idleness very easily, particularly when they see that others are enjoying "the good life" without having to work hard for it, are obtaining large amounts of money, disproportionate to their labour input [27].

or directly, by involving others in their unlawful activities:

> Parasites, poison the atmosphere within their own micro-environment (families). They corrupt their children by introducing them to a parasitic way of life, by inculcating in them morals alien to Soviet society, by drawing them into the commission of crimes. Raised in such an unhealthy environment, the children themselves, more often than not, also proceed to become parasites in later life [28].

Thirdly, parasitism and criminality were intimately related: they gave rise, and were conducive to the existence of one another. The means derived by criminal or other unlawful methods enabled people to avoid socially useful work, to lead a parasitic way of life; alternatively, a lack of means of subsistence, as a consequence of idleness, pushed those evading work into committing crimes in order to survive. It was in view of this latter aspect that Soviet criminologists spoke of parasitism being "an extremely dangerous pre-criminal state (*predprestupnoe sostoianie*) which is very likely to end in crime" [29]. It was an important background factor triggering criminal activity of various kinds. V.S. Prokhorov, a Leningrad crime researcher, commented:

> Parasitism is one of the direct causes of crime. It leads to dissoluteness, a contempt for the interests of other people, antisocial views, which in their turn lead to the commission of crimes .... It always consists of the antisocial and unlawful acquisition of material goods, and therefore parasitism of any kind is socially dangerous. The degree of this danger depends

> on the nature of the methods employed to sustain the parasitic way of life .... A considerable number of crimes are being committed by persons who have no definite occupation and who are not working anywhere. Thus, for example, in Leningrad in 1966, out of the total number of persons convicted for various crimes parasites comprised: for the theft of personal property - 36.9%; open stealing (Article 145 of the RSFSR Criminal Code) - 23.8%; assault with intent to rob (Article 146) - 20.9%; theft of state property - 19.6%; and for speculation - 26.2% .... Moral degradation unavoidably accompanies the parasitic way of life, manifesting itself in a contempt for public order and the rules of socialist community life, aggressiveness and brutality. It is not by chance, therefore, that although the absolute number of parasitic elements is insignificant, their proportion amongst persons convicted for serious crimes against the person and for hooliganism is high. Thus out of all those sentenced for hooliganism in 1966, 16.8% were persons not engaged in socially useful work; for intentional homicide - 17.9%; for intentional infliction of grave bodily injury - 10.3%; and for rape - 9.6% [30].

When we tabulate (see Table 4.2) this statistical information alongside that produced by N.S. Leikina of the Leningrad University law faculty, who analysed the relationship between parasitism and criminal behaviour over the years 1964-1965, we can see that an increasing number of parasites were joining the ranks of criminal offenders.

TABLE 4.2

PERCENTAGE OF PARASITES AMONGST ALL PERSONS CONVICTED OF CRIMINAL OFFENCES IN LENINGRAD IN 1964-1966

	Year		
Type of Crime	1964	1965	1966
Theft of Personal Property	37.7	35.9	37.6
Open Stealing (*grabiozh*)	20.1	20.9	23.8
Assault with Intent to Rob	20.7	23.7	20.9
Theft of State Property	15.6	17.7	19.6
Speculation	29.3	31.8	26.2
Intentional Homicide	7.8	12.9	17.9
Intentional Grave Bodily Harm	7.3	6.9	10.3
Rape	10.2	10.8	10.8
Hooliganism	11.4	13.2	16.8

Sources: N.S. Leikina, Lichnost' prestupnika i ugolovnaia otvetstvennost', Leningrad, (LGU), 1968, p.16;

V.S. Prokhorov, "Tuneiadtsy", in Kurs sovetskogo ugolovnogo prava. (Chast' obshchaia), Vol.2, Leningrad, (LGU), 1970, pp.120-133.

It is impossible to calculate with any degree of accuracy the actual scale of the parasitism-crime problem through the country as a whole, since virtually all the materials published on the subject of parasitism during the 1960s simply made passing mention of the fact that it was a strong criminogenic factor (*kriminogennyi faktor*) without producing much by way of back-up evidence to confirm this. Most works tended to focus exclusively on the question of what actually constituted parasitic behaviour and on how the anti-parasite legislation was being applied in practice. Still, some semi-statistics can be put together. For example, during 1960, in Latvia, 26.5% of those who had criminal proceedings instituted against them were not working anywhere [31]; in 1962, 15% of all crimes in Belorussia were committed by parasites [32] while in the Kazakh SSR this figure was significantly higher - approximately 40% [33]; almost one-tenth of the criminals convicted by the judicial agencies of the RSFSR were deemed parasites [34] and in the Abkhazian ASSR, those persons evading socially useful work were responsible for around half of the total number of recorded crimes [35]. Almost 25% of the individuals prosecuted for especially grave crimes (*osobo tiazhkie prestupleniia*) were parasites [36], including for the theft of state and/or personal property - up to 30% [37]; according to information released by the USSR Supreme Court, around a quarter of all the persons convicted in 1962 for speculation as a form of business or on a large scale were parasites [38] - they made up approximately a fifth of those sentenced for this crime in the RSFSR (Article 154 of the Criminal Code) [39] (according to the figures cited by N.J. Kuznetsova, 60% of the speculators convicted by the Sverdlovsk *raion* people's court in Moscow during 1963 had not been engaged in socially useful work: 25% of them were recidivists and 35% had previously been charged with petty speculation [40]); a joint study conducted by the Institute of Criminalists and the Criminal Investigation Department of the USSR Procuracy revealed that 14% of intentional homicides in 1961 had been committed by persons who

were neither working nor studying [41] - in 1968 they were responsible for 13% of all murders under aggravating circumstances [42] (in Moscow and the Moscow *oblast'* over the period between 1961 and the first half of 1963, 8.3% of those convicted under Article 102 of the RSFSR Criminal Code (Intentional Homicide Under Aggravating Circumstances), 9.2% - under Article 103 (Intentional Homicide), and, 3% - under paragraph 2, Article 108 (Intentional Infliction of Grave Bodily Injury - resulting in the death of the victim) had not been working when they killed [43]); and, finally, 15% of those brought up on charges of hooliganism were identified as parasites by the USSR Supreme Court [44].

4.3 THE DUTY TO WORK AND THE CRIMINAL LAW: THE INTRODUCTION OF CRIMINAL LIABILITY FOR PARASITISM

At the beginning of 1970, the CPSU Central Committee and USSR Council of Ministers issued a joint resolution [45] which drew attention to the fact that the struggle to eradicate parasitism was being undermined by "a number of negative factors": some Party, soviet and administrative agencies, as well as managers and social organisations of enterprises, construction projects, kolkhozes and sovkhozes had recently relaxed their attention toward matters of the job-placement and re-education of parasites; means of social pressure, the influence of workers' collectives and of social organisations at places of residence were not being used in full measure against parasites with the result that a general atmosphere of intolerance and condemnation was not being created around these people; the administrative agencies and especially the militia were failing to put a stop to the antisocial behaviour of parasites in good time, so that many of them were, in actuality, being left free to pursue their obnoxious lifestyle with impunity. The resolution mapped out a wide range of measures to help rectify these faults [46], but perhaps more importantly, it also ordered that necessary changes be made to the existing

anti-parasite legislation. Between February and May 1970, all the republican laws were amended to the point of bearing almost no resemblance to their original version. For instance, on 25 February, the Presidium of the RSFSR Supreme Soviet passed two decrees of vital importance. The first [47], gave full jurisdiction over parasite cases to the executive committees of local soviets, the decisions of which were binding and non-appealable. It introduced new provisions designed to speed up prosecution procedures by shortening time limits: "Adult, able-bodied citizens who do not wish to fulfil [their] most important constitutional duty - to work honestly according to their abilities - who avoid socially useful work and who lead an antisocial, parasitic way of life", were henceforth subject to being brought before the internal affairs agencies for an official warning that their parasitic existence was impermissible and that they must find work within fifteen days (*i.e.* not one month as was previous practice). If they failed to do so, the local executive committee would assign them to work at enterprises or construction projects located within the *raion* of their permanent place of residence or in other places within the given *oblast'*, *krai*, or autonomous republic. The management and social organisations of the enterprise where parasites were sent for work were obliged to provide jobs for them, to conduct educational work with them, and to take measures toward their assignment to production collectives. The enterprise had to notify the executive committee of any termination of employment within three days.

Failure to comply with the work assignment order and continuance of a parasitic existence would incur criminal liability under a new article - Article 209-1 - introduced into the RSFSR Criminal Code by the second decree [48]:

> Article 209-1: The malicious evasion, by a person leading an antisocial, parasitic way of life, of the performance of a decision of a *raion* (or city) executive committee of a Soviet of Working People's Deputies concerning the arrangement of work and the discontinuance of a parasitic existence shall be punished by deprivation of freedom for a term not exceeding one year or corrective labour for the same term. The same act committed by

> a person previously convicted in accordance with paragraph one of this article shall be punished by deprivation of freedom for a term not exceeding two years.

The reform removed the distinction between the two kinds of parasites based on their place of residence and with it the measure of exile to remote areas. The courts acquired complete control over the imposition of sanctions in a full-fledged criminal procedure with due process protections and the right to appeal. Nevertheless, the offence covered by Article 209-1 was a highly unusual one: the illegal act consisted not of leading a parasitic existence, although that was essential to the crime, but of disobeying the local soviet's order; that is, the status of being a "parasite" technically was not punished but rather the wilful disobedience of the local soviet. The offence combined a status (leading a parasitic way of life) and a breach of constitutional duty (to work) culminating in a failure to carry out an administrative order.

The new crime was placed next to closely related offences (*viz.* the systematic engagement in vagrancy or begging) in Article 209 of the RSFSR Criminal Code. Criminal liability had been introduced for these actions in 1960. Prior to this, however, deviants of this variety had certainly not been allowed to freely engage in the said pursuits. Even in Tsarist Russia, vagrants faced harsh punitive sanctions: together with political "unreliables" (*neblagonadezhnye*) they were sent to corrective penal colonies under Article 950 of the 1885 Penal Code [49]. D. Dril', a prominent lawyer and scholar, noted at the time that "vagrancy is one of the rotting sores, accursed problems that hangs over humanity. One cannot, therefore, approach the problem with a faint heart" [50]. In the early post-revolution years, neither the 1922 nor 1926 Criminal Codes made vagrancy or begging punishable offences. According to the *Bol'shaia sovetskaia entsiklopediia* (Large Soviet Encyclopaedia) of 1927, this was because of the existing "internal situation":

> Bearing in mind that vagrancy and begging are the result of the existence of the so-called "reserve army of labour", the Soviet government in the present transitional period, when unemployment has still not been eliminated, does not resort to pointless measures of criminal repression in the struggle against these social evils" [51].

Stalin, however, was to label vagrants and beggars "socially dangerous elements" and shipped them off to labour camps in extrajudicial procedure. Thereafter, claims such as the following were commonly made in Soviet publications:

- Vagrancy is a social phenomenon characteristic only of the exploiter, bourgeois system ... the conditions giving rise to it do not exist in the USSR [52].
- In socialist society ... vagrancy and begging have been eradicated ... that is why the criminal codes of the union republics do not contain provisions dealing with them [53].

Such a pretence could not be kept up indefinitely of course. The Khrushchev administration, after having tackled the problem of Gypsy rootlessness in 1956, turned its attention toward other individuals pursuing a "nomadic" way of life. The new union republic criminal codes of 1960-1961 made the systematic engagement in vagrancy or begging a criminal offence: the RSFSR (Article 209), U*krai*nian (214), Belorussia (204), Lithuanian (240), Moldavian (221), Kirgizian (259), Takzhik (223), Turkmenian (238) and Armenian (225) versions made these actions punishable if the person continued to engage in them after a repeated warning by the administrative agencies concerning the necessity of their termination; under the criminal codes of the other republics, failure to respond to a single such warning was deemed sufficient grounds for prosecution. Despite this procedural difference, all the corresponding articles contained one important common feature: violation of them was not immediately a crime. They incorporated the element of what Soviet jurists called *administrativnaia preiuditsiia.* This basically meant that before criminal proceedings could be initiated against an offender it was requisite that he had first been subject to measures of administrative

influence (in this case an official warning issued on either one or two previous occasions) for the same offence. Commenting on the nature of the norms with this special type of legislative construction, A.N. Siminenko of Omsk University noted:

> Their existence has been dictated by the expediency and possibility of the use of other, non-criminal law forms of compulsion in the capacity of a prior condition for the bringing of criminal charges .... The social phenomena covered by norms with *administrativnaia preiuditsiia* lie, as though, "at the junction" of administrative law and criminal law regulation. The first, and sometimes also the second (depending on the construction of the specific norm) misdemeanour of the person is not deemed a crime. This always is only an administrative misdemeanour, the consequence of which must be an administrative penalty .... A repeated (or thrice committed) violation of the law after the use against the person of measures of administrative influence gives evidence concerning the increased public danger both of the act itself and of the person who has committed it. A second (or third) infraction of the norm with *administrativnaia preiuditsiia* now forms the element of a criminal act [54].

Some writers spoke of the virtues of this system: "The economy in the use of criminal repression, the expansion of the sphere of application of social and administrative influence are evident of the humanism of Soviet criminal legislation" [55]; others of its effectiveness: "After the conducting of explanatory work and the use of such measures of administrative influence as the official warning, 70-75% of those previously engaged in vagrancy in some areas have been successfully returned to an honest life of labour" [56]. On the other hand, however, it was also recognised that the pre-judicial requirement of having to warn vagrants twice before they could be prosecuted under Article 209 (and the corresponding articles of the criminal codes of the other eight union republics noted above) was giving the more inveterate ones among them an opportunity to escape liability for an unjustifiably long period of time. On 25 July 1962, therefore, the Presidium of the RSFSR Supreme Soviet passed legislation which amended Article 209 to allow the prosecution of vagrants (and beggars) after only one warning [57]. But,

since the law did not specify either how long the administrative agencies had to wait before issuing a warning or the actual length of the warning period, many officials uncertain of the legality of pressing criminal charges in particular cases, continued to follow the old practice of issuing repeated warnings. The assistant procurator of the Zheleznodorozhni *raion* of Novosibirsk wrote to *Sovetskaia iustitsiia* explaining that there the authorities considered the subjects of the crime of vagrancy to be those persons who had not been working for three months and who during this period had been given an official warning concerning the need to take work and to choose a permanent place of residence, but had done neither. He nevertheless expressed the following concern: "Due to the lack of official guidelines on such matters, one cannot be entirely sure whether this practice is legal" [58].

The second decree of February 1970 removed the ground for such uncertainty. It strengthened Article 209 by the elimination of the previously required warning (thus excluding *administrativnaia preiuditsiia*) and by the addition of a clause permitting punishment of recidivists with deprivation of freedom for up to four years (previously the maximum term had been set at no more than two years).

The new criminal penalties for parasites plus the higher ones for vagrants and beggars were ostensibly aimed at ridding Soviet society of undesirable criminal influences. Aside from social prophylaxis, the new anti-parasite sanctions served another major aim of Brezhnev's: to make better use of available manpower and to raise lagging growth rates by deterring idleness, slackness and indiscipline, drunkenness, economic crimes, and pilfering. (Soviet industrial growth was put at 7.1% in 1969, the lowest since that for the year 1964, following the bad harvest of 1963. Even then the growth was slightly higher - 7.3% [59].) In his speech to the 15th Congress of USSR Trade Unions in early 1972, for instance, he denounced all "covert" parasites and spoke of the need to create such a strong public opinion against them that they would have no

choice but to amend their ways:

> Everyone must be sure that good work and worthy behaviour in the *kollektiv* will always be recognised and appreciated, will be respected and acknowledged by comrades at work. Just as each person must know that there will be no indulgence and leniency shown towards absentees, idlers, "rolling stones" and slipshod workers, that nothing will shelter them from the anger of comrades [60].

Under the 1970 rules, the number of criminal sentences for parasitism and vagrancy sharply increased: in 1971, parasitism made up 2.3% of all sentences in Kazakhstan [61]; and in 1974, in Belorussia, 1.1% [62]. The usual penalty was deprivation of freedom. According to one unofficial source, 83% of the sentences consisted of imprisonment for up to one year, 4.9% for up to two years. Corrective labour was applied in only 12.1% of all sentences [63]. It appears that parasitism was very rarely prosecuted as a separate crime but rather in connection with another crime: in Saratov, in 1971, 71.4% of those prosecuted under Article 209-1 simultaneously had criminal proceedings instituted against them for other crimes, including 46.2% for malicious evasion of payment of alimony or of maintenance of children (Article 122 RSFSR Criminal Code) [64], while 41% of Moscow parasites had initially been arraigned for theft of personal property, 25% for stealing state or social property through swindling (Article 93), and 50% for swindling (Article 147) [65]. The same sort of picture emerged (though to a lesser extent) when it came to the practice of prosecuting vagrants. For instance, Professor M.A. Efimov of Minsk University pointed out that "a sizeable number of persons convicted in accordance with Article 209, have been subject to punishment simultaneously for vagrancy and for other serious crimes". He cited the following figures: 27.4% of the vagrants had been charged *en concursus* (*po sovokupnosti*) [66] with other articles of the Criminal Code; 76.8% of them for vagrancy plus violation of the passport rules and for theft, open stealing or swindling; 14.1% for

vagrancy and the malicious evasion of the payment of alimony/maintenance; 9.1% for both vagrancy and other crimes. Furthermore, 74.8% of those convicted of vagrancy or begging had previously been convicted - 63% of whom on two or more occasions; 1.5% had already been deemed especially dangerous recidivists [67]. It is worth noting in this connection that vagrancy and begging were fourth highest on the list of recidivism for all types of crimes: special repeated relapse into their commission reached 60% [68]. Recidivist-vagrants were likely to enjoy only relatively "insignificant" periods of freedom between convictions according to V.I. Bubentsov: virtually all (93.9%) of those studied by him had reoffended within the first three years of their release from the place of deprivation of freedom and 58.9% within the first twelve months. He believed that such a high level of recidivism could be explained by the fact that:

> Many of these persons do not have a permanent place of residence and during their term of confinement lose any remaining positive social connections. Upon release they sometimes for a long time search for work where accommodation comes with the job. For this purpose, they leave for other *raions*, cities, but there they are once again arrested on suspicion of vagrancy. In the interests of the struggle against recidivism it is therefore very important to take care that those persons released do not fall into an unhealthy environment. It is extremely important that they immediately get a job and accommodation, so that they can live and work in the same normal conditions as other citizens. This problem, to a considerable extent, can be solved by the administration of the corrective labour institution where the convicted person has served his sentence, as well as by the executive committees of local soviets [69].

(Note: Article 101 of the RSFSR Corrective Labour Code stipulated that the administration of the corrective labour institution should, starting three months before the expiry of a convicted person's term of punishment, if necessary, ascertain the possibility of finding him employment and take measures in good time to find him employment. Article 104 of the same Code decreed that persons released from serving punishment must be provided with work by the executive committees of local soviets,

where possible with consideration of their speciality, no later than within fifteen days of their applying for assistance in obtaining employment. Where necessary, persons released should also be provided with living quarters.)

Other legal scholars attributed the high incidence of recidivism directly to the difficulties often encountered in the resocialisation of vagrants. Such difficulties in the opinion of G.A. Zlobin, S.A. Iani and M.D. Chesnokova included: the refusal of enterprise managers to hire them; lack of accommodation and passport restrictions; the inadequate number of places being made available to this specific category of offender in homes for invalids and the aged; and, the lack of effective control on the part of the internal affairs agencies over the subsequent behaviour of those vagrants assigned to jobs and allocated a permanent place of residence [70]. V.P. Lozbiakov maintained that strict control via administrative supervision was essential since most vagrants were set in their ways and unwilling to take up a settled (*osedlyi*) way of life:

> For many of them the transition from an antisocial way of life to inclusion in labour collectives with the necessity of observing labour discipline does not proceed painlessly: frequently, they quit their assigned jobs without authorisation, return to a vagrant way of life, commit thefts in the hostels and enterprises where they have been sent to live and work. The difficulties of converting this category of lawbreaker are intensified by the extreme primitiveness of the intellect of the majority of them, by their low level of literacy, lack of a profession, working habits *etc.*, and by their laziness [71].

Of more immediate concern to some commentators, however, were the "increasingly half-hearted attempts" by the militia to enforce Article 209. G.K. Kostrov noted, for instance, that prosecutions for begging were extremely rare even though this type of parasitism was "easily detectable". The reason for this, he believed, was the over-sympathetic approach toward these "criminals" being adopted by many militia officers: "they turn a blind eye and treat malicious beggars with a twinge of these same feelings that prompt other citizens to give alms" [72]. Vagrants too, it appears, were

quite often escaping prosecution. Bubentsov complained that contrary to Article 29 of the Fundamental Principles of Criminal Procedure, some militiamen, instead of detaining suspected vagrants, were simply ordering them to immediately vacate the *raion* in question so as to side-step the numerous complications which usually arose during the process of filing charges against these offenders [73]. Sometimes, however, suspects were having to be released without charge because there was no holding-and-assignment centre (*priemnik-raspredelitel'*) in the immediate vicinity. Run by the Ministry of Internal Affairs, these institutions received vagrants and other undocumented persons detained by the militia: they could be held there for up to a maximum of thirty days while inspectors at the centre tried to ascertain their identities (more often than not vagrants had no identifiable papers and were living under assumed names) and to determine whether the detainee was being sought in connection with the commission of some other crime. One of the main tasks of the inspectors was to place vagrants in permanent jobs if possible and to issue them new passports. Alternatively, they could recommend indictment of the most malicious elements amongst the detainees: although these centres did most of the ground-work in preparing cases against suspects, they were not authorised to initiate criminal proceedings against them; only the ROVD of the territory in which the suspect was initially taken into custody had the right to take such a decision. Bubentsov spoke of the "inconveniences" this created:

> If a person has been detained on suspicion of vagrancy in one of the *raions* of the (Saratov) *oblast'*, then he is sent under militia escort to a holding-and-assignment centre (as a rule in the *oblast'* centre) which is sometimes located tens or even hundreds of kilometres from the *raion* of initial detention. After a verification of the primary materials in the centre, proving that the person has indeed violated Article 209, then he is again returned to the ROVD from where he was initially conveyed for prosecution proceedings to commence. Such a practice ... cannot be justified, since it invokes unnecessary expenses, a waste of time in journeys and the distraction of the militia officer from his main work. Since the bill of indictment is actually being drawn up on the basis of the centre's findings, it

> seems that it would be more expedient to give it the right to initiate the prosecution [74].

As to the main body of parasites (*i.e.* those subject to compulsory job-placement or prosecution in according with Article 209-1), dealing with them produced its own distinctive set of problems. Generally speaking, the anti-parasite law in its 1970 form did not produce the results expected of it. Almost immediately, certain weak points in the law became apparent and these, combined with a good deal of laxness in its enforcement, reduced the overall preventive power of the new legislation. Check-ups conducted by the procuracies of a number of union republics over 1972-1973 revealed, for instance, that many local executive committees were failing in their set task of organising an effective struggle against parasites: the RSFSR Procurator General condemned the woefully substandard performances of the executive committees of the Lenin and Industrial *raion*s in Orenburg and of the Prioksko *raion* in Gorky, none of which had examined the materials on suspected parasites sent to them by the militia or issued orders compelling those in question to take jobs; likewise in the Mari ASSR and Moscow *oblast'*, such materials were not being considered in time. Instances of violations of the decree of the RSFSR Council of Ministers of 4 June 1970 "On the Procedure for the Job-Placement of Persons Evading Socially Useful Work in the Territory of the RSFSR" [75] were also revealed: *e.g.* the executive committees in a number of towns and *raions* in the Vladimir *oblast'* did not indicate enterprises to which parasites should be directed; therefore, supervision over their job-placement and work activity could not be realised [76]. A similar story of ineffective supervision and control over parasitic elements was reported from Latvia, where that republic's procuracy castigated the Rezekne and Jurmala city executive committees for improperly administering the law. It noted that the worst culprit of all in this regard had been the Riga *raion* executive committee: "nobody there even knew how many job-placement

orders had been issued in 1973. According to the local militia office, it had sent twenty case materials to the committee, but in only five cases were compulsory placement orders given out. Even then, nobody had controlled their implementation. As a result, the parasites Vasileva, Bertulite, Iurkevich, Rakitska and Pane continued to lead an antisocial, parasitic way of life" [77].

The law enforcement efforts of the militia often turned out to be sluggish and evasive: in Belorussia, the Chervensk *raion* soviet (Minsk *oblast'*) accused divisional militia inspectors of "adopting a conciliatory stance" when dealing with parasites [78]; two senior Party officials in the Vladimir *oblast'* were equally critical of the militia work in the Selivanov, Melenkov, Suzdal and Iurev-Polski *raion*s where "not one single parasite" had been prosecuted throughout the whole of 1973 [79]; a study of criminal cases involving parasitism in 1972 at the Leningrad *raion* people's court in Moscow revealed that only slightly more than a third of those convicted had been given an official warning within the first five months after they had ceased doing socially useful work: approximately 27% had not received a warning for periods of seven to fifteen months; on average, official warnings were issued 6.4 months after a person had left work whereas the law required that warnings be administered after four months [80]. Some militia divisions, most notably in the Irkutsk and Sverdlovsk *oblast's*, were found by the Procurator of the RSFSR to have violated the provisions of the law on the ten-day time period (Article 4 of the first February 1970 decree) within which information about persons maintaining a parasitic life should be verified thus causing delays in the transference of case materials to the executive committees for resolution of the compulsory employment of such persons [81]. Moreover, once the fifteen-day warning period had expired and the individual had not found a job and begun work, the internal affairs agencies were supposed to immediately forward the pertinent materials to the soviet executive committee: various surveys indicated, however, that on average these

materials were being forwarded a month and a half after the end of the fifteen-day period [82]. But, even if the agencies promptly performed this duty, this did not always mean that executive committees fulfilled theirs. They were required to examine the materials sent to them within ten days, in the presence of the persons who had avoided socially useful work: in the Lithuanian, Armenian and Belorussian SSRs, however, it was not uncommon for materials to be "shelved for several months" [83]; the Presidium of the Supreme Soviet of the Azerbaidzhan SSR denounced the "unjustified liberalism" being displayed by some local executive committees and especially that of the Kirovabad city soviet, which not only had "left materials to gather dust" but had also resorted to the totally intolerable practice of issuing repeated warnings instead of sending parasites to work [84]. The militia agencies in some areas were particularly guilty of the latter malpractice: for example, of the entire number of parasites exposed in 1971 in Petropavlovsk Kamchatsk only 7.5% were directed to compulsory employment - the rest were rewarned [85]; in Moscow, citizen "K", who had not worked for over seven months, was taken to the 86th District militia office for an official warning: although he paid no heed to it, the divisional inspector did not inform the local executive committee about this; rather, he waited for another two months before hauling "K" in for a second warning. Similarly, a certain Gur'ianov was officially warned five times about the impermissibility of his parasitic existence before eventually being convicted under Article 209-1 by the Kostromsk city people's court [86]. N.B. Salakhov, chief of the Crime Prevention Office of the Ordzhonikidze Militia Department, while not condoning such practices which he said were "incomprehensibly tolerant of parasites", nevertheless explained to a *Pravda* staff correspondent that bringing these people to justice was "not so simple". The correspondent agreed:

> Salakhov is right, for the present procedures for prosecuting parasites allows them to evade responsibility for a long time. It is hard to understand, for instance, why the militia agencies have

> the right to issue official warnings only to parasites who have not worked for more than four months. Is this not excessive? A month or two is long enough to find a job. Here is another question. Why can criminal charges be brought against a parasite only if he has failed to obey the city or *raion* soviet executive committee's order to find employment? This is a very difficult condition to meet, since parasites are seldom afire with desire to call upon the executive committee, and militiamen are compelled to spend a lot of time bringing them in. Let us assume, however, that the established procedure has been observed. The person appears to heed the executive committee's order and takes a job. Within a week or two he is out loafing again, and everything must be started anew, *i.e.* wait another four months, then the fifteen days following the official warning and finally the time specified by the local authorities. Doesn't this involve too many formalities ?[87].

Figures from Moscow showed that only 27% of those convicted for parasitism found work after the official warning - and most of them had taken jobs merely "for show" in order to avoid responsibility for their parasitism; 73% of those convicted completely ignored the warning and did not work a single day until executive committees placed them in jobs; 68% of those who were placed in jobs worked at them for three months or less before quitting or being fired for drunkenness or chronic lateness and absenteeism [88]. Likewise, check-ups conducted in a number of Rostov-on-Don, Krasnodar, and Murmansk enterprises found that the majority of those who had either got down to work after a warning or been given compulsory job assignments had worked for only two to three months prior to quitting without a valid excuse or dismissal for flagrant violations of labour regulations [89]. But, as two Russian jurists pointed out, due to lacunae in the law, these people could not immediately be prosecuted under Article 209-1:

> Since they have technically "heeded" the official warning (have "implemented" the decision of the executive committee on job-placement), the materials concerning them cannot be passed over to the executive committee of the *raion* (city) soviet for the bringing of criminal charges .... As a result, the procedure for enlisting them in work has to start again .... The root of this problem lies in the fact that the law fails to specify exactly how long a person has to work so as to be judged to have heeded the warning or to have complied with the executive committee's job-placement order: is it one, two, three, six months, a year?

> The unregulated nature of this question causes considerable difficulties in the use of measures of administrative and criminal law against parasites and brings to naught the vast efforts expended in their exposure, job-placement and re-education [90].

Only in the Ukrainian anti-parasite legislation was the problem (though still only partially) addressed: it stipulated that if a person who had taken work after an official warning without good reason gave it up before the expiry of a six-month time period and did not find new employment within the next fifteen days, then his case materials were to be handed over to the local executive committee. It too, however, like the legislation of the other union republics, remained silent on the matter of how long the executive committee's decision on job-placement was to remain operative.

For a person to face criminal liability under Article 209-1, he or she had to be guilty of MALICIOUS EVASION of the implementation of the job-placement order or decision. Again, the law failed to define the exact meaning of this term and this led to a certain amount of confusion and uncertainty during its enforcement. Soviet legal scholars spoke of "maliciousness" as being an "estimative concept" (*otsenochnoe poniatie*), linking it to the repetitiveness of the illegal act in question: "... it gives a quantitative aspect to the behaviour of a person ... which gives evidence concerning the staunch unwillingness of the guilty person to abide by the appropriate rules" [91]. Article 209-1 appears to have been exceptional in this regard. As mentioned earlier, the guilt of the person lay not in the evasion of "work" but in the evasion of compliance with the decision of the executive committee. Insofar as reference was to malicious evasion of compliance with the "decision" (in the singular) and not "decisions", one must assume that failure to report to the enterprise (construction project) to which the person was sent by decision of the executive committee gave courts grounds to deem this "malicious evasion", *i.e.* they would have been wrong to conclude that only repeated failure to

report to the enterprise (construction project) formed the element of the crime. The 1971 *Commentary on the Criminal Code of the RSFSR* further noted on this matter that a ONE TIME failure to report by the appointed deadline could not be considered a malicious evasion if the person was temporarily unable to work (where there was a hospital certificate concerning temporary inability to work for a duration exceeding the deadline set for reporting to the enterprise); additionally, if the person reported to the enterprise within the appointed time-limit but did not complete the formalities for hiring either because of delays (red-tape) in formalising the process through no fault of his or because of ongoing medical-labour expert tests due to doubts by the person concerning his ability to perform the work offered by the administration of the enterprise, then the courts, in these instances, were again apparently not to consider the tardy completion of the formalities as a malicious evasion [92].

The first official definition of the "malicious evasion" concept was given in the 28 June 1973, Resolution No.10 of the Plenum of the USSR Supreme Court - "On Court Practice in Cases Involving the Systematic Engagement in Vagrancy or Begging and Wilful Refusal to Obey a Decision on Job-Placement and to Cease a Parasitic Existence and the Violation of Passport Laws" [93] - paragraph 3 of which explained that it should be regarded as "the groundless refusal to accept the job offered, the quitting of the job without valid excuse, systematic absenteeism or other flagrant violations of the Rules for Internal Labour Discipline which attest to the person's stubborn disinclination to engage in socially useful work". (Those "other flagrant violations were presumably the ones listed in Article 17 of the Fundamental Principles of Labour Legislation of the USSR and Union Republics - appearance at work in a state of intoxication; systematic lateness for shifts or early departure from work; systematic failure of a worker or employee to execute duties without justifiable reasons which were imposed on him by a labour contract or rules for internal labour discipline.)

Instances were reported in the press in which individuals found work on their own even after the executive committee had assigned them to a different job [94]. Although they had disobeyed the job-placement order, this behaviour was not considered criminal because they had fulfilled the basic requirement of the executive committee's decision (*i.e.* to get down to work). For example, on 15 October 1971 the Supreme Court dismissed the case against Ivanov who had been prosecuted under Article 211-1 of the Latvian Criminal Code. In its ruling, it pointed out that only those who without good reason failed to take up socially useful work were to be held criminally responsible, and the fact that Ivanov had taken work in an enterprise other than the one stipulated in the compulsory order did not mean he was guilty of the crime covered by the said Article [95]. In other words, the fact that he was now performing socially useful work absolved him from guilt. At the June 1973 Plenum of the Supreme Court, the First Deputy Procurator General of the USSR re-emphasised that the basic object of the legislation on parasites lay "not in criminal repression, but in putting such people back onto the path of an honest life of labour" [96].

One general presumption underlying the 1970 legislation was that those persons called to account were actually able to work or, in any case, capable of that "socially useful work" to which they were assigned by decision of the executive committee. This was a natural presumption, especially inasmuch as it was reinforced by the Law of the RSFSR on Health Care put into effect from 1 November 1971 by Resolution of the RSFSR Supreme Soviet of 29 July 1971 [97]. Article 3 of the law stated: "The citizens of the RSFSR must take good care of their health and the health of other members of society". Hence, in the event of any doubt arising concerning a person's ability to perform that "socially useful work" to which he was assigned, that person either on his own initiative (in line with discharging the duty to take good care of his health) or on the initiative of the executive committee (in line with discharging the duty to take good

care of the health of other members of society) had to obtain an attestation from medical experts concerning protracted or permanent loss of work capability as mentioned in Article 85 of the Health Care Law: the expert test "shall be conducted by medical-examination working committees (VTEK) which determine the degree of the loss of work capability and the group and cause of the disability, which determine for invalids the conditions and kinds of work and professions that are accessible to them with regard to the condition of their health .... The conclusions of the VTEK concerning the conditions and character of the labour of invalids are binding on the administration of enterprises, institutions and organisations". This meant that the decision on job-placement had to be held in abeyance for the time required for the medical expert tests to be conducted and the conclusions of the VTEK to be reached in those cases where the administration of the enterprise (construction project) to which the person had been sent offered him work which he presumably could not perform because of the state of his health. In practice, however, violations of legality were still commonplace. It was noted in Resolution No.10 that:

> Despite the fact that by the legislation of all union republics responsibility for the malicious evasion of the implementation of a decision on job placement has been established only for adult, able-bodied citizens, there are still being encountered cases of the conviction of persons whose state of health and capacity for work have been superficially investigated [98].

There were cases reported from the Chechen-Ingush ASSR and the Irkutsk and Cheliabinsk *oblast*'s of the RSFSR, for instance, in which disabled persons of the first and second category had, without any legal foundation, been prosecuted. Some militia officers in these areas had also warned non-liable subjects such as minors and mothers of small children [99]. In other cases, a complete ignorance of the law was evident. Thus, the administration of the "Friendship" kolkhoz in the Orenburg *oblast'* took upon itself to pass on a sentence of exile for a term of three months against the kolkhoznitsa

"K"; she had not actually been working, but this was because she had only just recently given birth. What made this case even more alarming was that the chairman of the executive committee of the local village soviet had been present when the decision was taken. Instead of preventing it, he sanctioned the decision on the (legally unsound) grounds that "collective farmers who are avoiding work may be exiled to another locality by kolkhoz directors" [100]. The law had also been perverted by kolkhoz management boards in a number of *raion*s of the Estonian SSR: they had set pensioners a compulsory minimum number of tasks to be performed for the farm. Any pensioner who failed to obey was treated as a "special kind of parasite" and made liable to various punishments - his personal plot was seized or reduced, he was denied fodder for his livestock as well as access to the use of farm equipment and transportation facilities [101]. All of this was completely unlawful. Pensioners had the right to choose whether or not to work on a kolkhoz. If they did work, then this was on a purely voluntary basis to the extent of their desires, strengths and capabilities. They could not be included in the ranks of the parasites or punished for refusing to work.

The person accused of committing the criminal act dealt with in Article 209-1 could only be leading "an antisocial, parasitic way of life". According to the 1971 *Commentary on the Criminal Code of the RSFSR* this (likewise undefined in the law) concept was composed of two preconditional elements: in order to be convicted of parasitism, a person of working age and of sound mind and body had to have been out of work for a prolonged period of time AND to have been living off unearned income, the acquisition of which was prohibited by law or which contradicted the norms of socialist morality. But, some commentators did not fully accept this explanation. The Candidate of Jurisprudence, A. Komissarov, for example, referred to a selective study of criminal uses involving Article 209-1, tried over 1971-1972 in several *raion* people's courts in the Moscow and Gorky *oblast's*, which showed that about half of those

convicted of malicious parasitism had not worked anywhere for four months or more and had been supported by the wages or pensions of close ones. However, they had acquired no unearned income. In his opinion, it was therefore,

> ... not possible to regard as obligatory for the *sostav* of this crime, such a combination of both the elements indicated in the *Commentary*, since the second of them is frequently absent. There are circumstances in which a person should be found guilty of parasitism even if he has not received any unearned income. It is possible that he is existing on the wages (pensions) of those close to him (relatives and friends) and in doing so is causing them financial hardship and moral harm. Thus, we disagree with the authors of the *Commentary*. We feel that an antisocial, parasitic way of life should be defined as, first, the evasion of socially useful work for a protracted period of time, and, second, the use of unearned income or wages and pensions of relatives and friends, if the use of these funds is detrimental to their financial and moral condition [102].

The absence of an explanation of the term "antisocial, parasitic way of life" in some measure was compensated by a carefully thought out, multi-stage procedure of warning, which ensured that a suspect was warned of the incipient interest in him on the part of the competent authorities in due time before the possible restriction of his right to freedom of search for work and freedom of movement: by warning from the internal affairs agencies with a fifteen-day deadline to correct the situation, examination by the executive committee of the materials forwarded to it by the internal affairs agencies in the presence of the person within a ten-day period and, finally, a court summons. In other words, the procedure indicated, guaranteed foreknowledge of possible criminal prosecution. One particular problem of note in this regard, however, was that the reduced warning period of fifteen days often proved to be inadequate for persons to secure employment, especially according to their trades (if they had one). This situation was aggravated by an apparent lack of conformity in the calculation of this period. Thus, the day of issuance of the warning was often included within it, which meant that suspected parasites had effectively only fourteen full days to find work.

4.4 ARTICLE 209-1 REPEALED

The practice of applying Articles 209 and 209-1 of the RSFSR Criminal Code showed that the engagement in vagrancy and begging, in essence, simultaneously constituted the leading of an antisocial parasitic way of life. This meant that Article 209-1 was, as a rule, applied *en concursus* with Article 209. Recognition of the obvious connection between the two offences (*i.e.* that vagrancy and begging were merely special types of social parasitism), led to yet another modification of the law in 1975. On 7 August, the vagrancy and begging article was consolidated with the parasite article (Article 209-1 was repealed) to form a new Article 209. "Systematically engaging in vagrancy or in begging, or leading any other parasitic way of life over a protracted period of time, shall be punished by deprivation of freedom for a term not exceeding one year or by correctional tasks for the same term. The same actions, committed by a person previously convicted under paragraph one of the present article shall be punished by deprivation of freedom for a term not exceeding two years" [103]. A second *Ukaz* of the same day repealed the previous legislation spelling out rules for warning and work assignment [104]. At the same time, a new procedure was introduced to deal with the "parasitic style of life" via an unpublished resolution of the Presidium of the RSFSR Supreme Soviet [105]. The suspects (given a lack in their actions of elements of vagrancy or begging) were to be summoned to the internal affairs boards and warned about the inadmissibility of their parasitic existence. If they failed to find a job either on their own or through the assistance of an executive committee within one month, another warning would be issued and, upon expiration of another one month period, a criminal prosecution would be initiated under Article 209.

The new law retained the basic peculiarity of all the previous pieces of legislation on parasitism in that punishment was still to be prescribed by way of repression against

a person with a particular WAY OF LIFE and not against a person guilty of committing any one specific act:

> The parasitic way of life is a unique offence, the distinctiveness of which lies in this - that it manifests itself not in an individual, concrete misdemeanour, committed on such and such a date, in such and such a place, but characterises the "way of life" of a person over a protracted period of time [106].

At the outset of Khrushchev's anti-parasite drive, one particular body of opinion had argued that criminalisation of parasitism was out of the question since the parasitic way of life did not constitute a "socially dangerous ACT" [107]. Almost two decades later, calls for its decriminalisation were based on this same argument:

> ... the parasitic way of life, formally, does not have a legal definition, but, in essence, it doesn't constitute an act committed on one occasion only but a way of life, a dangerous state of the individual's personality, which makes the construction of a criminal-legal *sostav* of this offence extremely difficult if not altogether impossible [108].

G.K. Kostrov, on the other hand, argued that the criminal penalties were fully justified:

> The vital danger for society which the parasitic way of life poses - this is not the "dangerous state of the individual's personality" but first and foremost the concrete harm being caused to society by a person who is appropriating in one form or another, the fruits of someone else's labour. The fact that the activity of the subject of a parasitic way of life does not fall within the bounds of the concept "act", but represents a definite line of conduct, the socially passive orientation of the person, is still no barrier to its criminalisation [109].

Although a radical about-turn on the part of the legislature was too much to expect, those opposed to the criminal penalties laid down in Article 209 nonetheless still urged it to at least consider partially decriminalising one form of parasitism - that of vagrancy. They pointed to the innovative approach already adopted in the Uzbek SSR, where a combination of administrative and criminal law was being used quite successfully as a means of tackling this particular problem. The Uzbek Supreme Soviet had passed a

decree on 25 April 1968 - "On Intensifying the Struggle Against Vagrancy" [110], which made the non-systematic engagement in vagrancy an administrative offence: adult, able-bodied persons engaging in vagrancy were liable, upon the ruling of a *raion* (city) people's court, to consignment to a special educational-labour establishment (*uchebno-trudovoe uchrezhdenie* (UTU)) for a term of from one to two years, where they would be enlisted in work and trained in industrial skills. Such a punishment was regarded as a "measure of administrative influence" and did not entail a record of conviction (*sudimost'*). Those who once again took to vagrancy after release from an UTU, faced deprivation of freedom for a term of from one to three years under an amended Article 220 of the Uzbek Criminal Code. Press reports generally praised the effectiveness of the new system: eighteen months after the decree's adoption, *Pravda* reported that the number of vagrants in the republic had "declined significantly" [111]; by 1972 the number arrested had fallen by 70% as compared with that of 1967 [112]. It was not an unqualified success however. Some courts, for instance, made no distinction between those accused of non-systematic vagrancy (first time offenders) and recidivists, which meant that the latter (who were guilty of systematic vagrancy), escaped criminal prosecution by being referred back to an UTU. Sometimes, even the identity of the accused was not thoroughly verified: thus, the Lenin *raion* people's court in Tashkent ordered that a certain "Zaitsev" be placed in an UTU, but checks carried out there revealed that he was in fact Prikhod'ko, a probationer, who, without authorisation, had left the job assigned to him at a construction site by the administration of another UTU [113]. In some cases, administrative punishment was meted out to non-liable subjects: a people's court in the Ardizhan *oblast'* sent citizen Trikhin to a special UTU before receiving the results of the compulsory prior medical examination; it was subsequently discovered that he was suffering from a severe mental illness and had in fact escaped from a psychiatric hospital [114]. V. Samorokov, a post-graduate student at the All-

Union Scientific-Research Institute of Soviet Legislation, criticised the practice of the joint containment of vagrant ex-convicts and persons with no previous convictions in the same establishment; almost 40% of those administratively punished had previously been sentenced to deprivation of freedom, including 15% for grave crimes. He believed that it would be better policy to isolate these offenders in separate UTUs not only because they were prone to "exert a particularly destructive influence upon the process of re-educating the other detainees", but also because the practice of keeping them together ran counter to the principle of a differentiated approach toward the re-education of wrongdoers: "... in the work with those previously convicted different forms and methods of educational influence and of supervision over them must be used" [115]. Both he and M. Orlov [116] called, in addition, for the setting up of special closed-type UTUs, where chronic alcoholics and drug-addicts amongst the vagrants could be sent for work and compulsory treatment. The employees of some UTUs presumably had such types in mind when they complained that the term of detainment prescribed by the decree (one to two years) was insufficient for the re-education and rehabilitation of "the more difficult categories of detainees" and needed to be increased to three years at least [117]. Orlov was certain that the Uzbek experiment was a step in the right direction:

> In the struggle against vagrancy, fundamental attention ought to be paid to measures not of a criminal but an administrative law nature .... Much in the work of UTUs still needs to be perfected. However, on the whole, the very idea of creating such establishments merits consideration and deserves to be put into practice in the other union republics [118].

Similar establishments - educational-labour profilaktorii (*vospitatel'no-trudovye profilaktorii* (VTP)) - were set up in 1976 in the Kazakh SSR, giving rise to yet more calls for a nation-wide rejection of criminal liability for non-systematic vagrancy:

> We must concentrate our attention on improving the educational, social, organisational-administrative, and medical measures for combating vagrancy. As a general direction for increasing the effectiveness of the struggle, one may choose

> expansion of administrative liability with a synchronous organisation of special VTPs for the resocialisation of persons who have not been engaged in socially useful work for a protracted period of time and who do not have a definite place of residence [119].

As we shall see later, the next piece of legislative reform in the anti-parasite area authorised the creation of such establishments in the RSFSR. For the time being, however, that republic's Supreme Soviet flatly refused to decriminalise any of the acts dealt with by Article 209.

4.5 THE *SOSTAV* OF THE CRIME OF PARASITISM

The *dispozitsiia* (description of a punishable offence) of Article 209, unlike most of the other articles of the criminal code, did not attend to one specific form of infraction, but rather, united three independent types of criminal conduct: the systematic engagement in vagrancy; the systematic engagement in begging; and, the leading of any other parasitic way of life over a protracted period of time. This made the task of identifying the *sostav* of the "crime" covered by this article much more difficult. Matters were complicated further by the fact that the 1975 decree did not give an exact legal definition of the elements which formed the three criminal acts to be punished. As one jurist later commented: "The norms concerning liability for the crimes contained in Article 209 bore an especially abstract character. This led to contradicting interpretations of them both in law-application practice and in criminal-legal theory" [120].

Generally speaking, under Soviet criminal law a number of conditions had to be fulfilled before a penalty could finally be imposed. First, there had to have been a crime - an act forbidden and punishable by the law. Then, there had to be a punishable person

- a person who had committed a crime intentionally or negligently. Thirdly, this person had to be (usually) at least sixteen years of age and of sound mind (Articles 10 and 11 of the Fundamental Principles of Criminal Legislation of the USSR and Union Republics (OSN)). The totality of all these conditions which together justified the application of a penalty was called *sostav* by Soviet criminal law. (*Sostav* means literally: composition). The Moscow professor A.N. Trainin, who was primarily responsible for the elaboration of the *sostav*-doctrine, defined the *sostav* as follows: "the totality of all objective and subjective characteristics (elements) which according to Soviet law mark a particular action (or omission), socially dangerous to the socialist state, as a crime" [121].

The *sostav*-concept was derived from 19th century German doctrine (the *Tatbestand*) and ultimately from the *corpus delicti* of post-medieval Roman Law. If in a particular act a number of elements (together forming the *Tatbestand*) were present, this act was thereby characterised as a crime. The *sostav prestupleniia* (lit. the composition of the crime) came to be generally accepted in Soviet law theory as consisting of four groups of elements: elements characterising the subject, the subjective side, the object and the objective side of the crime [122]. The chief elements concerning the subject of the crime were imputability and age. The essential element of the subjective side was guilt in the form of intent or negligence. The object of a crime was the value or interest injured or endangered by the crime. These values and interests were "social relations", a concept borrowed from Marxist doctrine [123]. The different objects of crimes formed the basis for the division of the special part of the Criminal Code into chapters. Finally, the objective side of the crime consisted of the elements which characterised the socially dangerous (criminal) act. Let us examine these four groups individually, as separate elements, which when taken together formed the basis of criminal responsibility under Article 209.

(a) Subject

The first noteworthy point here is that the circle of subjects varied and was determined in different ways depending on what form the parasitism had taken. Only sane, adult, able-bodied persons between the ages of eighteen and sixty for males and eighteen to fifty-five for females, bore liability for the protracted leading of "any other parasitic way of life" besides vagrancy and begging. These age-limits were set taking into account the fact that the full legal duty to work was imposed on Soviet citizens only from the age of eighteen and was later removed when they reached pensionable age.

A distinction was made between three forms of *trudosposobnost'* (ability to or capacity for work): general, specialist, and professional. A *sine qua non* for liability was that the subject possessed a general ability to work, the ability to engage in socially useful labour regardless of his actual speciality or profession. Information confirming this had to be contained in the subject's case materials since a parasite trial could not proceed without it. The USSR Supreme Court in its Resolution No.13 of 3 September 1976 - "On Court Practice in Cases Involving Violation of the Passport Rules, the Systematic Engagement in Vagrancy or Begging as Well as the Leading Over the Course of a Protracted Period of Time of Any Other Parasitic Way of Life" [124] (which amended Resolution No.10 of 28 June 1973) noted in this regard that: "If in the materials of a case there is insufficient information concerning the ability to work of the person who has had criminal proceedings initiated against him for leading another parasitic way of life, then his capacity for work must be verified by a medical examination" (Paragraph 7). It also gave a list of non-liable individuals: minors, disabled persons, pregnant women, housewives, women with small children under eight years of age, and pensioners (Paragraph 6). In practice, there was some dispute over whether it was permissible to bring charges against those special categories of pensioners who had been granted early retirement. Article 242 of the RSFSR Labour

Code listed several groups of workers who had the right to an old-age pension "on privileged terms" (by lowering the age and service (requirements) or age (requirement) alone): manual and office workers who had been engaged in underground work, in work with harmful working conditions and in hot shops, in other work with arduous working conditions; labourers who had worked in enterprises of the textile industry; women who had borne five or more children; *etc.* In the opinion of most commentators, those who parasitised after being allowed to retire early ought not to be exempt from liability [125].

Neither in the 1975 decree nor in the Supreme Court's guiding instructions was any direct indication given regarding the subjects of the crimes of vagrancy and begging. Legal opinion appears to have been split on this issue. Thus, it was argued in some textbooks that "only able-bodied citizens who have reached eighteen years of age may be prosecuted", that juveniles involved in vagrancy or begging "should be placed in juvenile correctional institutions", and that "invalids, persons incapable for work as well as those advanced in years cannot be called to account for vagrancy or begging" [126]. The 1980 *Commentary on the RSFSR Criminal Code* stated, however, that any person aged sixteen years or over could be the subject of these crimes if he or she was of sound mind, while the Supreme Court added to the confusion by emphasising in Resolution No.13 that "a person's inability to work, due to disablement or the attainment of pensionable age, in itself, cannot serve as a grounds for relief from criminal responsibility for the systematic engagement in vagrancy or begging (if there is no contrary indication in the legislation of the union republics)" (Paragraph 5). (Only the Kazakh Criminal Code (Article 201) specifically mentioned that invalids were non-liable.) It added the proviso, though, that a person incapable of work could be indicted for vagrancy only if he had been given the opportunity to settle down in a permanent place of residence (invalid home, boarding house, medical establishment, *etc.*, where all

the necessary conditions to deal with his state of health were adequately provided for) but had rejected it. "SHCH", for example, a group II invalid, was sent to a *dom-internat* but drank heavily and repeatedly left it without permission. On two more occasions during her unauthorised absence from the home, she was arrested on suspicion of vagrancy. A short while after being placed in a new invalid's home (the original one evicted her on account of her behaviour) she again absconded and was re-arrested. She was convicted by a people's court which pointed out in its judgement: "SHCH is staunchly refusing to take advantage of the chance given to her by the state to have a permanent place of residence and to terminate her parasitic existence" [127]. The Railway *raion* people's court in Barnaul, on the other hand, sentenced citizen "Z", a group III war cripple, to deprivation of freedom for vagrancy, even though it was clear from the materials in the case that he had been given no assistance in starting a settled way of life [128]. A point worth noting here is that vagrancy did not figure prominently amongst the crimes being committed by persons with disabilities. S. Shcherba called attention to this in a 1980 *Sovetskaia iustitsiia* article:

> Criminological investigations have shown that the opinion that persons with physical defects, as a rule, are the subjects of vagrancy, is clearly obsolete and non-reflective of the true state of affairs. Vagrancy makes up only 1.1% of the total number of crimes committed by such people. This can be explained by the fact that effective measures have been taken to further increase the employment of the deaf, blind, dumb and other handicapped people, their social security payments have been increased, and the network of *dom-internaty*, specialist colleges and schools for the disabled has been expanded. The number of such people prosecuted for vagrancy has also fallen because the law enforcement agencies now realise that an effective fight can be waged against them without the use of measures of criminal punishment [129].

(b) Subjective Side

The subjective side of parasitism regardless of its form presupposed guilt in the form of specific intent (*priamoi umysel*). Article 8 OSN stipulated that a crime was to be

deemed to have been committed intentionally if the person who committed it had been conscious of the socially dangerous character of his action, had foreseen its socially dangerous consequences, and had desired them or consciously allowed these consequences to occur. If an individual continued to lead a parasitic way of life, to evade socially useful work after being summoned for an official warning threatening criminal liability, this was considered ample grounds for concluding that he fully realised the socially dangerous character of his behaviour but nevertheless still wished to act in this way. Likewise, the "systematic" nature of a person's vagrancy or begging was taken as proof of his intentional striving to evade work. Courts were supposed to take any mitigating circumstances into account. Citizen "T" was convicted of systematic vagrancy by the Samarsk *raion* people's court in Kuibyshev even though he had claimed as a defence that he had been forced to wander from city to city in search of work because no employer was prepared to give him a job owing to his poor state of health. The court not only rejected this plea without making any attempt to ascertain its validity, but also ignored the medical findings in the case which confirmed that the defendant was a group II invalid and capable of only light physical labour. In quashing the conviction, the Criminal Cases Collegium of the RSFSR Supreme Court noted that there was nothing in the materials of the case to indicate that "T" had been rendered any assistance in securing work appropriate to his poor health condition and that there was no evidence concerning his specific intention to evade socially useful work in the form of vagrancy [130].

(c) Object

The possible objects of crime were enumerated in Article 7 OSN. Criminal law protected the following social relations: the Soviet social and political system, the socialist system of economy, socialist property, the person and the political, labour,

property and other rights of citizens, and the socialist legal order. It was precisely because an act violated or endangered these relations or interests that it became a criminal act, or rather, the damage or danger caused to these relations or interests qualified an act as socially dangerous. Whereas the object of most crimes could be identified quite easily (for example, the object of the crime of theft of socialist property was the production relations in socialist society), Soviet legal scholars and theorists were unable to agree on what social relations were actually being violated or endangered by the parasitic acts mentioned in Article 209. Since this article was located in Chapter X of the Special Part of the RSFSR Criminal Code - "Crimes Against Public Security, Public Order and the Health of the Populace" - parasitism, by deduction, encroached upon at least one of these three objects. Most commentators appeared to acknowledge that it did not immediately endanger the social relations arising with regard to the health of the populace. Crimes against this object were said to occur "mostly during the carrying out of specific kinds of work or in the process of handling materials harmful to human health" [131]. Such crimes included, for example: Violation of Rules for Mining Safety (Article 214); Violation of Rules When Carrying on Construction Work (Article 215); Violation of Rules of Safety in Enterprises or Shops Where There is Danger of Explosion (Article 216); Violation of Rules for Keeping ... Explosives, Radioactive Materials or Pyrotechnical Devices (Article 217); Illegal Practice of Medicine (Article 221); Pollution of Waters or Air (Article 223); *etc.* Since parasites were evading work, they could not possibly be guilty of these offences. We are thus left with the two other possible objects. But, this was where the disagreement arose. Some writers singled out public security [132], others public order [133], and a third group - both of these combined [134], as the direct object(s) of the crime(s) covered by Article 209.

Those who claimed that parasitism endangered public security pointed to the fact

that it exerted a direct influence upon the mechanics of crime. Parasites, they concluded, posed a potential criminal threat to the security of other members of society. M.S. Grinberg, by way of illustration, noted that parasites were unstable people, whose behaviour was unpredictable: "under the influence of the most insignificant factors, the subject may decide to steal someone's personal property, assault another citizen with the intention of robbing him, or commit other grave crimes against the person, *etc.*" [135]. Similarly, L.N. Loginova spoke of parasites being in a dangerous "pre-criminal state": they were likely to go on to commit more socially dangerous acts [136]. G.K. Kostrov, however, argued that this did not give grounds to conclude that parasites threatened the said object:

> The opinion according to which public security is the object of parasitism is based on the "dangerous state" of the subject - he is avoiding work, but at the same time is experiencing the natural need for the necessities of life. Being in this state impels him to perpetrate antisocial acts and practice conclusively confirms the link between parasitism and crime - both mercenary and violent. In this sense, one can talk of the high degree of danger for society of such a social phenomenon as parasitism, of the considerable probability that the dangerous potentials concealed within it will come to the surface. However, the fact that parasitism is a favourable breeding ground for other crimes does not mean that every parasite will commit other offences. The opinion that "a parasite, as a rule, is a person predisposed to committing other more serious crimes" does not give grounds for conclusions of a criminal law character, for not even the highest probability that the person in question will commit a crime can serve as a basis for the use of repression. A legal appraisal of a person's behaviour can on no account be based on any prognoses. All the elements of a crime, including the object, characterise the criminal act committed, but not some other which might be committed by the person in the future .... The crimes and other socially dangerous acts being committed by parasites exceed the bounds of the *sostav* of the crime covered by Article 209 and have their own objects of encroachment [137].

Other writers such as A.V. Seregin, and F.B. Razarenov [138], expressed similar reservations. Seregin, like Kostrov, concluded that parasitic elements were primarily

guilty of violating public order, which he defined as "the system of social relations being protected by the rules of Soviet law (criminal, administrative, labour and civil) and by the rules of socialist morality. Those rules set the limits beyond which the actions of a person came into conflict with the socialist way of life, that is, assume an antisocial character" [139]. A.N. Korzhov, although agreeing that parasitic behaviour "encroaches upon the elementary requirements of public order", nevertheless believed Seregin's definition of the concept to be far too broad in that it made the task of identifying the actual "generic object" of parasitism extremely difficult. A narrower definition was required, perhaps along such lines as:

> ... the system of social relations arising chiefly in public places, which is regulated by the rules of law, of socialist morality and by customs, for the purpose of ensuring an environment of public tranquillity, inviolability of the person (*neprikosnovennost' lichnosti*), mutual respect, *etc.* Parasites threaten public order defined in this way. The appearance in public places of slovenly, degraded, and, as a rule, intoxicated loafers, their aimless loitering around shops trading in alcoholic beverages, around beer stalls at times when the majority of people are at work, the wandering of vagrants, begging at stations, in trains, *etc.*, without doubt offend public decorum, endanger public tranquillity and violate the rules of socialist community life. The majority of parasites commit violations of public order for which they have administrative proceedings instituted against them. This contingent also commits a good many gross violations of public order [140].

Both N.I. Zagordnikov [141] and Iu.I. Liapunov considered it best to conclude that each of the said objects were either being endangered or encroached upon by parasites. Liapunov added further, that such individuals caused damage to a separate, more important object - the Soviet system of economic relations. They contravened one of the basic principles of socialism, "From each according to his ability, to each according to his work", thereby disrupting the established system of distribution under socialism [142] (*i.e.* the distribution of social material goods in accordance with the quality of labour expended). Zagordnikov, meanwhile, simply observed that:

> Such lack of agreement with regard to the object, does not allow us to shed full light on the socially dangerous character of the offences provided for by Article 209, to give a more precise scientific and legal classification of them for the basing of the legal and other measures of the struggle against parasitism, which are being implemented by the law protection agencies [143].

(d) Objective Side

According to Soviet legal parlance, the objective side of a crime always consisted of an act and its consequences. Besides these, however, it could comprise more elements, viz, the time and the place of the commission of the crime, and the manner in which the crime was committed. Thus, Article 209 made punishable only SYSTEMATIC vagrancy or begging. "The element of systematic character (*sistematichnost'*), one Moscow lawyer explained, "is of decisive importance to the coming of criminal liability, for without it, there is no *sostav* of the crime" [144]. But from the legal point of view, the law was once again unsatisfactory insofar as it gave the courts no guidance on interpreting this crucial objective-side element. Their uncertainty in this regard was compounded by a split of legal authority on the issue.

Sistematichnost' was usually interpreted in Soviet legal texts as a thrice-repeated (or more) commission of an unlawful act by one and the same person [145]. While some writers automatically applied this criterion to systematic vagrancy and begging [146], E.A. Khudiakov was sceptical of such an approach which he believed was "not entirely acceptable for estimating the systematic character of parasitism, since here it is extremely difficult to determine the indicia of 'once only' (*razovoi*) vagrancy or begging, which would have to serve as the basis for measuring the subsequent multiple countings" [147]. Kostrov likewise argued that although this approach was perfectly satisfactory for many crimes, when applied in relation to the particular crimes being discussed it seemed rather "vague". He criticised those who had adopted it for failing to

take into account the fact that for many of the people engaging in vagrancy, this activity had become their way of life and, as such, constituted one single crime not a "system" of crimes (three or more). He further believed the quantitative criterion used by some writers, *e.g.* the number of transferences from place to place by a vagrant, to be unusable since "... a thrice-repeated transference may have been carried out by the person over an extremely short time period, especially if wanderings within one city are taken into consideration" [148]. For him, and a number of others, the duration (*prodolzhitel'nost'*) of the acts was the most important factor when it came to determining their systematic character. It was noted in the 1971 *Course of Soviet Criminal Law*, for instance, that:

> The *sistematichnost'* of vagrancy or begging signifies that these acts are being carried out continuously over the course of a lengthy period of time and represent, basically, the guilty person's occupation [149].

The same idea, though in a slightly different form, was expressed in the arguments of those who contended that the qualitative side of the acts needed to be taken into account - meaning that they had to reveal an explicit tendency in the behaviour of the accused:

> For vagrancy and begging to be deemed systematic, they must have been engaged in for a more or less protracted period of time or have been repeatedly resumed, which gives evidence concerning the staunchness of the parasitic inclinations of the person in question [150].

or, as a major in the Moscow militia put it:

> ... these activities must have been more or less continuous, regular, typical of the person detained, and must objectively reflect his unwillingness to participate in socially useful work and his striving toward a parasitic way of life [151].

It seems rather surprising that despite the high emphasis being placed by the above writers on the temporal aspect of the crime, none actually specified what time-scale they had in mind. How long was a "lengthy", "protracted" period of time for instance?

Bubentsov was more specific in this regard. Aware of the fact, pointed out by Orlov, that sometimes persons who were essentially not vagrants but due to an "unlucky confluence of events" temporarily found themselves being in the position of a vagrant [152], he argued that the transference of a person from place to place over the course of four or more months, without engagement in socially useful work, should be regarded as systematic vagrancy, since this time was "more than adequate for him to secure work and settle down" [153]. Another lawyer suggested that a vagrant's wanderings could be regarded as protracted and systematic if they continued for more than six months. He cited Article 306 of the Civil Code of the RSFSR which stated that in the event of the temporary absence of a tenant, the right to use the dwelling was preserved for the absentee for the period of six months. Using this article as a reference point in vagrancy cases, the lawyer claimed, would eliminate arbitrariness when deciding the question of systematic character [154].

V.I. Samorokov, on the other hand, insisted it was not necessary to set a "minimum" time period in such cases and that the law's silence on this matter was no accident:

> The setting in the criminal law of an exact time period necessary for the institution of criminal proceedings against a vagrant is pointless, for only the aggregate of all the elements of vagrancy may serve as a grounds for prosecution. The setting of a time period would have led to an unjustified formalisation of the *sostav* of the crime in question.

He reasoned that the element of systematic character should be determined by proceeding from the concrete circumstances of the case and the personality of the accused:

> ... if the person, who has served a sentence for vagrancy, once again proceeds to live on unearned income whilst not having a permanent place of residence, then the systematic character of the vagrancy in this case arises upon the expiration of the time

> period which has been realistic for him to get fixed up in work [155].

The Doctor of Jurisprudence I. Malandin stoked the coals of the debate by arguing that the concept of *sistematichnost'* in the *sostav* of begging differed from this concept when used in connection with vagrancy:

> In vagrancy cases, systematic character is linked to the movements of the person over a long time. In our opinion, this "temporal" criterion is inapplicable when determining the systematic character of begging. This consists of the repeated solicitation of money, foodstuffs, clothes and other materials of value from strangers. The fact that these acts have been repeatedly committed can be established only by investigating the number of times the person has been arrested for begging. It follows from this, that the *sostav* of this crime will be present only when the person has been repeatedly (not less than twice) arrested for begging .... Taking into account the important differences in the objective side of vagrancy and of begging, it would be expedient, in our view, to regulate the liability for begging in the shape of an independent legal norm [156].

Others saw no need to perform such radical surgery on Article 209. Instead of separating the crimes, it would be better, they concluded, to simply delete the word "systematic" as an objective-side element, because all the conflicting interpretations of it were causing great confusion and adding unnecessary complications to the already problematical task of drawing up procedural documents substantiating systematic engagement in the said acts. G. Akhverdian of the All-Union Crime-Prevention Institute complained, for instance, that:

> The law protection agencies and, in the first place, the internal affairs agencies, are being forced to spend too much valuable time and to devote too much attention toward trying to provide documentary proof that suspects have been "systematically" engaging in vagrancy or begging. They have more important matters to deal with and so, quite often, they let vagrants and beggars off with a repeated warning. Of course, allowing these parasites to escape prosecution is weakening the struggle against parasitism. Article 209 would be strengthened, not weakened, if the wording requiring vagrancy and begging to be "systematic" was removed [157].

Problems of interpretation also arose in the use of the criminal law against those guilty of a crime falling within the category of leading "other forms of a parasitic way of life". Unlike vagrancy and begging, there was no disputing the fact that the element of duration was vital to the objective side of crimes of this type - Article 209 stated specifically that they had to have been perpetrated over a PROTRACTED period. Again, however, there was no unity of opinion on what length of time should be regarded as protracted. Some commentators suggested that if an individual had been evading socially useful work and living on unearned income for over two months, then he ought to be prosecuted [158]; others, referring to the actual warning-prosecution procedure, claimed that the administrative agencies could take action only against a person who had not held a steady job for four or more months over the course of a year [159].

4.6 ARTICLE 209 IN PRACTICE: AN OVERVIEW

In the final analysis, Article 209 in its 1975 redaction, appears to have been rather poorly thought out. By failing to define key concepts of the *sostav*, it complicated and to a certain extent even undermined efforts to eradicate parasitism. Soviet writers were later to argue with the benefit of hindsight that the inadequacies and imperfections of the law had restricted the potentials of the law-protection agencies to deal effectively with parasitic elements [160]. Judging by press accounts, the 1975 measures certainly did nothing to solve the problems posed by militia laxity on parasitism and the militia's losing track of local loafers and shady types who took work for show then quit [161]. At the same time, the vague catch-all reference to "other forms of a parasitic way of life", providing a basis of criminal liability in itself, appeared to be a serious setback to the "strict legality" school of Soviet jurists, which had fought so persistently and

successfully in the post-Stalin reform era for eliminating analogy from criminal law as well as for stricter definitions of crimes.

The changes of 1975 seemed to de-emphasise the drive against non-vagrant parasites holding approved jobs, apparently directing repression mainly against drifters at the edges of the community and the underworld. The focus appeared to shift from a more economic orientation towards a moralistic one, while carefully preserving the general scope of the "parasite" label in order to render it applicable to cases of political and religious opposition. Indeed, the application of the anti-parasite law to punish people for their views or beliefs was not an infrequent occurrence. According to a report on Soviet prisoners of conscience published in 1980 by Amnesty International, the law put dissidents in a precarious position:

> What makes this legislation particularly dangerous for dissenters is that it is common for Soviet citizens to be dismissed from their jobs directly because of their nonconformist behaviour .... In numerous cases, dismissed scientists and other professional employees have been unable to find even low-paid, menial work, since the authorities not only have helped them to find work suited to their particular skills but have put obstacles in the way of their finding any work at all. Thus, the threat of being charged with "parasitism" has hung over people who have seriously tried to find employment [162].

People attempting to emigrate frequently fell victim to the parasitism trap. Thus, the physicist Iuri Mniukh, the linguist and author of scientific works Konstantin Babitskii, and the mathematician Vladimir Kislik were all fired or denied work and then harassed with charges of parasitism for asking for permission to leave the USSR. Petr Vins was persecuted on account of his membership of the U*krai*nian Helsinki Group and for his attempts to emigrate to Canada with his father, a Baptist pastor, who was in a prison camp. In the summer of 1977 Vins was fired from his job. Attempts to find a new job in his profession proved futile and so he was forced to take work as a stevedore. He was then dismissed from the loading job for health reasons (he had undergone a

serious stomach operation). On 8 December 1977 he was detained in Kiev in connection with his attempt to travel to the 10 December demonstration in Moscow (there was a tradition among Soviet dissidents to hold a silent demonstration in Pushkin Square on Soviet Constitution Day) and sentenced to fifteen days on charges of petty hooliganism. In February 1978, Vins was arrested again and, on 6 April 1978, was sentenced to one year's hard labour for parasitism. Similarly, on 20 March 1978, a member of the Georgian Helsinki Group, Grigorii Goldshtein, Candidate of Science, was sentenced in Tbilisi to one year deprivation of freedom on charges of "parasitism". After Goldshtein applied to emigrate to Israel, he could not find work in his profession and lived on savings from his previous jobs amassed over seventeen years of continuous employment. Although he continued his scientific research on his own, and gave free lessons to students in maths and physics, the court did not consider him to have been engaged in socially useful work. In condemning him for parasitism, the court did not present any evidence of his living on "unearned income" and refused Goldshtein's demands to investigate documents on the sources of his income. An almost identical fate befell Josif Begun, who was imprisoned in 1977 for campaigning for Jewish emigration rights. The court, in this instance, did not consider his teaching of Hebrew to be "socially useful labour" since the authorities refused to register this work with the financial organs.

Other instances of prison sentences for parasitism included Alexandr Ogorodnikov, the spokesman for a discussion group of Russian Orthodox believers (sentenced in 1978), Valentin Poplavskii, a member of a group of unemployed workers which attempted to establish a free trade union (1978), Mustafa Ozhemilev and Aishe Seitmuratova, both Crimean Tatar activists (1977). In the Soviet Union, people with creative occupations such as writers, artists, poets, *etc.*, were only considered to be performing socially useful work if they were members of the proper official unions.

The writers Georgii Vladimomv (who resigned from the writer's union), Vladimir Voinovich and Vladimir Kornilov (both of whom were expelled from the union) and Aleksandr Zinoviev (who had been dismissed from his lecturing job in Philosophy for anti-Soviet views) were warned about their "parasitic lifestyle" and forced to give the militia information on their sources of income [163].

It would be incorrect to assume that religious and political dissidents were the main target of the anti-parasite legislation. Rather, the legislation appeared to aim at a variety of socially, politically and economically inconvenient groups, such as undisciplined workers, alcoholics and drug addicts, petty hooligans and criminals, playboys and snobs sporting Western clothes, private entrepreneurs and people living on the fringe economy of prostitution, begging, vagrancy and speculation. In short, "parasite" was a term vague enough to cover any person regularly receiving substantial "unearned income", that is, making money in ways contrary to the law or to "norms of Communist morality". The use of the anti-parasite law against dissidents, however, had the effect of intensifying the concern of human rights groups, adding potency to their arguments that the very existence of forced labour laws ascribing criminal penalties for parasitism was in direct violation of Conventions of the International Labour Organisation (ILO) signed by the Soviet Union. Soviet jurists vehemently denied this. Their interpretations of international documents on human rights was simple and consistent. In essence, it stated that human rights and basic freedoms fell into the sphere of internal affairs of the state and did not exist outside the boundaries of the state. In his book *International Defence of Human Rights*, A.P. Movchan wrote:

> Human rights are unthinkable outside the state. An individual obeys the internal laws of the country in which he resides. The legal status of an individual to the state manifests itself in citizenship. A citizen is entitled to the rights and freedoms which are enumerated in the constitution and laws of the country of his citizenship [164].

The Soviet doctrine of human rights was tied to constitutional rights, that is to the rights enumerated in the fundamental law of the state. In their turn, the constitutional rights of an individual could not be separated from his duties towards the state. "Constitutional rights and obligations", explained L.D. Voyevodin, "in principle define the content and the basic direction and special purpose of all other rights and duties". He drew attention to the fact that in the Soviet state "the highest juridical power rests in constitutional rights and obligations" [165]. Soviet authors contended that "the linkage of rights and duties [is] the special quality of socialist law, whose aim is the creation of true equality in society" [166]. To bolster their argument, they cited Marx who had said that "there are no rights without obligations and no obligations without rights" [167]. The principle of an organic unity between a citizen's rights and duties was based on the idea that there should be a direct link between what a citizen gave to society and what he received from it. This principle was reflected in a general way by Article 59 of the new 1977 USSR Constitution which read:

> Citizens' exercise of their rights and freedoms is inseparable from the performance of their duties and obligations. Citizens of the USSR are obliged to observe the Constitution and Soviet laws, comply with the standards of socialist conduct, and uphold the honour and dignity of Soviet citizenship,

and more specifically in other articles. For example, Article 40 of the new Constitution again proclaimed the right of Soviet citizens to work - *i.e.*

> To receive guaranteed employment and pay in accordance with the quantity and quality of their work and not below the state-established minimum, including the right to choose their trade, type of occupation, and work in accordance with their vocation, abilities, professional training, education, with due regard for the needs of society.

The same article insured the relevant guarantees for the exercise of this right. Article 40 on the right to work was consonant with Article 60 which read:

> It is the duty of, and matter of honour for, every able-bodied

> citizen of the USSR to work conscientiously in his chosen, socially useful occupation and strictly observe labour discipline. Evasion of socially useful work is incompatible with the principles of socialist society.

Article 14 of the Constitution helps us understand the causes and social justice of the interrelationship between the right and the obligation to work under socialism. It stated: "The source of the growth of social wealth and of the well-being of the people and of each individual is the labour, free from exploitation, of the Soviet people. The state exercises control over the measure of labour and of consumption in accordance with the principle of socialism: 'From each according to his ability, to each according to his work'. It fixes the rate of taxation on taxable income. Socially useful work and its results determine a person's status in society. By combining material and moral incentives and encouraging innovation and a creative attitude toward work, the state helps transform labour into the prime vital need of every Soviet citizen".

Since the Soviets considered human rights to lie within the domestic jurisdiction of the state, they argued that other states had no right to interfere in these matters. This interpretation was used by Soviet jurists when they were dealing with accusations that the USSR was violating ILO conventions prohibiting forced labour. The Soviet Union had ratified Convention No.29 regarding forced and compulsory labour, adopted at the General Conference of the ILO on 10 June 1930 and endorsed by the Presidium of the USSR Supreme Soviet on 4 June 1956 [168]. Article 1 of this Convention obligated all member states "to suppress the use of forced or compulsory labour in all its forms within the shortest possible period". Upon reading this portion of Article 1, it may seem that the Soviet Union had violated the obligations it assumed as a signatory of the document inasmuch as the anti-parasite laws were manifestly aimed at the development and enrichment of the culture and forms of forced labour. However, a consistent reading of Convention No.29 shows that such an accusation addressed to the Soviet

Union was unfounded. Unlike the legislative practice of Soviet law, Convention No.29 explained in detail the meaning of the concept "forced labour" used therein, and it was precisely this explanation which could deflect the aforementioned accusation from the USSR. It will be useful to quote the full text of Article 2 of the Convention which disclosed the meaning of the term used.

Article 2

1. For the purposes of this Convention, the term "forced or compulsory labour" shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term "forced or compulsory labour" shall not include:
   (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
   (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
   (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
   (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, *etc.*

Making parasites work under the threat of criminal sanctions obviously fell within the definition of forced or compulsory labour in Clause 1. However, Clause 2 detailed a

number of exceptions related to the use of this term. Thus, paragraphs (a) and (d) furnished grounds, without violating the Convention, for using forced or compulsory labour in the sense of Clause 1 in effectuating the Law on universal military service and in organising the liquidation of consequences of or the threat of emergency circumstances. Paragraph (c) of Clause 2 furnished grounds for use of forced or compulsory labour in the Soviet penitentiary system likewise without violating the commitments assumed pursuant to the Convention. Paragraph (b) is the most important for our analysis. The Soviets were able to use it to save themselves from the charge of violating the Convention by insisting that Article 12 of the 1936 Constitution and Article 60 of the 1977 Constitution made the duty to work the most important civic obligation of Soviet citizens [169]. They employed this same argument when rejecting allegations that the USSR had contravened the International Pact on Civil and Political Rights ratified by the Soviets on 18 September 1973 and which came into force on 23 March 1976 [170]. (Clause 3c of Article 8 of the Pact also stated that any work or service forming part of normal civic obligations could not be considered forced labour.) N.N. Kondrashkov, in a typically adamant Soviet defence of the constitutional principles regulating the universality of labour under socialism, claimed that these principles in no way conflicted with the international prohibition of forced labour and further argued that:

> ... this prohibition by no means signifies a declaration, all the more the legitimisation of any "right" to idleness. While expressing its complete solidarity with the prohibition of slavery and with the prohibition of forced labour, Soviet law, at the same time, does not provide for the legal defence of attempts by able-bodied, adult persons, to live without working, to parasitise at the expense of the working people [171].

There was a recurring theme in the Soviet press and criminological literature linking crime to parasitism and crime prevention to the effective application of the anti-parasite

laws. It appears to have been officially believed that, while the parasitic way of life led almost inevitably to criminal involvement and deviance, it was also frequently caused by them. Despite the inconsistencies in the interpretation of the direction of any such causal relationships, there seemed to exist a consensus that the fight against parasites contributed to the general cause of crime prevention. By the end of the 1970s, however, the fight had clearly begun to flounder. The CPSU Central Committee, singling out parasitism as one of the main reasons for spiralling crime rates, issued a decree on 2 August 1979 - "On Improving Work to Safeguard Law and Order and Intensifying the Struggle Against Law Violations" [172], which ordered the law-protection agencies to combat parasites "more actively". This was really a veiled criticism of their performance to date, which was generally regarded as being lacklustre and unsatisfactory. Militia complacency was identified as a root cause of the growing parasitism-crime ratio:- in 1979, for instance, almost a quarter of all felons convicted in the RSFSR had been living as parasites [173] (three times higher than the corresponding figure for 1962 [174]), while in Georgia, the percentage of parasites among all criminals had leaped to 28.8%, which was 6.8% higher than the nation-wide index [175] - although some officials, it must be said, came to its defence, arguing that the poor militia performance was not due to lack of effort, but, rather, was a direct consequence of the inadequacies of the anti-parasite law itself. Thus, two People's Deputies from the Kursk *oblast'* of the RSFSR wrote to *Izvestiia* complaining that:

> Under the present procedure, administrative agencies can take action only against a person who has not been working for a protracted period, that is, for four months of the year. To put it bluntly, these are not very tough conditions to meet, and "arithmetic" of this sort leaves idlers feeling very much at ease. Just try and keep track of those who have little desire to work and of how long they avoid working. As People's Deputies, we know that the militia, who bear primary responsibility for combating parasitism ... are making every effort to put an end to this phenomenon. They maintain close ties with personnel at enterprises, construction sites and in organisations, with

> apartment building management committees, housing offices, street committees and educational institutions, and try by common effort to make loafers listen to reason. But, alas, to no avail [176].

Brezhnev, himself, appears to have become increasingly concerned about the upsurge in parasitic activity being recorded in many republics. In his address to the 26th Party Congress, he called for the use of "all organisational, financial and legal means in order to close tightly all the openings that leave room for parasitism, bribery and speculation, for unearned income, for any encroachments upon socialist ownership" [177]. His further insistence that "no loopholes must be left for loafers", may, in light of the interpretative problems noted earlier, be looked upon as virtually a direct order to the legislature to tighten up the existing law.

A sharp decline in Soviet economic growth in the face of mounting labour discipline problems, coupled with an increasing realisation that Soviet society, plagued by alcoholism, crime, official corruption, was morally disintegrating, acted as catalysts for a new crackdown on parasites, launched in the autumn of 1982.

CHAPTER 5

NEW OFFENSIVES AGAINST SOCIAL PARASITISM: THE 1980s

5.1 THE 1982 AMENDMENTS

On 11 October 1982, the Presidium of the RSFSR Supreme Soviet issued a new decree [1] (effective 1 January 1983), which moved Article 209 in a more punitive direction. It eliminated wording from the Article that required vagrancy or begging to be "systematic", or that other forms of a parasitic way of life be exercised over a "protracted period" and generally increased the period of time that an individual had to be in confinement or the amount of time that he had to serve performing correctional tasks. Under the new Article 209, the maximum punishment was raised from one to two years incarceration and, for recidivists, from two to three years. The previous maximum penalty of one year was now the minimum. Instead of deprivation of freedom, the court could impose correctional tasks for the same term or could employ a newly devised (for the RSFSR at least) quasi-penal measure: committal to a VTP. Moreover, the decree made it compulsory for chronic alcoholics who were engaging in a parasitic way of life to undergo treatment and labour re-education.

The Presidium decree broadened the language of the new Article 209 in order to facilitate the work of the militia and courts in a new campaign against parasites. This represented a broader effort both to tighten labour discipline and crack down on all kinds of crime. Brezhnev died just as the new offensive was getting off the ground, but his administration's attempts to build up the decaying morale of the workforce and symbolically cleanse the society of its incorrigible elements were continued with a

special zeal by Andropov during his short term in office. He immediately launched a drive for tighter labour discipline in an attempt to reverse sagging productivity rates and to excise the habits of a labour force that had become used to slackness, moonlighting, and an easy-going attitude to plan fulfilment. The media turned venomously on slackers, drifters, *shatuny* (loafers), drunkards and absentees, branding them as no better than parasites who had forgotten about their work obligations, about duty and responsibility for their assigned jobs. The new drive against parasitism was, as usual, accompanied by letters to the press by citizens complaining about outrageous parasites in their neighbourhoods and by editorial fanfare about local clean-ups. Examples of the former included complaints about a leisure class that could afford to sit around in cinemas, Turkish baths, and coffee houses, and impatience with high school graduates who were just loafing around before being called up for military service or who had failed their university entrance exams and refused to take jobs before trying again the following year [2]. One newspaper editor summarised popular indignation:

> Isn't this an insult to honest toilers? This is why readers are so resolute in urging that parasites of all sorts be held strictly accountable. Readers are unanimous in their opinion: we must not tolerate those who defy our society and attempt to live by deceit. We need to employ every measure and every sanction against people who evade the fulfilment of their civic duty [3].

Success stories ranged from the conviction of yogis, who founded Krishna groups in Krasnoiarsk [4], the denigration and prosecution of self-styled "mullahs" in Turkemenia [5], the scooping up of rural parasites in Georgia, who worked only on their personal plots instead of the collective fields and the introduction of a new rule according to which Georgian school graduates who had not worked for at least nine months after failing their university entrance exams would be denied admission to higher education establishments [6], to the detention of several hundred "bums" in Khabarovsk during the first eight months of 1983 [7].

Alongside these dubious successes, however, there was still a number of embarrassing failures. In May 1983, *Pravda* reported, for instance, that officials of the USSR People's Control Committee had investigated several cities in the Ukraine, Cheliabinsk, Novosibirsk and other areas, and it was found that the non-working "parasitic" population was equal to from three-quarters to the whole of the reported labour shortage in these areas [8]. In response to this article, R. Basaria, the Director of the Georgian Republic Central Statistical Administration, called for an improvement in the system of record-keeping on the voluntarily unemployed [9]. In fact, there was no such system. If a person quit his job, for example, then this fact was noted only in his own personal labour booklet. The state records system could not be consulted to see if he had taken other work because no such records were being kept. As Basaria himself lamented:

> ... at present no one has this necessary information at his disposal. State statistical agencies only receive such data once every ten years, in the national census. But, because this information is collected in the form of a questionnaire, it is to a significant degree imprecise, and its applicability is limited. The internal affairs agencies that are primarily engaged in uncovering parasites also have incomplete data, as do the Soviet executive committees.

He nonetheless believed that this essential record-keeping could be arranged by introducing a system of two compulsory vouchers to be filled out upon taking and upon leaving a job (similar to the vouchers used in establishing and departing a place of residency). As soon as an employee left his job (regardless of reason), enterprises and organisations would send these vouchers to the appropriate housing office, based on the employee's registered place of residency, and for those who lived in their own houses, to the internal affairs agencies. These agencies would monitor employment and once or twice a year report to the state statistical agencies data on the availability of able-bodied individuals who did not have jobs in the economy [10]. Although the authorities in

some Georgian cities - Kutaisi, for example [11] - made experimental moves in this direction, the proposed scheme appears to have found no nation-wide backers. As evidence, one can cite the chairman of the Belorussian *Goskomtrud*, who in a 1985 *Pravda* article asked: "How many people are not engaged in socially useful work? You won't obtain an exhaustive answer to this question in any institution within the jurisdiction of the executive committees of local soviets. Nobody keeps such statistics even though our economy is planned" [12]. Indeed, even as late as 1989, criticism was still being expressed over the lack of effective record-keeping [13].

In some republics, enforcement of the new anti-parasite legislation produced very mixed results. This was certainly the case in Latvia, where even before the rewording of Article 211 of its Criminal Code to bring it into line with the new Article 209 of the RSFSR Code, a more intensive campaign against parasites had been launched. An analysis conducted by the republic procurator's office in early 1981 had found that roughly one in every four persons who had committed a crime was neither a worker nor an enrolled student, and that one out of every two or three such persons had been leading a parasitic way of life during the preceding three years [14]. These findings prompted the republic's Central Committee to initiate a "broad front" assault against parasitism in October of that year: commissions for the job-placement and re-education of parasites were set up within every *raion* (city) executive committee; housing offices were instructed to regularly inform the militia about all able-bodied citizens who were evading socially useful work or who were residing without a *propiska*: the internal affairs agencies, *druzhiny*, *Komsomol* detachments and other organisations began to conduct special raids (under the code-name "Prophylaxis") on a given date once a month in all the republic's cities and *raions* to identify and apprehend vagrants, beggars and other parasitic elements [15]. The intensified efforts immediately bore fruit: in 1982, the number of persons who, after receiving official warnings, were brought up on

criminal charges for pursuing a parasitic way of life exceeded the figure for 1981 by 11%; as a result, the number of graver and more dangerous crimes committed by such persons was said to have been reduced by 20.2% in 1982-1983 [16]. After the reworded Article 211 of the Criminal Code went into effect (also on 1 January 1983), however, contradictory trends were observed. Thus, despite a 13.7% increase in the number of persons arrested for vagrancy in 1983 by comparison with 1982, this nevertheless produced a 52% lower conviction rate. The main reason for this was that they could not be held criminally liable because prior to their arrests they had not been given official warnings that their parasitic way of life was impermissible [17]. Concerned with these statistics, Latvian Republic Procurator Ia. Dzenitis made the following blunt suggestions: (1) abolish the need for warnings of vagrants; (2) give automatic warnings to everyone released from corrective-labour camps and therapy-and-labour rehabilitation centres (LTPs) to the effect that parasitism was impermissible and that they must find employment within one month; (3) reintroduce the obligation of all citizens (abolished in 1960) to inform local housing authorities of their places of work or study; (4) give local job-placement bureaux and internal affairs agencies the right to issue binding job-placement instructions (under the existing legislation only job-placement instructions issued by soviet executive committees were binding on economic managers); and (5) put repeat offenders to hard physical labour in corrective-labour institutions, regardless of the Union Republic in which they were convicted [18].

The procurator's proposals met with a sympathetic response from officials in other republics who agreed that the legislation on parasites was still in need of further refinement. Two senior members of the Pskov *oblast'* (RSFSR) executive committee similarly believed in the need to establish criminal liability for vagrancy irrespective of whether those engaging in it had been officially warned. They claimed that annually, despite the considerable number of vagrants uncovered in the RSFSR, only a few of

them - around 4% - were being prosecuted in accordance with Article 209, because they had not been previously warned. Moreover, those who were warned usually looked upon this as a "reminder to be more vigilant": "They 'take off' after its issuance .... In short, their 'nomadic' (*kochuiushchii*) way of life makes it virtually impossible to exercise control over their obeying the demands laid down in the warning". The need to warn vagrants, they concluded, not only made it difficult to bring these people to account under paragraph 1 of Article 209, but also impeded the use of paragraph 2 against them, and therefore should be done away with [19]. The deputy head of the procurator's department in the Perm *oblast'*, however, questioned the expediency of such an approach:

> Opinions concerning the disadvantageousness of issuing an official warning to persons who are engaging in vagrancy, are, as a rule, linked to the difficulties of controlling the vagrant's subsequent behaviour. A solution to this problem might, it seems, to be sought not through amending the law, but by improving the forms and methods of this control [20].

The necessity of a more effective system of control was a frequently raised point at a series of public meetings held in the Omsk *oblast'* in direct response to Dzenitis' article. Some speakers, such as the lathe operator N. Studilin, called for greater supervision over the labour utilisation of convicted parasites, for teaching them trades useful to the economy, for more decisive measures against drunkards and absentees and for a reduction of the "unjustifiably long" period of time afforded to parasites for taking up work. A. Zubaevskii, a senior foreman, A. Abulkhanov, a locksmith, and T. Shishova, a lift-operator, all urged the *druzhiny* and other public organisations to assume a more aggressive offensive against parasitism, while V. Makor'ev, a housing-office manager, criticised the insufficient surveillance being carried out by employees of the housing agencies and ROVD over vacated or derelict buildings, since this was allowing persons of "questionable character" to use them freely as drinking dens, night shelters, *etc.* One

speaker even suggested that it was high time to prosecute not only drunken good-for-nothings but also those shopkeepers who were "showing considerateness to their regular frequenters" by supplying them with bottles of spirits at first light and allowing them to get drunk outside their shops in full view of honest toilers making their way to work [21]. Of course, shifting the blame onto others "aiding and abetting" parasites deflected attention away from the main question of identifying and tackling the root causes of the problem. It was a clear sign of the frustration being felt by ordinary Soviet citizens over the apparent lack of any progress in the struggle to eradicate the phenomenon. As one disillusioned citizen from the town of Volkhov wrote in his letter to the editor of *Sotsialisticheskaia zakonnost'*:

> Our nation has been able to successfully defend the achievements of the October Revolution, to win victory over fascism. Are we really unable to eliminate parasitism, which gives rise to all kinds of crimes? It says in the Constitution that everyone must work honestly and conscientiously. Why, therefore, are there hundreds of people in every city, in the majority men, who are not working but engaging in begging and other types of theft? The militia see and know them, but are not taking proper measures. They are not taking them to "sobering up" stations: nothing is exacted from them since they aren't working. Even worse: their behaviour, impunity, have a corrupting influence upon the young generation. Do we really not have the strength to call them to order?! [22]

The Russian Supreme Court meanwhile let it be known to the lower courts that it considered their performances in parasite cases to be generally unsatisfactory. In Resolution No.4 of 26 December 1984 [23], the Supreme Court again drew the courts' attention to frequent misapplication of Article 209. Citizens had been unjustly convicted for vagrancy or parasitism because the lower courts had disregarded important exonerating evidence, such as the lack of an official warning, an inability to work, or the accused's claim that he had been denied admission to work by the enterprise to which he was assigned. It also criticised the courts for giving insufficient attention to

mandatory alcohol and drug treatment as an alternative form of punishment. An important part of the resolution urged courts to use a more individualised, therapeutic approach instead of routinely imposing sentences of deprivation of freedom. They were instructed to make greater use of VTPs in conjunction with deprivation of freedom, corrective tasks without incarceration, and suspended sentences with obligatory job-placement. The High Court admonished the lower courts to explore more fully the causes and conditions underlying Article 209 crimes and to react strongly with "special rulings" (*chastnoe opredelenie*) in cases of delays due to bureaucratic red-tape and non-compliance with the warning, job-placement, and criminal investigation processes. Finally, the Supreme Court called upon the courts to increase their educational efforts by holding more visiting sessions in enterprises and to make broader use of the mass media in their anti-parasite campaign.

Almost two weeks earlier, the campaign had received new legal dimensions in a decree of the Presidium of the RSFSR Supreme Soviet - "Procedures for Applying Article 209 of the RSFSR Criminal Code" [24] - which apparently replaced the aforementioned similar document issued, but not published, in 1975. The decree explained the terms "vagrancy, begging, or leading other forms of a parasitic way of life" as used in the criminal code which in the amended version of 11 October 1982 read:

> Engaging in vagrancy or begging or leading other forms of a parasitic way of life shall be punished by deprivation of freedom for a term of from one to two years or by correctional tasks for the same term. The same action, committed by a person previously sentenced under paragraph one of the present article, shall be punished by deprivation of freedom for a term of from one to three years.

The decree also clarified the consequences of the omission of words "systematic" and "over a protracted period of time" in the new Article. Thus, it explained the term

ENGAGING IN VAGRANCY as: "the wandering of persons, who have no permanent place of residence, from one community to another or from one place to another within a city (*raion*), and who subsist on unearned income while avoiding socially useful work for more than four months in succession or for more than four months altogether in the course of a year"; ENGAGING IN BEGGING as: "the subsistence of persons on unearned income obtained through the solicitation of money, foodstuffs, clothing and other materials of value from citizens who were strangers to them; and LEADING OTHER FORMS OF A PARASITIC WAY OF LIFE as: "the subsistence of an adult, able-bodied person on unearned income, while avoiding socially useful work for more than four months consecutively, or during one year in its totality for more than four months". These terms were similar to those in the 1975 decree, but under that decree these periods began running only after the culprit had received an official warning that his way of life was forbidden. Under the new decree, such warning was given after a person had already led a parasitic way of life for three months and this meant that - if he still refused to engage in "socially useful" work within one month or if he could not find a new employment in that period - he was already subject to punishment.

As compared with the 1975 decree, the concept "unearned income" was now clarified to some extent, defined by the new decree as those "means, obtained through games of chance, fortune-telling, begging, petty speculation or other illegal means". Moreover, such income had to be the principal or one of the principal means of subsistence of the individual suspected of parasitism.

Let us examine these three offences individually in a little more detail.

5.2 A DESCRIPTION OF THE CRIMES COVERED BY ARTICLE 209

(a) Engaging in Vagrancy

Criminal liability arose here only if four vital, interconnected elements of the objective side of the crime were present: (1) lack of a permanent place of residence; (2) wandering; (3) subsistence on unearned income; (4) evasion of socially useful work for more than four months. Detection of the first element was not particularly difficult. Vagrants could be found in: attics, cellars, public heating systems, cemeteries, railway stations, afforestation areas, unoccupied summer dachas, building sites, empty houses, houses being repaired or rebuilt, public entrances, goods wagons, unguarded industrial enterprises, rubbish dumps, boiler rooms, landing stages on rivers, childrens' play-houses, deserted churches and monasteries, garages, sheds, haylofts, hunters' cabins and abandoned *izby* (peasants' log huts), *etc.* [25]. Vagrants who took up temporary residence with relatives and friends were not exempt from liability. Thus, a certain "P" was found guilty of vagrancy by a Moscow people's court even though he claimed during the trial that he had been living "on and off" with his mother and sisters. Although this was true, militia reports also showed that he had been repeatedly found passing the night in stations and sleeping rough on the streets, and had on numerous occasions been conveyed to "sobering up" stations. The court looked upon this information as sufficient evidence of the fact that "P" did not have a permanent place of residence [26].

The academic journal *Eko* revealed that in 1987 some six million people "in practice had no permanent housing". In the same year, the total number of vagrants probably ran into "hundreds of thousands", of whom the militia caught and warned 50,000 [27]. In militia jargon, vagrants were *bomzhi* (persons without a specific place of residence), *borzy* (persons without a specific job), and *bichi* (the Russian initials for

"formerly intelligent person" - *byvshii intelligentnyi chelovek*) - individuals often with a secondary specialist or even higher education, but who had become helpless alcoholics with no personal documentation or fixed place of residence. According to the typical Soviet view, their downfall was entirely self-inflicted although it was rumoured and believed by some that these unfortunates, found largely in the Soviet Far East, were people whose lives had been ruined by sentences to labour camps under Stalin [28]. Other categories of vagrants included the so-called *kamyshatniki*, found mainly in the southern krais, where they spent the summer living in reed thickets; *skirdiatniki*, who slept in haystacks; *arbuzniki* and *lukovye*, who spent the night in open fields after helping with the harvesting of watermelons and onions. Some individuals were engaging in vagrancy in an attempt to escape liability for the commission of some other crime; for example, *beguny* ("runners"), who had fled their place of residence out of fear of prosecution for the malicious evasion of payment of alimony or of maintenance of children (Article 122 of the RSFSR Criminal Code). N. Nikolskaia, a chief consultant to the USSR Ministry of Justice, estimated that annually up to 100,000 such "father-runaways" (*ottsy-begletsy*) were being sought by the internal affairs agencies [29]. While some writers maintained that these persons were not technically vagrants since "their residence without a *propiska* is only temporary and is done as a deliberate ploy to put the militia off their trail" [30], others characterised them as socially akin to vagrants: "There are many amongst them who are not working, systematically abusing alcohol, and leading a parasitic way of life. They are notable for a high degree of criminogenicity since they have completely lost their working habits, all positive social connections and relationships - which in the long-run leads them to social degradation" [31]. The courts, themselves, were sometimes criticised for overlooking the possibility of prosecuting these offenders under both Articles 122 and 209 simultaneously. One investigation revealed, for instance, that almost half (47%) of all those sentenced to

exile in accordance with Article 122 had for a long time been engaging in vagrancy, "but not one was charged with parasitism" [32].

Self-called "system" people constituted another category of vagrants. Mainly old beatniks, hippies, Hare Krishnas, *etc.*, they were castigated in the press. An *Ogonek* correspondent, after spending six months living and travelling among the USSR's "bums and hoboes", had the following to say about this "newest and most unconventional type of non-alcoholic vagrant":

> They attach themselves first to one group, then to another, but all of them are characterised by utter passivity, infantilism, and a certain pseudo-philosophicalness. We don't work, they say, but we don't do anyone any harm either. We just wander from place to place. This milieu is fertile ground for professional preachers and proselytizers for various sects. During my journey, I was approached by a Seventh-Day Adventist near Gelendzhik, a True Orthodox Christian in Tashkent and a Zen Buddhist in the Crimea. These proselytizers are clever, and they know that these socially passive groups, that have cut themselves off from society and are vaguely seeking something to believe in, represent a potential flock. It would be one thing if they were even normal Baptists, but it is the proselytizers for the illegal sects who are the most active among the vagrants [33].

The most unfortunate group of all was the *dromomany* - those vagrants suffering from evident mental disorders. Researchers at the Far East University in Vladivostok estimated that around 70% of all vagrants had "psychic anomalies" of one kind or another, including schizophrenia, profound psychopathy, *etc.* [34]. One may argue that instead of being hounded for parasitism, these people should really have been receiving proper medical treatment. Indeed, the deficiencies of the Soviet health care system cannot be overlooked as a factor which led to the persistent and conspicuous perpetuation of an army of social drop-outs and rejects. And yet, their presence had to be denied in order to protect the myth of the caring communist state. The streets had to be kept free of the sight of the misery and unhappiness of those forgotten and abandoned and in need of support systems which were not available. Punitive measures

appeared to be the Soviet government's only response to this dilemma. An important and underestimated function of the anti-parasite laws was, therefore, their role in concealing the drastic deficiencies in both human services and individualised care.

Prior to the passing of the late-1984 RSFSR Presidium decree, legal scholars had been at loggerheads over how to interpret "wandering" - the second requisite element of criminally punishable vagrancy. Some construed it as "only the repeated crossing or transference from one population centre to another without socially useful purpose" [35], while others saw no need to link it to movements over such a sizeable distance [36]. Courts too, judging by the inconsistency of their rulings, were equally split on this issue: some judged this element to be present when the offender had changed his place of dwelling frequently within a SINGLE city or *raion*; others deemed it present only in the wanderings of those who had been staying for short spells in a NUMBER of cities, villages, workers' settlements, *etc.* Interesting in this second regard is the case of Komissarov, found guilty by the Moskvorets *raion* peoples' court in Moscow of transgressing Articles 198 (Violation of the Passport Rules) and 209 of the RSFSR Criminal Code. The Criminal Cases Collegium of the RSFSR Supreme Court, in quashing the conviction under Article 209, noted the following in its judgement:

> According to the law, engaging in vagrancy is understood to mean the transference, over the course of a prolonged period of time, from place to place, of a person who does not have a permanent place of residence or who has abandoned it, and who is subsisting on unearned income. The case materials confirm that Komissarov was arrested on one occasion in the Pavelets railway station and twice in the doorway of No.9 Kozhevnicheskaia *ulitsa*. As was noted in the decision of the Moscow court, Komissarov did not have a permanent place of residence, was spending the night any place he happened to find himself, and had taken no measures to obtain a permanent *propiska*. But this only gives evidence concerning the fact that Komissorov is guilty of the crime covered by Article 198 of the Criminal Code [37].

The Presidium decree, by defining vagrancy as the wandering of persons without

fixed abode "FROM ONE COMMUNITY TO ANOTHER or from one place to another WITHIN A CITY (*RAION*)", essentially solved this debatable question. Nevertheless, in the opinion of the deputy manager of the Kazan holding-and-assignment centre this definition was still far from satisfactory. The legislative interpretation of vagrancy as "wandering", she argued, was actually limiting the militia's potential to deal with this problem, since many cases in practice fell outside this rather narrow definition. It was often a matter of non-working individuals who were residing without a *propiska* in dwellings unfit for human habitation, but who were not wandering about. To emphasise her point, she cited the cases of Puzakov and Minganov, both of whom had been arrested in Kazan on suspicion of vagrancy. Puzakov was an alcoholic derelict who had abandoned his family and who for over four months had been living in the basement of a house earmarked for demolition, while subsisting on the money he obtained from selling lottery tickets. Minganov lived in a self-built earth house (*zemlianka*) in a forest. He had no definite occupation but bred dogs - using their meat for food and selling their skins.

> If one assesses the activities of these people from the point of view of the wording in the decree, then it is doubtful whether they can be counted in the category of vagrants. Meanwhile, although they were not roaming around, they were still living without an address and evading socially useful work. It seems, in this connection, that a more precise definition is required. In our opinion, the words "living without an address" should be introduced into the definition of wandering, which would allow conduct such as that mentioned to be qualified as vagrancy. It also seems admissible to discuss the legality of such a concept as criminally punishable "settled (as opposed to nomadic) parasitism" [38].

Most vagrants, however, did not settle in one particular place for any great length of time. N.N. Kondrashkov likened them to migratory birds, "constantly changing locales during the spring and summer months before moving to the southern krais in the autumn where they spend the winter" [39]. Such nomadization meant that they unavoidably

violated the Soviet passport system rules. Residence in the USSR was controlled through systems of personal identification (*udostoverenie lichnosti*) and registration of residence (*propiska*). The history of passport control stretched back to tsarist Russia. A form of passport management was started under Peter I to ensure the payment of a poll tax and that young men registered for military service. In the following years an increasingly complex and inhibitive system evolved from which only the upper classes of society were released. For most urban dwellers, relaxation came with the "Statute on Residence Permits" issued in 1894 [40], which no longer required them to carry a passport in the city of their permanent residence. It was only in 1906, however, that the peasants, who comprised the vast majority of the population, acquired passports and were allowed to circulate throughout the empire [41].

When the Bolsheviks came to power, passport policy was a low-priority item on their agenda: they had more urgent concerns. Nevertheless, they faced a potential dilemma. The "Declaration of the Rights of the Working and Exploited People", published in January 1918, proclaimed in general terms the removal of all Tsarist restrictions on liberty. Yet actual policies, particularly in the spheres of obligatory labour and military service, urban food rationing, and political persecution, demanded some form of personal identification and residential control, at least for the urban population. The Bolsheviks' first step, as we saw in Chapter 1, involved controlling the activities of the former "parasitic" exploiting classes through the introduction of the "labour book" in October 1918. The document thus indicated an undesirable social status: it was obligatory for most people over the age of sixteen who were NOT recognised workers, state employees, or peasants. Issued in return for the old Tsarist passport, its purpose was to prove involvement in legal productive activity; establish identity throughout the RSFSR; and serve as a receipt for food vouchers and any available social security benefits. The labour book also had locational functions, insofar

as travel in the RSFSR and change of residence required presentation of it. It had to be checked by the local soviet every month. The labour book was, thus, initially a negative document. However, the exigencies mentioned above, and Lenin's own views, soon convinced the leadership that it should be imposed on the population at large to improve labour control.

With the conclusion of the civil war and transition to the NEP, restrictions on movement were considerably eased. On 22 January 1922, the government passed a decree "in connection with the complete liquidation of [military] fronts and the cessation of the cholera epidemic", granting all citizens "unhindered freedom of movement throughout the whole territory of the RSFSR", up to its frontier zones [42]. The rights of free migration and settlement were likewise confirmed in Article 5 of the Civil Code, and accordingly, next in line was the problem of converting to a legitimation system. This conversion was realised by a decree of the RSFSR VTsIK and SNK, from 20 June 1923, "On Proof of Identity" [43], Article 1 of which announced that "passports and other residence registration documents (*vidy na zhitel'stvo*) ... together with labour books are annulled from 1 January 1924. Administrative organs are specifically forbidden to demand from citizens of the RSFSR the presentation of passports or other registration of residence documents which limit their right to move and settle on the territory of the RSFSR". In 1927, however, there was a significant move back to passport control: the "liberation" decree of 1923 was repealed by another of the same title, and a uniform identity card was introduced for the entire RSFSR.

The Soviet internal passport system in its most notorious form was established by the infamous passport law of 27 December 1932, "On the Introduction of a Uniform Passport System in the USSR and the Obligatory Registration of Passports" [44]. According to the preamble, this system had been introduced "in order to obtain better statistics of the population in towns, workers' settlements, and the settlements built

around the newly constructed factories and also in order to secure the deportation from these places of persons who are not connected with industry or with work in the offices and schools and not engaged in socially useful work (with the exception of infirm persons and pensioners), and also in order to cleanse these places from *kulak*, criminal and other antisocial elements that find a refuge there". The law was extended by subsequent regulations. These stipulated that the passport should be used both as a means of establishing identity and as a basis for residence control in towns, urban settlements, *raion* centres, and machine-tractor stations, in set radii around large towns, frontier zones, building sites and sovkhozes. Other areas were termed "non-regime", and since they were inhabited mostly by peasants, this class found itself "passportless". Villagers permitted to move to an urban locality were given a one-year passport. In 1934, the criminal code was changed to allow up to a six-month period of hard labour for infringement of passport regulations, and up to two years for a repeated offence.

The Stalinist passport system quickly became one of the main levers of social and political control in the USSR. In subsequent decades it underwent numerous minor modifications, particularly at a local level, but little substantive change. A new statute was introduced on 21 October 1953 [45], shortly after Stalin's death, which made the system a little easier and can thus be interpreted as a minor and largely neglected element of de-Stalinisation. But, even then the passport and registration system acquired new uses. It was needed to control the massive outflow of inmates from the prison camps as a result of the 1953-1955 amnesties, to retain the Crimean Tatars in their Central Asian exile, and to repress the new, incipient dissident movement by threat of removal of active participants from large towns. Most important of all, at least as far as we are concerned, all the various anti-parasite measures launched under both the Khrushchev and Brezhnev leaderships, could hardly have been conceived without it. Regulations passed for Moscow in April 1958 directed the Ministry of Internal Affairs

and Moscow city soviet to discover and expel from the city all those who were avoiding socially useful work, whose behaviour was "unworthy", and who were "infringing upon the rules of the socialist community". An Edict of the Presidium of the Supreme Soviet on 8 June 1973 confirmed that militiamen had the right "to enter living accommodation, as a rule during daytime, in order to check the observance of passport regulations, when reliable information on infringement had been received" [46].

The next passport law was approved in August 1974 [47]. The precise reasons for its introduction are unclear; the Brezhnev leadership effected a massive recodification of Soviet law, and this may have simply been part of it. In a number of ways the system was further liberalised. A single passport was now issued, without registration or renewal, for life; the passport no longer contained employment stamps; "class status", considered to be obsolete in an advanced socialist society, was excluded; three days were allowed for registration of change of domicile, instead of the previous one; and persons refused residence permission had seven days, instead of three, to leave the area. Strict penalties were again specified for transgression of the rules. Section 34 of the new Statute read:

> Citizens who are required to have passports and who remain without passports or with invalid ones, or citizens who live without permanent or temporary residential registration, shall be subject to a fine of up to ten roubles, in accordance with administrative procedure. The same penalty shall be borne by citizens for intentionally damaging passports or for handling them carelessly in a way that results in their loss. Citizens guilty of maliciously violating passport system rules shall be arraigned on criminal charges in accordance with legislation.

The legislation dealing with the malicious violation of the passport rules was Article 198 of the RSFSR Criminal Code:

> The malicious violation of passport rules in localities where special rules of living or registration have been introduced, if such violation takes the form of living without a passport or without registration and if the person has already twice previously been subjected to an administrative penalty for such

> violation, shall be punished by deprivation of freedom for a term not exceeding one year, or by correctional tasks for the same term, or by a fine not exceeding one hundred roubles.

(In the Ukrainian, Uzbek, Armenian and Estonian SSRs offenders could be criminally prosecuted after only one previous violation.) The foregoing application of administrative penalties was considered an aggravating circumstance, which when introduced into the third violation made it qualitatively different and distinguishable from the first two (which were administrative offences). It was now a question of the "malicious" nature of the offence - namely that property making it open to criminal prosecution - which was said to manifest itself in "the deliberate violation of the passport rules without valid reason, thereby confirming the staunch antisocial attitude of the guilty person and his unwillingness, despite the use of measures of state pressure against him, to obey the demands of the law" [48]. It is worth mentioning in this connection that a study into the personalities of recidivist vagrants conducted by Iu.M. Antonian, S.V. Borodin and *E.G.* Samovichev at the beginning of the 1980s highlighted the hitherto neglected fact that the "malicious", criminal behaviour of some vagrants was not actually deliberate, but, rather, had been triggered by certain psychological abnormalities rooted deep within their subconsciousness. Typically, for instance, they had lost their passports: while this would be treated as a cause for alarm by most ordinary citizens, the reaction of vagrants to the loss was generally one of complete indifference: "They may live without passports for months on end, making no moves to obtain a duplicate, even though they are sufficiently knowledgeable about the consequences which the lack of documents entail". Such unconcern, the scholars concluded, gave grounds to assume that for these people, the passport had lost its primary function - that of social identification. This, they hypothesised, was due to some unconscious (*nesoznannyi*) need to deny their self-identity, avoid any group

identification, evade social control, *etc.* [49]. Thus, the repeated violation of the passport rules by some vagrants was done without specific intent (*i.e.* was not really malicious). Because of some subliminal mental deficiency, they did not fully realise the error of their ways. But, if this was so, then surely there was a case for declaring them non-imputable? To escape responsibility on the grounds of non-imputability (*nevemniaemost'*) two conditions had to be fulfilled, a legal and a medical one. A person who, while committing a crime, could not realise what he was doing or could not govern his actions, as a result of a chronic mental disease, a temporary mental disorder, mental deficiency or other pathological state, was not punishable (Article 11 of the Fundamental Principles of Criminal Legislation of the USSR and Union Republics (OSN)). The clause "could not realise what he was doing or could not govern his actions" contained the LEGAL condition for non-imputability, "a chronic mental disease ..." *etc.* spelt out the MEDICAL condition. Both conditions had to be fulfilled and there had to be a causal connection between them - only if the offender could not realise what he was doing or govern his actions BECAUSE OF SPECIFIC PATHOLOGICAL CAUSES was he freed from criminal responsibility. The *dromomany*, mentioned earlier, since they were suffering from chronic mental diseases, ought to have been declared irresponsible for any criminal act committed by them. The type of vagrant analysed by Antonian and his colleagues, on the other hand, did not exhibit any immediately recognisable mental abnormalities. This, together with the fact that their latent disorders had "to a large degree been exacerbated by alcohol abuse" [50], changed the whole complexion of the matter. Persons suffering from alcoholism were actually regarded as being of sound mind, fully aware of the dangers of excessive drinking but nevertheless still deliberately doing so. This ruled out all question of non-imputability, since Article 12 OSN made it clear that alcoholism could not be used as an excuse to claim lack of responsibility. In other words, even though these vagrants may not have been deliberately breaking the

law, they could still be held responsible on account of their drunkenness.

Although vagrancy, as a rule, occasioned violation of the passport rules, it should be noted that the latter, even in malicious cases, did not necessarily give evidence concerning the former. The Criminal Cases Collegium of the RSFSR Supreme Court stressed this point strongly in its ruling in the case of "SH". He had been convicted by the Kalinin *raion* peoples' court in Moscow under both Articles 198 and 209 of the RSFSR Criminal Code on the grounds that after his release from prison he had gone to the capital where he failed to engage in socially useful work. Fined twice for transgressing the passport regulations, on the second occasion he was also made to sign a written undertaking promising to both leave the city within seventy-two hours and terminate his "vagrant" way of life. The court of first instance deemed him guilty of breaking both promises. It had overlooked some exonerating factors however: not only was "SH" a group III invalid and thus exempt from criminal liability for parasitism, he also had a full-time job and permanent place of residence in Iaroslavl. He had been given leave to visit his wife and other relatives but during the visit his wife fell ill and he was forced to postpone his return. But, being an ex-convict, he was denied even a temporary residence permit. The Collegium ruled that the lower court, without clearing up all the relevant circumstances, had erroneously assumed that anyone violating the passport rules was without question a vagrant. In quashing the vagrancy conviction, it noted: "SH was guilty of infringing only Article 198. Violation of the passport rules cannot be qualified as vagrancy" [51].

In some respects, the *propiska* system, instead of being an additional weapon in the fight against vagrancy, actually aggravated the problem. It, in fact, made it virtually impossible for vagrants to "mend their ways" even if they wished to do so, since without a residence permit they were ineligible for employment and without work they could not obtain accommodation. In other words, they were effectively deprived of the right to

work and forced to remain "parasites". Instances were reported in the press of erstwhile vagrants tearing up newly issued passports, saying that without *propiska*, living space, and a job, such documents were for all practical purposes useless. Two Kirov lawyers summed up this "no-win" situation: "A blank space in the place of residence column creates a bottomless precipice between the individual and society. It turns out that the rights and freedoms of a section of Soviet citizens, although written into the Fundamental Law, are substantially reduced. Can this be considered a natural state of affairs? Obviously not." [52]. They also highlighted the plight of released prisoners, who made up 80% of those guilty of violating Article 198 [53]. The urban registration practices were in fact directly responsible for creating a distinctive class of vagrant ex-convicts. A Soviet prison sentence entailed a loss of residence rights, which could only be re-established under certain specific conditions. Although the 1974 passport law stated explicitly that released convicts could return to family or relatives at their former place of residence, this general formulation concealed several problems. First, an unpublished supplement on implementation of the law contained clauses which actually deprived many former prisoners, mainly those interned for a wide range of state crimes, from returning to their former place of residence until their conviction records had been annulled through established procedures. These people were also not permitted to take employment in the same localities. There was no temporal limitation on this ruling, and the passports of such persons were to have special, recognisable serial numbers. It is evidently for this reason that prisons or camps normally discharged people with a paper allowing them to apply for residence in certain localities only. Restriction could be removed at the discretion of the local militia if the ex-convict had lived and worked satisfactorily in a so-called "free-regime zone" for two years. Nevertheless, a class of homeless ex-convicts was brought into existence. In practice, only certain categories of juveniles, mothers with young children, invalids and the elderly had an automatic right

to re-registration in the towns where they formerly resided [54]. Second, anyone who got into this unfortunate situation could, according to various press reports, expect other complications to follow. Housing left unoccupied for six months was considered to have been vacated. An unregistered person could be evicted from the given locality twice, with only a twenty-four hour notice to leave on each occasion. If he returned, he could be imprisoned for one year as a deliberate offender. Cases were reported of prisoners actually fearing release because residence restrictions prevented them from settling anywhere [55]. Most pinned their hopes on finding a job which provided accommodation, but enterprise managers usually refused to hire them simply because they had no *propiska.* An *Izvestiia* correspondent called this "the iron logic of formalism: a person deprived of the right of residency must immediately be deprived of work too" [56]. This created a revolving door for released convicts, whom nobody would hire and who ended up, therefore, back in prison as vagrant-parasites. The vicious circle was vividly described by A. Semenov from Moscow in a letter to a literary magazine:

> I am one of those vagrants. In 1976, when I was eighteen, I landed in prison for three years because I did something stupid. My father and mother were permanent residents of Moscow. After I served my time, I was refused a residence permit to live with my parents. I had to wander around from dormitory to dormitory, far from my home. I spent almost five years like that. I decided to visit my family (but that was forbidden). I had to serve time again for violating Moscow's residence-permit regulations. I was a model inmate in prison, and when I was released the institution's administration petitioned for a Moscow residence permit on my behalf. My father, a disabled war veteran, who has been living with my sister and her small daughter since my mother died and who needs my help and support, also made such a request. He took his request all the way to the Moscow City Soviet, but everywhere he went they turned him down. They sent me to Kalinin. I figured that it wasn't that far from Moscow, and I could visit my father from time to time and help out. So I went there, but they also refused me a residence permit, leaving me with no place to live and without hope of securing work. What was I supposed to do?

> Go back to prison? Everyone can get a residence permit there ![57].

The two remaining vital elements of the objective side of criminally-punishable vagrancy - subsistence on unearned income and evasion of socially useful work - were also typical of the other criminal acts covered by Article 209. The content and essence of these elements will be examined in general form shortly (in order to avoid repetition). At this stage, we shall only note that they were rather complex concepts, open to various interpretations.

(b) Engaging in Begging

One may observe from the description of this crime given by the Presidium decree that alongside reference to the general element of subsistence on unearned income, it specifically indicated the illegal method used to extract such income - "the solicitation of money, foodstuffs, clothing and other materials of value from strangers". Thus, the *sostav* of this crime was present only in cases where material support was being requested from citizens unknown to the subject. This point had already been made by Kurinov in the 1980 *Commentary on the RSFSR Criminal Code*: "The importunate solicitation by a person of money, foodstuffs and other valuables from his parents, relatives or acquaintances and, likewise, the pestering of state or public organisations with unfounded requests for material support cannot be qualified as begging" [58].

The Soviets ruled out dire poverty as an "objective" reason for begging (and indeed for crime in general) and accused beggars of feigning the state of extreme need for purely parasitic purposes, of preying on the kindness, compassion and soft-heartedness of the people by fraudulently posing as war cripples, industrial invalids, as victims of crime, natural calamity (fire, flood, earthquake) or grave illness. Although frequently

called "swindlers" (*moshenniki*), this did not mean that beggars actually bore liability for the crime of swindling (Article 147 of the RSFSR Criminal Code), since by contrast to the perpetrators of that crime, they were not using deception to take possession of the personal property of citizens, but rather as a means toward persuading strangers to give charity through pity.

Beggars were not necessarily operating alone: they often drew minors into their criminal activity as well. In this case, they were criminally liable under both Articles 209 and 210, the latter of which carried a maximum prison sentence of five years for any adult who deliberately enticed a minor to engage in amoral, criminal acts. Moreover, adults who intentionally created conditions that forced a child to beg, for example, through hunger, extreme financial hardship, *etc.*, could find themselves facing additional charges under Articles 122 and 124 (Abuse of Duties of Guardianship); if they had exerted any form of mental or physical pressure then they could also be charged with complicity (Article 17 of the RSFSR Criminal Code) [59].

Vagrants often resorted to begging as a means of extracting unearned subsistence money. Although they were therefore (technically speaking) committing two separate criminal offences, this did not mean that they bore aggregative responsibility for both crimes. This was due to differences in the grounds for issuing official warnings to vagrants and beggars. All persons caught in the act of begging were <u>immediately</u> warned about the impermissability of such behaviour; *i.e.* in contradistinction to the other two offences covered by Article 209, in cases of begging there was no requirement on the part of internal affairs agencies to wait three months before issuing a warning. If the subject of begging continued to subsist on unearned income and evade socially useful work after the expiry of the one-month warning period then he was open to prosecution [60]. Thus, vagrants prosecuted for begging could not actually be arraigned on vagrancy charges since they could not possibly have been engaging in the latter for

more than four months - the minimum time period required by the law prior to the possible initiation of criminal proceedings (they would have been sentenced long before for their begging). A number of commentators, including Antonian [61], were far from happy with this state of affairs. They argued that a genuine aggregation of crimes was present in such cases and that ideally the crimes in question should be placed in separate articles of the criminal code.

(c) Leading Other Forms of a Parasitic Way of Life

Of the three infractions encapsulated within Article 209, this was certainly the most ill-defined. The Presidium decree gave no guidance whatsoever in identifying concrete forms of this crime. Soviet legal experts generally viewed this as no error or oversight on the part of the Supreme Soviet, but rather as an enforced omission. As one explained: "Parasitism is capable of assuming such a multitude and diversity of forms that the inclusion of an exhaustive list of all its possible forms within a single law would have been absolutely impossible and in any case would have restricted the efficacy of Article 209. The legislator therefore took the path of indicating only the crucial objective-side elements of this criminal act" [62]. These elements were: the EVASION OF SOCIALLY USEFUL WORK (for more than four months in succession or for more than four months altogether in the course of a year); and the SUBSISTENCE of an adult, able-bodied person on UNEARNED INCOME (throughout the period of work evasion).

i) Evasion of Socially Useful Work

Soviet writers, guided by Marxism-Leninism, claimed that under socialism there existed a harmonious union between work for oneself and work for society. The exploitation of

one person by another as well as the potential for such exploitation had been completely eliminated. The purchase of labour was wholly forbidden and, because the means of production belonged to society as a whole, each individual as a member of socialist society - being neither exploiter nor exploited - worked for society and thus also for himself. Parasitism, for obvious reasons, destroyed this harmony and that, in a nutshell, was why Article 60 of the 1977 USSR Constitution declared evasion of socially useful work to be incompatible with the principles of a socialist society. In contrast to the capitalist "consumer" society, socialist society was a "working" one, the economic system of which was said to operate in such a way as to provide work - and a choice of work. The universality (*vseobshchnost'*) of labour, full employment in socialist states, was a vindication of the Marxist notion that labour was the source of value and that idleness was degenerate. E.R. Sorukhanov, in an authoritative review of labour under socialism, pointed out that:

> Socialism creates the possibility for the full use of the workforce because the development of social production is made subordinate to the task of satisfying the growing material and cultural demands of the members of society .... Socialist reproduction is an unlimited process because in socialist society there is no limit to the growth of requirement for people .... Labour is a need - a means of man's development, of realising his capabilities ... [63].

There were three functions to having an occupation (*zaniatost'*): (1) economic (promoting economic growth); (2) income (participation in and creation of national income); and (3) social (the realisation of social needs through labour). Measures against parasitism have to be seen against this backcloth of the socialist value system emphasising the social utility of labour. "Malicious" parasites, that is, those who made no effort to conceal their non-participation in socially useful work, produced nothing but economic harm, made no contribution to the growth of national income and met their needs through immoral or criminal means. They were branded "especially dangerous

deviants" [64], who by deliberately opposing socialist social relations, had entered into "antagonistic relations" with Soviet society [65]. The textbook *Social Deviations: An Introduction to General Theory* identified parasitism as THE most socially dangerous antipode of the socialist way of life. "The adoption of an energetic stance, the striving to participate actively in public events, to purposefully overcome obstacles and difficulties through labour", it noted, were typical features of the socialist way of life. By contrast, parasitism was "the embodiment of extreme social passivity, incorporating many negative characteristics which ran counter to the ideals, principles and spiritual values prevailing under socialism: the malicious evasion of socially useful work, drunkenness, drug-addiction, a consumer approach toward society, an egotistical striving for personal well-being, individualism, *etc.*" [66]. As was repeatedly averred in the Soviet press, lack of regular employment led inevitably to moral degradation, which, in turn, stimulated antisocial, often criminal forms of behaviour: "The avoidance of work, as a manifestation of a negative attitude toward one of the primary conditions of social existence, is evidence of the base, antisocial orientation of the individual's personality" [67].

Two important questions have to be asked before one can fully understand the essence of the term "evasion of socially useful work": first, what was meant by "evasion"?; and, second, what was regarded as being "socially useful work"? N.N. Kondrashkov, in his book *Parasitism: Against Law and Conscience*, addressed the first question:

> The concept of evasion can be roughly defined as follows: evasion takes place when a person who is able to work, who has been obligated to work, does not want to work and in fact is not working. What does "able" to work mean? Firstly, this is when the person is able-bodied, healthy and of working age. If he has not reached working age or on the contrary, has reached pensionable age or is ill, an invalid, he has the right not to work. This, so to speak, is the subjective factor. But one cannot but take into consideration objective conditions too. Therefore,

> secondly, it is necessary to have the objective chance of working: the presence of working places, the opportunity to secure a job .... By "obligated" to work is meant the legal duty, imposed upon every citizen of the USSR capable of labour by the Constitution of our country, to work conscientiously [68].

"Socially useful work" was generally recognised to include permanent employment in state, social, or collective-farm co-operative organisations, work pursuant to labour contracts with various organisations and citizens, the work of artisans and craftsmen, and other activities not prohibited by law and remunerated in accordance with the quality and quantity of work expended [69]. Any activities performed outside of this broad spectrum , as we shall see later, ran the risk of being classed "parasitic" - the income from which was "unearned".

Evasion of socially useful work was certainly the clearest and most conspicuous characteristic feature of parasitism. It was not necessarily typical of all forms of parasitic behaviour however. As has already been mentioned, alongside consummate, malicious spongers (those who faced prosecution under article 209), there simultaneously existed "socially active", "covert" (*zamaskirovannyi*) parasites, who on paper at least, were fulfilling their constitutional duty to work. In reality, they were "violating labour discipline" (this was a phrase which was applied to almost any activity which reduced output - particularly individual acts of drunkenness, poor time-keeping and absenteeism, idling on the job, and poor performance in general) yet nevertheless still receiving a wage, or using their jobs for the purpose of criminal gain:

> Are parasitising, you see, not only those who are not working anywhere, but also those who are formally reckoned to be in work, yet who at times are doing more harm than good (for example, slipshod workers (*brakodely*), rolling-stones (*letuny*), absentees (*progul'shchiki*), drunkards, *etc.*). Even greater harm is being inflicted by those who are using their official position for personal enrichment, profit (plunderers of socialist property, embezzlers of public funds (*kaznokrady*), bribe-takers, *etc.*) [70].

Soviet criminologists used the differences in the behaviour of manifest and covert parasites as a basis for drawing a conceptual distinction between social parasitism in the BROAD sense - either the complete evasion of socially useful work and parasitisation at the expense of society by an able-bodied person, capable of work, or his or her formal participation in the labour process but only for the sake of appearances; and, the NARROW sense - illegal enrichment via the commission of "mercenary" crimes.

Malicious parasites were portrayed as the human dregs of society, whose prime motive for avoiding work was purely and simply their absolute detestation of it: 65% of the total number of parasites brought before the courts in Irkutsk during 1984 "unashamedly" gave this as the sole reason for their life of idleness [71], while three-quarters of the Moscow parasites convicted the following year made it clear in court that they had no inclination whatsoever to fulfil their constitutional duty [72]. They were miscreants of the lowest order, since as Kondrashkov explained:

> ... most of them adopt an aggressive stance, assume the offensive, when others try to make them listen to reason. Guided only by their own "ideological" principles, their reasoning is reduced to such maxims: "It is my own personal business whether I want to work or not; I have the right not to work, you can't forcibly compel me to work; we don't have forced labour; I am not breaking the law, I am not causing anyone any harm ...". They are not conscience-stricken since their moral views do not conflict with their way of life. Worst of all, they don't denounce their behaviour. Instead, they tend to develop a distinctive defence mechanism, accusing whomever they like, but certainly not themselves, for their abnormal position in society. Here is an example of such a high-handed idler. A certain Vladimir B., a philologist by education, did not work anywhere for over one and a half years .... He explained to his friends that he couldn't find work in his profession, so they gave him food and clothes, *i.e.* he essentially lived on hand-outs .... Moreover, he defiantly flaunted his parasitic principles: "I am sure that the majority of people would prefer to rest and not to work". Such is the militant ideology of the idler: he not only justifies his behaviour, but also attempts to claim that idleness is the dream of the majority of people [73].

It was sometimes claimed in Soviet legal literature that evasion of socially useful

work was criminal in and of itself [74], but this simply was not true. There was no legal sanction for the "pure", so to speak, evasion of work and, what is more, even if a person had been out of work for a prolonged period of time this still did not give absolute proof that he or she was guilty of parasitism. As the law stood, the actual act of evading socially useful work entailed criminal liability only when it was attended by subsistence on illegally obtained unearned income. Thus, if a person was breaching his constitutional duty to work but at the same time was not surviving on unlawful sources of income then he could not be subject to punishment. In other words, "living on unearned income" was the most important criterion for the punishability of the actions covered by Article 209. Three Russian jurists summed up the legal position as follows:

> ... if for all infringements of the law unearned income is the result of some or other unlawful activity, then for the crimes dealt with by Article 209, subsistence on illegal unearned income is one of the obligatory elements of the *sostav*, the absence of which rules out the possibility of bringing criminal charges; that is, in this given case, the unearned income itself "gives birth" to the crime [75].

Therefore, since this income was so crucial to the crime of parasitism, it is very important to know its definition either as formulated by law or as developed by judicial practice.

(ii) Subsistence on Unearned Income

The term "unearned income" was to be found in the USSR Constitution (Article 13), the Fundamental Principles of Civil Legislation of the USSR and Union Republics (Article 25), the Civil (Articles 105 and 111) and Housing (Articles 78, 123, 131) Codes of the RSFSR, and, of course, was referred to repeatedly in anti-parasite legislation. Nonetheless, it was one of the most vaguely defined concepts in Soviet law. As the *Commentary to the Civil Code of the RSFSR* noted: "The concept of unearned income is

not determined in the law, its presence is established by the court in each concrete case" [76]. Similarly, a legal scholar, N.S. Malein, remarked: "The term UNEARNED INCOME has entered legislation and legal literature. However, the concept itself remains extremely hazy. Normative acts indicate and establish liability for individual types of unearned income, but do not give a precise definition of the concept. Different indications are used" [77].

For most of the years preceding the Gorbachev era, "unearned income" (*netrudovye dokhody* - literally: income not based on labour) was considered to be a purely juridical concept, and its interpretation was the exclusive province of legal writers and law enforcement agencies. Their traditional approach to determining unearned income was based on the identification of two of its features: (1) the lack of application of one's own labour; (2) the existence of a legal infraction, *i.e.* the unlawfulness, the contradiction of a specific phenomenon in the sphere of distribution to juridical law. Only if these two features were combined, when income did not result from a citizen's own work and where its source was not legally admissible, could the income be deemed unearned. But, this approach had become more and more remote from reality and had several limitations. The first was that it exaggerated the ability of legal norms to reflect changes in Soviet society's actual economic structure precisely and promptly. For example, after the introduction of the 1977 Constitution there had been an appreciable increase in the population's individual labour activity, especially in so-called private practice (tutoring, medical consultation, *etc.*), the legal description of which lagged substantially behind real life. However, the income produced by this activity (for private tutoring alone, it was estimated to have amounted to two billion roubles in the mid-1980s [78]) could hardly be called unconditionally unearned. Moreover, the very evaluation of income as unearned was not entirely defined under this approach: in the cases cited above the issue was usually not that the income was not the result of labour, but rather, that it was

incommensurately high compared with the results, *i.e.* a certain part of this income was unearned; the definition of this aspect, however, was always a very difficult problem. Finally, it was entirely possible to classify as unearned certain types of income that evoked no legal objections: interest on savings accounts, inheritances, winnings in various types of lotteries, racecourse winnings, *etc.* The recipient of such income was guilty of no wrongdoing whatsoever, but nevertheless pocketed income that was not created by his own labour. In short, the term "unearned income" had become very misleading. Income based on no labour at all could still be legal (inheritance, for example, assured unearned income) and thus not pertain to the notion of "unearned". On the other hand, income based on the labour of a citizen, but not actually allowed by the law, could be qualified as income not based on labour (*i.e.* "unearned"). Iu.K. Tolstoi could not understand, for instance, how income obtained by personal labour but in violation of the law (from engaging in a prohibited trade, certain handicrafts not permitted by law) could possibly be judged "unearned" - labour had been applied, so the income must surely have been EARNED (albeit illegally) [79]. He, and a number of other writers [80], therefore proposed that the term "unearned income" be replaced by "unlawful income" (*nezakonnye dokhody*). This was perhaps a more accurate term, but it contained the same elasticity as the one it was supposed to take the place of. How did the Soviet citizen know where lawful income ceased and where forbidden activity began? It seemed as though it should have been rather simple - unlawful income was income forbidden by law. But, the 1977 Constitution introduced such formulations as "property owned or used by citizens shall not serve as a means of deriving unearned income or be employed to the detriment of Soviet society". Thus, every citizen who gathered unlawful income acted against the interest of the Soviet state because he was enriching himself to the detriment of Soviet society. Some writers even qualified this phenomenon as "unjust enrichment" and argued that the income earned by a citizen

against the interests of the state must be returned to the state [81]. Their argument appeared to be based on Article 473 of the RSFSR Civil Code which stated that, "property obtained at the expense of another person, not under any transaction but as a result of other acts consciously opposed to the interests of the socialist state or public, if not subject to confiscation, is forfeited in favour of the state". Such a characterisation was applicable, for example, to actions regarded as "begging". Because a beggar did not effect transactions in relations with his benefactors, and because in a country where socialism had been victorious, begging should not have occurred, even alms became unjust enrichment. However, the benefactors could not demand their return, since they themselves had aided the beggar in his culpable behaviour. Therefore, under the title of "unjust enrichment" these alms were subject to forfeiture in favour of the state.

Generally speaking, four different income types or combinations of income were possible: (1) legal and earned - income obtained within the framework of the socialist system of distribution by citizens performing their constitutional duty to engage in socially useful work (for example, wages); (2) legal but unearned - income obtained as the result of inheritance, a gift, *etc.*; (3) illegal although earned - income from engaging in a prohibited trade for example; (4) illegal and unearned - any income gained as a result of the commission of crimes. Incomes within the fourth category were distinguishable from the others in that the extraction of them flagrantly violated the constitutional principle pertaining to the distribution of "vital goods" (*zhiznennye blaga*) in accordance with the quantity and quality of socially useful labour expended by the individual. By the mid-1980s, a body of opinion had emerged which ascribed all the various forms of unearned income to defects in Soviet economic institutions. Social parasitism now came to be looked upon as being primarily an economic problem: the sources of the unearned income most commonly associated with it lay predominantly in the economic sphere, in deformation of the distributive mechanism.

The source of the personal property of citizens of the USSR was income earned through labour. The ownership of goods meant the appropriation of a part of social production created by labour. In the Soviet Union social production was based on socialist ownership of the means of production. The worker was not the direct owner of these means, but as a member of the collective he could not be prevented from using them. As a creator of the social product, he had a right to a part of this product. The laws of distribution of the social product defined the extent of this right.

In defining the principles of division of the social product, Soviet political economy was inspired by a passage from Marx's *Critique of the Gotha Programme*, in which he argued that the totality of the social product must be reduced by a series of social funds: the depreciation fund, the investment fund, the reserve fund, and the insurance fund. The remaining part of the social product could be used for consumption needs. This latter, consumption, fund was divided into three parts. The first satisfied collective needs such as schools, health services, and rest homes. The second part sustained invalids, aged people, and mothers with many children. Benefits from the two first parts of the consumption fund were accorded to the people not as workers but as members of society. Services provided under these two sub-funds were free of charge or made available at nominal cost. The third part of the fund was dispersed according to the socialist principle: "From each according to his abilities, to each according to his work". The income from this third part was the "real" basis of personal property and was distributed in proportion to the quantity and quality of labour expended in social production. Marx himself categorically rejected the idea that socialism involved universal equality in distribution and consumption. In the first phase of communism, he wrote, "the individual producer receives back from society - after deductions have been made - exactly what he contributes to it .... He receives a certificate from society that he has furnished such and such an amount of labour, and with this certificate he draws

from the social stock of means of consumption as much as costs the same amount of labour. The same amount of labour which he has given to society in one form he receives back in another" [82].

Material incentives, in the form of rewarding individual contribution by monetary payments, became one of the guiding principles of the organisation of the Soviet workforce. Stalin believed that personal property should function as a material incentive in order to stimulate workers and peasants to work harder and more efficiently, thereby raising productivity. The "iron law" of personal property was created: income arising from socialist production would be divided according to the quantity and quality of work. In his famous speech "New Conditions, New Tasks", delivered to a conference of leaders of industry on 23 June 1931 [83], which was the basis for the first attempt to adapt Soviet labour law, codified in the NEP-inspired Labour Code of 1922, to the new economic system resulting from the policy of forced industrialisation based on an overall planning system, Stalin demanded, amongst other things, abolition of egalitarianism in wages. He rejected the prevailing policy of levelling down wages (*uravnilovka*), and as a result of his anti-egalitarian policy the brigade system resulting in equal distribution of wages which had developed in industry in the first years after the introduction of the planning system was abolished. In later years, the stress on differentiation of wages and also the postponement of wage reforms due to World War II resulted in enormous differences in the factual wages of blue-collar workers of the lowest and highest grades and in the different branches of the economy. Indeed, by the time of his death, differentiation of wages had reached such proportions that "the lower paid workers earned only ten or twenty roubles a month (and that was the case with most of the Soviet workers), while a few Soviet citizens had an income of 1,000 roubles a month or even more" [84].

Although Stalin's successors tried to narrow the disparity between the wages of

different social groups, none of them returned to the policy of wage-levelling as introduced during War Communism. Khrushchev placed high emphasis on the division of income according to communist principles. For him, communism meant an abundance of material wealth. This abundance would only be achieved by raising productivity and the only efficient way of raising labour productivity was through use of material incentives (*i.e.* the remuneration of workers according to the quantity and quality of their work):

> Goulash does not fall from heaven. To achieve an abundance of food and clothing, it is necessary to have a highly developed production force. All wealth is created by human labour. The better and more a person works, the greater his and society's wealth [85].

Over two decades later, K.U. Chernenko was reiterating the importance of the "sacred" principle of socialism - from each according to his abilities, to each according to his work:

> This is the foundation of the social justice that our working class and our people, for the first time in history, have converted from dreams to living reality .... Those who work at top efficiency should, always and everywhere, be provided with tangible advantages in earnings and in the distribution of housing, vacation accommodation and other social benefits [86].

Mikhail Gorbachev was deeply aware of the fact, however, that this principle had frequently been violated during the latter part of Brezhnev's rule and was continuing to be steadily undermined by "unfavourable tendencies in the sphere of distribution" [87]. A "theoretically just" policy of narrowing wage differentials had been proclaimed, but this, in practice, had created distortions in pay scales which no longer in many instances sufficiently rewarded levels of skill. For example, between 1976 and 1984 the wages of manual workers grew by an average of forty roubles per month, whereas those of engineers rose by only twenty roubles. The average pay of engineers was only 10%

more than that of unskilled workers [88] and this process was said to have reduced their material motivation [89]. Highly productive, skilled workers often enjoyed no favoured status in terms of enjoyment of social goods and received no more than an idler or poor worker who just sat out his hours on the job. As S. Koslov complained in early 1983:

> Unfortunately, at many enterprises it is normal to "pull up" (*vyvesti*) wages, using every possible supplementary payment, bonus *etc.* ... so that a worker does not get less than a certain level. This means that payment is not made for "concrete" work, but on the basis of an "average", so that a worker is not offended, and does not go off to another factory - this leads to "levelling", the "stimulating" role of the rouble is reduced and labour is less efficient .... A worker knows that if he works badly, his wage will nevertheless be raised [90].

Such levelling tendencies in payment for work varying in productivity and quality naturally led to a poorly motivated workforce, which had little material interest in productive, high-quality labour since there were few incentives to work harder. The lack of consumer goods available at market prices made wage incentives ineffective; many workers had no serious interest in extra money, had lost their financial motivation to work intensively - as, after all, money is only worth what it can buy. By the time Gorbachev came to power in March 1985, there was already a general sense that Soviet society was suffering from a social malaise, which in turn was provoking irresponsible behaviour. There was an obvious "lack of order" (*bezporiadok*) and the nation, it seemed, had begun to eat away at its remaining moral fabric: official corruption was rife; labour discipline was extremely low; crime as well as alcohol and drug addiction rates were soaring; the second economy had mushroomed out of control, giving black marketeers virtually limitless openings to acquire rich pickings in the form of illegal "unearned incomes"; the fight for scarce goods and resources had made almost everyone a player in the underground economy; workers had become cynical and passive, disillusioned by the shortages and poor quality of consumer goods and services. All in

all, by 1985 the most prominent items produced by the Soviet economy were inefficiency and corruption. It was Gorbachev's task to pull the nation out of the quicksand. He dubbed the effort *perestroika*, or re-structuring.

He signalled his intentions immediately in his maiden speech to the Central Committee in April 1985:

> ... it is necessary to consistently pursue a line aimed at strengthening social justice in the distribution of material and spiritual wealth, intensifying the influence of social factors on the development of the economy and improving its efficiency .... The task now, is to work out concrete, effective measures to rid the distributive mechanism of wage-levelling, unearned income and everything that runs counter to the economic norms and moral ideals of our society, and to ensure that the financial position of every worker and every collective is directly dependent on the results of their labour [91].

One of the key tasks of *perestroika* was that of securing a more complete implementation of the principle of "social justice", undermined during Brezhnev's "years of stagnation" when the regime had settled for social stability and egalitarianism at the cost of economic decline. For Gorbachev, "social justice" meant adequate remuneration for a job well done, restoring the basic principle of socialism: "From each according to his ability, to each according to his work". This formula implied the right of a person who had expended more labour for the good of society, or who performed a job that involved considerable responsibility or was accompanied by harder working conditions, to enjoy more and better material goods than a person who made a less significant contribution to the growth of social wealth. Any improvement in a person's living conditions had to be based on his steadily increasing contribution to the common cause. Equalising in the form of wage-levelling, Gorbachev argued, had been "one of the prime deformities" in the Brezhnev era, an obstacle to economic productivity. Attitudes of dependence, consumerism and apathy had developed; due to the relaxation of control of earnings and consumption levels, and in an atmosphere of complacency

and permissiveness, theft, bribe-taking, speculation and the practice of obtaining unearned income had taken root with resultant relapses into the "petit-bourgeois" (*meshchanskii*) way of life and mentality. Gorbachev was to make it clear at the 27th Party Congress that the most prominent aspect of the campaign to revive social justice was the struggle against unearned income. In his Political Report, he deprecated the persistence of parasites, plunderers of socialist property, speculators and bribe-takers, and promised "additional measures against those who have embarked on a path alien to the labour-oriented nature of our system" in the near future [92]. Tat'iana Zaslavskaia, one of the most vocal and best known representatives of the reform-orientated academics, was quick to praise the "aggressive" social policy drawn up at the Congress (according to the new Programme of the CPSU passed at the Congress, the most important task of the Party's social policy was to "decisively eradicate unearned income and all deviations from the socialist principles of distribution" [93]) for giving "comprehensive backing to honest toilers" and creating "unbearable conditions for those who, while not wanting to work, are living on unearned income, and parasitising at the expense of society. Their impunity breaks down public morality, undermines the faith of the rest of the population in justice. They must therefore be viewed as the active enemies of socialism .... The struggle against them must be uncompromising, for, in actual fact, it is being waged for the social health of the nation. If we are unsuccessful in this struggle, people will not believe in the reality of attaining so high a goal as social justice ... and will work in a slipshod manner" [94]. A. Shokhin, another prominent pro-reformer, also contended that social justice required that unearned incomes be eliminated. Such incomes, he said, were not just the proceeds from theft, bribe-taking, and illegal buying and selling; they were any incomes, or parts of incomes, that for whatever reason exceeded what would reasonably reflect the labour of those who received them. They included, for example, wages paid to people who had been absent

from work and wages and bonuses financed by false reporting of enterprise output. Such elements in legally paid state wages were "unearned" (*nezarabotannye*). Moreover, most types of unearned income could be traced back to flaws in the economic system, which generated excess demand for labour. This led enterprises to pay for fictitious work in order to retain the workers they had and to attract new staff from other employers. The wage inflation that resulted added to excess demand for consumer goods, which in turn encouraged black-marketing and hence another form of "unearned income" [95]. Doctor V.Z. Rogovin made a similar distinction between unearned incomes that did not contradict legal norms and illegal unearned incomes:

> The first group of unearned incomes derives from deficiencies in the economic mechanism (for instance, the payment of "guaranteed" bonuses on the basis of annual plan fulfilment results to all the workers of an enterprise, including laggards and workers who have violated labour discipline, *etc.*) and from imperfections in certain legislative norms (for example, the extremely low level of taxation on private plots whose owners extract extremely high incomes because their plots are in a favourable location and have fertile soil). The second group of unearned incomes derives from attempts to gain personal advantage from the above-mentioned deficiencies and imperfections either by directly circumventing or by violating the legal and moral norms of our society [96].

5.3 GORBACHEV'S CAMPAIGN AGAINST UNEARNED INCOME

In late-May 1986, a massive campaign was launched against the phenomenon. The Soviet leadership published three decrees adopted by the three highest Soviet agencies: the Central Committee of the CPSU, the USSR Council of Ministers, and the Presidium of the USSR Supreme Soviet [97]. This method of normative activity was unheard of in Soviet practice. The heading of each decree was "On Measures to Intensify the Fight Against Unearned Income" (or "Against the Extraction of Unearned Income"). As to a definition of unearned income in general, the decrees did not contain one. But an enumeration of violations that had to be qualified as a means of extraction of such

income rendered this definition quite clear. Thus, any income obtained by way of mercenary crimes - theft of socialist property, speculation, swindling, bribery, *etc.* - was unearned. Bribe-takers (*vziatochniki*), for instance, may be seen as perfect examples of the narrowly interpreted species of "social parasite" (*sotsial'nyi parazit*). Like the *tuneiadtsy* transgressing Article 209, they too were parasitising at the expense of the state, society or private citizens, but with one essential difference - they occupied an official position which they were abusing for the purpose of mercenary gain. Article 173 of the RSFSR Criminal Code dealing with bribe-taking was located in Chapter 7 of the Code - "Official Crimes" - and defined this crime as "the receipt of a bribe in any form whatever by a person in an official position, for the purpose of carrying out or not carrying out in the interests of the bribe-giver any action which the official should have carried out in the course of his duties".

During the late Brezhnev era, official corruption, particularly at the local levels, became intractable and, within limits, *de facto* tolerated. Bribery served a broad range of functions. Thus, for example, state enterprises often found the attainment of production goals by legitimate means impossible or exceedingly difficult due to a variety of malfunctions in the official "first economy". Supplies due under allocation orders and contracts were frequently not delivered on time, not delivered in the right quantity or quality, or not delivered at all. To obtain the requisite supplies, a bribe had to be paid to one or more officers of the supplying company. This kind of bribery served as a lubricant, and if paid for what the suppliers were supposed to do anyway, apparently improved the functioning of the system. There were negative sides to it however. First of all, the bribe money was frequently siphoned from the funds of the giver's company [98]. This stealing was then covered up by some kind of forgery; a common practice was to put a bribed officer of the supplier's company on the regular payroll of the giver's company ("dead souls" trick) [99]. Second, more often than not,

the bribe-taker was expected to manipulate his organisation in a way favourable to the giver's company, and hence to deviate from the course of action expected of him by the planner. Bribes paid in pursuit of the legitimate interests of the giver's company frustrated attainment of legitimate goals by other companies which were also competing for scarce resources. On the other hand, bribes were given as a means of promoting illegitimate interests of a socialist organisation; that is, interests inconsistent with the goals assigned by the planner. For example, in order to create an appearance of successful plan fulfilment, bribes were often paid in return for false invoices or other documents certifying delivery of goods or completion of construction projects, *etc.* [100]. The giver here was usually pursuing illegitimate personal interests as well. He may have been obtaining unearned bonuses or otherwise getting credited for non-existent performance. Bribery of this kind was particularly dangerous for the planned economy since it could become a focal point of various conspiracies directed against the planner. It correlated highly with the crime of report padding (*pripiski*) - overstating the performance of the organisation primarily for the purpose of obtaining (illegal) bonuses - as well as embezzlement of socialist property [101].

Bribery was also used by "parasitic criminal elements" who were seeking either to engage in an unlawful gainful activity or to continue such an activity and avoid liability for it. Such activities would include embezzlement of socialist property (the term "embezzlement" meant appropriation of state and social property when carried out by someone occupying an "office", as opposed, for example, to pilfering by factory workers), cheating customers ("deception of customers" referred to false measurement, false weighing, short-changing, charging more than official retail prices, or more than official prices and scales for everyday and communal services provided to the population - Article 156 of the RSFSR Criminal Code), running a private line of business within a socialised economic organisation, black-marketing, *etc.* The giver

made payments to one or more state officers who were in a position to exercise control over him and to grant or deny him an opportunity to derive unlawful profits. A variation of this type of bribery consisted of payments made by second economy "operatives" to state and/or party officers in order to win their "general benevolence", to establish an on-going relationship of the client-patron type guaranteeing that the taker would not use his authority to interfere with the giver's unlawful profiteering. This kind of payment appears to have been made with great regularity by retail shop and restaurant managers as well as by kolkhoz chairmen to members of the power elite at the district level. The primary beneficiaries of such "tributes" (*pobory*) were, of course, local party executives [102]. Still another variation encompassed payments made to officers of the economic bureaucracy for their affirmative special contributions to various operations of the hidden economy. From the technical legal perspective, it was sometimes difficult to tell where bribery ended and complicity began [103]. Thus, it was fairly common for managers of stores or warehouses to sell, for a bribe, goods in high demand to black-market speculators. In these cases, a bribe was simply a share in a profit derived from black market transactions, a share paid in advance.

Even ordinary, law-abiding Soviet citizens were forced to bribe state officers (with the power to make allocative decisions) in an attempt to obtain either scarce goods or services on the state-controlled market, or goods/services, which theoretically were distributed free of charge (for example, housing, medical services, *etc.*). Retail store managers and salesmen as well as high trade officials collected bribes for selling such scarce goods as cars, silk, motorcycles, construction materials, prefabricated houses, furniture [104] and many others. Service station heads, foremen and mechanics extorted additional payments from desperate customers [105]. Doctors and public health service administrators collected money from patients for granting office visits, special care and admission to hospitals, as well as dispensing drugs, performing surgical

and other procedures, and providing a variety of other legitimate as well as illicit services [106]. Notoriously corrupt were those officials who allocated living space - a commodity of both utmost scarcity and desirability. The widespread nature of this type of bribery was reported by A.K. Kritsiniia, a Georgian writer whose empirical study covered large samples of bribery cases decided by Georgian courts between 1970 and 1977. He found that approximately 20% of all bribes in his sample were paid to housing administrators [107]. Soviet courts and prosecutors encountered some technical difficulties in this area. Because bribery was a form of official misconduct, the taker had to fit the legal definition of an "official" [108]. But persons without any administrative authority, such as rank and file salesmen or doctors, hardly fitted the concept. There was a split of legal authority on the issue: the majority of the commentators opposed judicial extension of the law on bribery to include service personnel. Soviet high courts, however, in a few reported cases, affirmed without extensive reasoning the bribery convictions of salesmen [109]. Two solutions to this special problem were proposed in Soviet literature: either expansion of the statutory definition of "official", or amendment of republican criminal codes by adding a new offence: extortion of "tributes" by the employees of trade of service establishments. The latter proposal ultimately found legislative adoption [110].

The widespread and persuasive nature of official corruption in the USSR and its *de facto* toleration by the Brezhnev oligarchy entailed serious social costs. It was, without doubt, a powerful contributor to the notorious demoralisation of the labour force, general apathy and cynicism. It also generated a good deal of social anger amongst "those excluded from the privileged access structure of party patronage and the political anger of 'citizens' who resented its very existence" [111]. Moreover, widespread corrupt practices subverted the central institution of the regime - the professional party apparatus. Its members ceased to function as "deployable agents" of the disciplined

organisation and instead took on the role of political overlords trading power for "booty" [112]. The spoils were "an especially maleficent form of illicit income" and bribe-takers were "social parasites of utmost venality":

> The parasite is many-faced. He is not necessarily just a vagrant, beggar or an idler who is not working anywhere. He often hides under the guise of a conscientious citizen. Take the bribe-taker. To his associates he is an honest, decent and respectable person, an energetic administrator or economic planner. But only those who know his other life realise there is a second side to this corrupt, criminal sponger [113].

An extensive anti-corruption drive commenced by Andropov, which stagnated during the interim leadership of Chernenko, became an important component of Gorbachev's "restructuring" programme, which as noted earlier, included a meritocratic current - the quest for distribution of material rewards according to the quantity and quality of labour contributions. Official corruption, for obvious reasons, undermined the meritocratic principle. The programme emphasised legalism, social discipline and protection of the rights of the individual against abuse of official power. Bribery, again for obvious reasons, subverted these postulates. The struggle against it therefore became an important part of the campaign against "unearned income". The Central Committee decree identified bribery as being an especially dangerous form of social parasitism and ordered the Procuracy and the Ministries of Justice and the Interior to secure an intensified fight against it, so that "bribe-takers ... and other lovers of profit at the expense of society are shown general contempt and are made to realise the inevitability of punishment for their actions". Penalties for bribe-taking were increased by the Presidium decree which amended the previously existing (1962 [114]) federal enactment covering this crime.

Alongside the aim of controlling corruption, the unearned income legislation focused on the necessity of delimiting the second economy. Speculative activities in

two key areas were targeted; first, in kolkhoz markets (both the Central Committee and Council of Ministers decree called for greater oversight over, and for measures to be taken to improve, the operation of these markets in order to stop private traders and middlemen extracting unearned income by inflating the prices of scarce agricultural products - those found engaging in such speculation were henceforth to be subject to fines of from fifty to one hundred roubles with confiscation of their merchandise and both punishments were to be meted out by militia officers on the spot); second, in housing. Since housing was a deficit commodity in the Soviet Union, it not surprisingly often figured prominently in attempts to make a little on the side. One way of doing this was to sublet living space at exorbitant rates. A *Trud* reporter discovered, for example, that almost 10% of the apartments in a co-operative apartment house on the outskirts of Moscow had been sublet, mostly to young people. The rate for a one-room apartment in this building was fifty roubles a month, for a two-roomer - seventy roubles a month. These rates, though scandalous, actually compared favourably with those in Moscow proper, where the going rates for similar accommodation were eighty to one hundred roubles per month for a one-roomed flat and at least 150 roubles a month for one with two rooms [115]. Trading in living space was not just confined to cities, however. It was a countrywide problem. It was, moreover, sensitive to fluctuations in demand. *Pravda*, for instance, published an indignant article describing how residents of Yalta were charging inflated rates for spare rooms in the wake of the Chernobyl disaster [116].

Of course, the perennial housing shortage was primarily to blame for the thriving black market in living space. "Like any other shortage", said the *Trud* reporter, "the housing one gives rise to various abuses". The problem was aggravated, however, by the apparent inability of the legal authorities to do anything about it. When the chairman of the co-operative housing apartment mentioned above tried to get one

particularly shameless profiteer evicted from the building, he was quietly advised by the court to drop the case: "It's a tricky business, they said, to evict somebody. Although the law prohibits trading in living space, just try to prove it - everything's done under the table! No, you'd better drop it. Just touch an insect like this fellow, and he'll turn into a grizzly bear" [117].

The right to housing was one of the new rights granted to Soviet citizens by the 1977 Constitution (Article 44). They had three possibilities of exercising this right: they could buy their own house; they could live in a co-operative; or they could live in a state or public organisation-owned house. More than a third of the urban and rural population lived in privately-owned houses, which were classed under Article 13 of the Constitution as personal property. This same article, however, stated that "property in the personal ownership or use of citizens should not serve as a means of deriving unearned income or be used to the detriment of the interests of society". This stipulation was supported by legal rules directed against "unearned income" so as to prevent any increase in the ownership by citizens of certain kinds of property which could result in undermining their economic dependence on the Soviet state. Thus, according to Article 111 of the Civil and Article 79 of the Housing Code of the RSFSR, a citizen's property was subject to confiscation without compensation if it had been systematically used to obtain unearned income. Tenants in state or public organisation-owned housing were permitted to sublet their apartment or a room therein for a short or long-term period (Articles 76, 121 and 131 of the RSFSR Housing Code [118]). Rooms were often sublet to students in university towns and to tourists in resort areas. This situation was regulated by the rule set forth in Article 10 of the Constitution which read: "No one has the right to use socialist property for the purpose of personal gain and other mercenary purposes". To enforce the rule local state authorities established the maximum that a citizen could be paid for subletting a rented room (apartment). If a

tenant regularly violated this rule, *i.e.* used the socialist (state) property for deriving unearned income, the sublet premises were subject to confiscation by a court decision.

The burgeoning black market in living space showed just how lax enforcement of these various norms had become. This was partly due to the fact that would-be prosecutors had to contend with a loophole in the law. The Basic Housing Legislation of the USSR (Article 33 of the Fundamental Principles) and the Housing Code of the RSFSR (Articles 79, 123 and 131) prohibited the SYSTEMATIC subletting of living space for the purpose of extracting unearned income. But, yet again, what exactly was meant by "systematic"? Given this crippling ambiguity in the law itself, the reluctance of some courts to prosecute such cases was understandable. The 1986 unearned income decrees to some extent removed this obstacle by insisting that all rental or sublease contracts be registered with local executive committees. Non-registration rendered contracts invalid with accompanying ground for suspicion that the property was being used for mercenary purposes, for personal profit: "A good many citizens have much to hide from the authorities and endeavour to circumvent procedures for the registration of such contracts. They have become corrupted by unearned income which, as a rule, they use for leading a parasitic, antisocial way of life. They allow their property to be turned into a meeting place for mobs of drunkards, criminals, into a storage place for contraband goods" [119].

In his report to the 27th Congress, Gorbachev stressed the need to "encourage, in every way, the construction of individual (and co-operative) housing" [120]. The unearned income legislation (Article 10 of the Council of Ministers decree), which stipulated that citizens building a house or dacha worth more than 20,000 roubles were obliged to submit to financial agencies a declaration regarding the sources of provenance of such funds, had the opposite effect. (Citizens carrying out transactions involving sums greater than 10,000 roubles also had to reveal their sources of income.)

This regulation actually signified that in the realms of economic relations a presumption of bad faith on the part of citizens was in force in the USSR, and the entitled agencies could, relying on this presumption, impose upon any citizen the burden of proof concerning any acquisition of property, *i.e.* citizens had to prove to the authorities that they were building with "clean" money. It could be argued that people who were building with legitimate income had really nothing to fear. This, however, was not necessarily so. *Izvestiia*, for instance, reported a case from Estonia in which a man who had begun building a house of his own was prevented from finishing the job because of "unfounded allegations" that he was using unearned income. The correspondent ruminated on this point:

> Where do we get it from, this wariness of the sight of a private home being built? Or of a new car? Or a private dacha? Suppose the heroes of our story had thrown away their savings in restaurants or squandered them on expensive clothing, or hidden them in their socks ... nobody would have pointed a finger at them. Nobody is interested in where the money comes from to keep a man in drink .... I think we've formed a stereotype of "the irreproachable fellow". When his pay is in his pocket he paints the town, but the week before pay-day he's looking for someone to sponge on. What a great guy! And if you're not like that, well, then, you're a tightwad - or a crook [121].

Overall, the legislation against unearned income had the effect of discouraging individual house-building. Furthermore, it did nothing to solve the problem of "parasitic" trading in living space. Only more housing (and better allocation) could have put a stop to that. But, the housing shortage got worse as *perestroika* wore on. The Housing-2000 Programme, launched at the 27th Party Congress, aimed to provide every Soviet family with an individual apartment or house by the year 2000. Construction of new housing proceeded decently over 1986-1988, but began to decline in 1989 when only 128.9 million square metres were constructed (as compared to 132.3 million in 1988). The decline continued through 1990, when new housing space fell to

115 million square metres: the housing shortfall by then amounted to about 600,000 apartments. In early 1991 it was estimated that only 50% of the Programme would be completed by the target year [122]. Indeed, the housing predicament was so bad that in a 1990 nation-wide poll of one hundred rural and urban areas it was rated as the most severe socio-economic problem in the country [123].

Other major targets of the 1986 decrees included: the misuse of state-owned vehicles (as well as equipment, fuel, raw materials, *etc.*) for private gain (an oft-cited example of this involved the transportation of private produce to kolkhoz markets. Since there was virtually no private goods transport and since legal public transport was rarely available, private producers had to resort to hiring *levaki* (drivers of state cars), who transported the vegetables and fruit to the markets in return for "live" roubles. Up to 80% of the produce appearing on the market was delivered in this way [124]); the illegal pursuit of prohibited handicrafts; the extortion of additional payment for the rendering of services, appropriation of receipts, fraud perpetrated against citizens, *etc.*, in public retail shops; petty theft of state or public property; report padding and the illegal payment of bonuses. All income extracted by the above means was illicit and "unearned".

The Central Committee decree set the basic tasks of the campaign. State and social control over the measures of labour and consumption needed to be strengthened so as "to fill and close all channels and loopholes allowing illegal enrichment". Ideological-political work had to be centred around "the cultivation of a clear understanding that conscientious labour is the most important obligation and a matter of honour for each citizen, that only labour determines the position of a person in the collective and in society", and special attention had to be devoted toward "the inculcation in Soviet people of high moral qualities, respect for labour, honour, a caring attitude toward public property and an intolerance of parasitism". A battery of police measures were

commended, and all kinds of control agencies and social organisations were ordered to join the struggle and "to implement additional measures directed against parasites". The struggle against illegal unearned income was thus to be a crucial component of the long-running battle to root out parasitism. Both phenomena undermined the principle of social justice and the prestige of socially useful work, and were said to be rooted in a "private property psychology":

> The negative social phenomenon of social parasitism is arising due to the deformation of distributive relations and involves the existence of a person on unearned income. It is basically the re-animation of private-property mentality which is incompatible with socialism and is connected with misappropriation of the results of other people's labour. Parasitism conflicts with the social policy of the Party - that of strengthening social justice, of ensuring conformity between the measure of labour and the measure of consumption by making sure that the mechanism of distribution serves as a reliable barrier to unearned income, ... and leads to moral degradation by switching the interests of the person to activities outside the sphere of social production as the primary source of material well-being .... Social parasitism and unearned income are close concepts, but they are not necessarily concurrent. Not all unearned incomes are a manifestation of parasitism. Cases are possible when a person is living on unearned income for valid reasons (invalidity, old age, *etc.*). Unearned incomes are possible as a consequence of imperfections in the system of the payment of labour (for example "unearned wages"). On the other hand, manifestations of parasitism are being encountered which are connected not so much with unearned incomes as with the undeserved awarding of different social or spiritual goods. As regards unearned incomes, then it is necessary to fight against those of them which are associated with the parasitic way of life [125].

5.4 THE UNEARNED INCOME OF PARASITES

The 1984 RSFSR Presidium decree, if we recall, gave the courts some basic guidelines on interpreting the unearned income of parasites: it was money obtained by them from games of chance (*azartnye igry*), fortune-telling (*gadanie*), solicitation, petty speculation and other illegal means. It must be noted immediately that this given definition contained one patent inaccuracy. By employing the phrase "and other illegal

means", it implied that all the activities listed prior to this were also illegal. That was not so. In fact (with the exception of begging) only petty speculation was unlawful. It had been classed as an administrative offence in Article 151 of the RSFSR Code on Administrative Violations (KOAP RSFSR) which read: "The buying up and resale, with the intention of making a profit, of small amounts of vodka and other alcoholic beverages, and also of consumer goods and agricultural products, cashier's cheques and cheques for goods and coupons, tickets to spectator and other establishments, books, sheet music, gramophone records, audio and video tapes, and other items of value, if the amount of profit does not exceed thirty roubles, shall be punished by the imposition of an administrative penalty in the form of a fine of from fifty to 100 roubles with the confiscation of the objects of speculation" [126]. No prohibitory legislation had, as yet, been passed against gambling (except in Armenia [127]), although some local soviets in Moscow had apparently begun to authorise the militia to exact fines from private bookmakers. Thus, *Sovetskaia Rossiia* sent two of its reporters to the city racecourse in August 1981 after receiving information that private "bookies" were operating there freely. They were informed that such individuals were in demand because they accepted bets as small as ten kopeks, whereas the smallest one that could be placed at the state window was one rouble. Their profits were so substantial that "even if they are arrested by the militia, they can pay off the ten rouble fine immediately and head straight back to the track". When asked to comment on the journalists' findings, L.V. Nikolaev, the deputy director of the local Ministry of Justice department, said that the bookmakers ought to be punished under the law prohibiting private entrepreneurial activity (Article 153 of the RSFSR Criminal Code) and that the militia should stop taking such a liberal attitude toward them [128].

Administrative liability for gambling was first introduced in late May 1986 as part of the intensified battle against unearned income. The KOAP RSFSR was amended in

order to accommodate a new article - Article 164-1 - which specified that participation in games of chance (cards, dice, roulette, *naperstok*, *etc.*) for money, personal belongings, and other valuables, as well as the taking of bets on sporting and other contests by private individuals, was punishable by either a warning or the imposition of a fine of up to fifty roubles, with or without confiscation of the gaming equipment and of the money or other items used as stakes in the game [129]. Information concerning application of this new article is scarce, although it was reported from Odessa that during 1987 a total of 211 persons were arrested and administratively fined for engaging in games of chance "in the form of a trade", and from whom 20,000 roubles were confiscated. More than half of them were parasites who were not working anywhere, and a quarter had previously been convicted [130]. A. Ledkin, a *Trud* journalist, believed that the legislation was certainly an effective means of sweeping small-scale, parasitic card-sharps off the streets, but contained nothing to deter the *tuzi* (bigwigs) - the big-time professional card-playing gamblers whose numbers ran into several hundred and who commonly played for up to 30,000 roubles per hand [131].

Growing evidence of the link between organised crime and major gambling operations, coupled with the realisation that an ever increasing number of Soviet citizens were resorting to gambling as a source of illegal enrichment, prompted the introduction of important additions to both the administrative and criminal law codes in August 1988. Two new paragraphs were affixed to Article 164-1 of the KOAP, one increasing the fine for repeat offenders up to a maximum of 300 roubles, the other making those responsible for organising games of chance liable to a fine of from 100 to 500 roubles, with confiscation of the gaming equipment and all stakes in the game whatever their form. More significantly, the organisation of games of chance now became a criminal offence under a new Article 208-1 of the RSFSR Criminal Code if the guilty person had already been subject to administrative penalty for this same

activity over the previous twelve months. Punishment took one of three forms: deprivation of freedom for a term of up to one year; corrective labour for a period of up to two years; or, a fine of up to 1,000 roubles, with or without confiscation of property [132]. Press reports, however, painted a rather negative picture of the practice of applying the new laws:

> The legislation has given a new impetus to the struggle against gambling. Nevertheless, the effectiveness of the administrative penalties is not high. The internal affairs agencies are experiencing serious difficulties in trying to arrest offenders (since they are usually so adept at concealing evidence of wrong-doing) and, furthermore, they have had very little success in catching the "behind the scenes" (*zakulisnye*) organisers of games. With regard to the new criminal legislation ... there are no grounds to say that it is being widely applied ... basically because the necessity of prior administrative warnings often precludes the possibility of bringing criminal charges against the guilty parties, especially as the organisers of the games in many cases are operating outside their permanent place of residence and are frequently changing the locations of the games [133].

Fortune-telling, like gambling, was not an offence when the Presidium decree was passed. Unlike the latter, however, it never did come to be prohibited by a specific rule of law, which meant that those with "special powers" - or "barefaced charlatans" as one irate journalist called them [134] - could operate with almost total impunity. The journalist, E. Popok of *Sotsialisticheskaia industriia*, observed that the majority of *gadalki* were Gypsy women and dredged up the Council of Ministers decree "On Getting Itinerant Gypsies to Take Jobs" passed three decades earlier:

> Most Gypsies have correctly interpreted this legislative act and have taken jobs .... But, unfortunately, some people have yet to do so, especially women. Young, bursting with health and importunate, they can be found on the streets and at markets in many cities or in underground passageways where, avoiding encounters with the militia, they speculate in haberdashery items in short supply and readily "predict the future". Brazenly grabbing people by the arm, they lead them to a secluded spot to tell their fortunes. And, believe me, they unerringly find inexperienced, superstitious women in the crowd .... According to the aforementioned decree, gypsies who have come of age and who wilfully evade socially useful work are to be sentenced

> by people's courts to compulsory labour for terms of up to five years. But for some reason, law enforcement agencies today very rarely apply this paragraph in practice [135].

But, the central issue here involves the legality of the income derived from fortune-telling. Since this activity was not unlawful, surely any income obtained from it was licit? This, apparently, was not so. It could be deemed illegal unearned income on the basis of Article 5 of the Fundamental Principles of Civil Legislation, a much used source of legalised arbitrariness. In this Article the general principles of the exercise of civil rights and the execution of civil duties were reduced to two legal demands. The first: "When exercising rights and executing duties, citizens and organisations should observe the laws and respect the rules of socialist community life and the moral principles of a society building communism". This demand thus combined two criteria - the legal and the extra-legal, using different commands in connection with each of them: the law (legal criterion) had to be observed; rules of socialist community life and the moral principles of a society building communism (extra-legal criterion) had to be respected. The legal criterion had primacy over the extra-legal, and, speaking abstractly, one can suppose that, if the former had been observed but the latter disregarded, the case should have been solved on the basis of law, not of morality. However, given such an assumption, it would be difficult to explain which functions were connected with the extra-legal criterion. In practice, this imaginary contradiction was solved by means of the following syllogisms. Soviet law was a moral law. Therefore, although morality and law did not coincide because moral demands were broader than legal ones, to understand legal rules correctly the principles of morality had to be relied upon. The same train of thought was applied to the correlation of the legal criterion with the extra-legal criterion in the cases of rules of the socialist community. In short, these rules and this morality had to serve as the principle means of interpretation of legal texts. As a

result, judicial and other agencies dealing with civil law cases acquired almost unrestricted possibilities to resolve any problem according to their own discretion, when the situation was complicated, and the law in force either did not answer the question directly or answered it in a way that was unacceptable under the circumstances. The second demand: "Civil rights shall be protected by law, except in instances when they are exercised contrary to the purpose of such rights in a socialist society in the period of the construction of communism". Formulating the same demand the other way around, one can say that civil rights were not to be protected, if their exercise contradicted the stated purpose. However, no single Soviet law and no single view of Soviet scholars explained with the necessary degree of certainty the real meaning of "contrary to the purpose" and with the ensuing refusal to protect civil rights in accordance with Article 5 of the Fundamental Principles of Civil Legislation. Thus, the application of the second demand also depended exclusively on judicial discretion, and consequently, the principle of legality, so loudly proclaimed by Soviet propaganda, underwent even stronger restriction than would have occurred only as the result of enforcing the first demand. The second demand basically laid down the rule: "Observe the purposes of rights in Soviet society". The ambiguity of such a rule left the judges absolutely free to decide whether these purposes had been observed or violated. The rule relied upon its sanction: refusal of protection of the appropriate subjective right. The uncertainty of such a sanction allowed judges absolute freedom to use any sanction known to Soviet law including the prohibition of certain kinds of conduct. As an instrument of arbitrariness, the Article cited was particularly useful in cases of fortune-telling. For example, as V.F. Chigir explained:

> When there is no special rule which permits us to deem an act illegal and the income obtained from it unearned, we can still deem them such on the grounds of Article 5 of the Fundamental Principles of Civil Legislation, for instance in cases of the receipt of payment for telling fortunes, cartomancy, *etc.* [136].

As compared with the previous (unpublished) guidelines for applying Article 209, the Presidium decree certainly represented progress in that it at least made some kind of move toward clarifying the concept "unearned income". Instead of the expected positive response, however, the clarifying instructions were immediately subject to fierce criticism for unnecessarily complicating the practice of applying the law. The Presidium's interpretation of the concept was seen by many [137] as a retrograde step, since now only those people subsisting on ILLEGAL sources of income could be prosecuted, whereas before there was no such restriction. This meant that "parasites" who were living on unearned income extracted by means generally regarded as morally reprehensible or antisocial, but which had not been specifically proscribed, now stood beyond the limits of the criminal law. Since spongers of this type had hitherto made up the "overwhelming majority" [138] or "basic mass" [139] of those convicted under Article 209, the decree, by effectively excluding them from liability, was judged to have "put a spoke in the wheels" of the battle to extirpate parasitism. *Sovetskaia Rossiia* even went as far as to say that the decree had "unwittingly taken the side of the idlers" [140].

Many courts, stung by unfair criticism that they were showing too much leniency in parasite cases, and furious about having their hands tied, started to interpret the term "other illegal means of obtaining unearned income" in an extremely loose and arbitrary fashion: they ranked in this category, for instance, any income acquired by means running counter to "the rules of socialist morality", the "spirit of the law", the "principles of law", *etc.* [141]. In doing so, they, without legal grounds, expanded the range of subjects of the crime, which, in turn, led to a sharp increase in illegal conviction rates. Thus 90-95% of the total number of persons sentenced for parasitism by the Kirov *raion* people's court in Leningrad during 1984-1985 had been living on

unearned income obtained from legal sources [142], *i.e.* they should not have been held criminally liable. Unfortunately, the erroneous and illegal judgements of this court were mirrored by equally unsound judicial decisions in numerous other towns and cities [143]. Court errors were reported with great regularity in the legal press and appear to have been prevalent in the following types of cases: when the accused had been subsisting on: (a) MEANS CONFERRED BY PARENTS, RELATIVES, *etc.*. This was, without doubt, the most frequently cited source of income in parasite trials: some studies revealed that over 50% of those called to account had been leading a parasitic way of life whilst living on the money of close-ones [144]; others put the figure higher at over 60% [145], while one particular Moscow-based investigation found that as many as three-quarters of those actually convicted of parasitism had been sponging off their parents or other close relations [146]. The three academics who carried out this investigation argued, however, that in most of these cases socialist legality had been violated. Those sentenced had certainly been guilty of morally condemnable behaviour - they had been evading socially useful work, engaging in heavy drinking, living at the expense of their parents, *etc.* Nevertheless, such behaviour in itself did not form the *sostav* of the crime of parasitism since the parents had willingly handed over the money to the dependent, *i.e.* it had been a case of voluntary upkeep. Civil law permitted the voluntary transfer of money from one person to another, and so the acquisition of (unearned) income by this means could not and should not have been deemed illegal [147]. In other words, even though the accused had not been working and had been subsisting on income not directly connected with personal labour expenditures, they ought not to have been convicted because it was a matter of legal unearned income. Despite the fact that the deputy-president of the RSFSR Supreme Court had specifically stated, "the Supreme Court does not consider it possible to regard as unearned income, any money received from relatives, spouses, co-habitees and friends, if the money has

been surrendered on a voluntary basis" [148], T. Oreshkina and N. Beliaeva, both Moscow lawyers, complained that court practice on this question still tended to be contradictory:

> One people's court acquitted "R" from the charges brought against her under paragraph 1 of Article 209 on the grounds that she enjoyed the financial support of her parents for whom she carried out general housework. But, under identical circumstances, another court convicted "S" for leading a parasitic way of life, even though she too had been voluntarily maintained by her parents [149].

The matter being discussed took on an entirely different complexion when parents were being forced to support the dependant against their will. If they were being compelled to finance the idler through, say, coercion, extortion (Article 148 of the RSFSR Criminal Code), or criminal acts against the life, health, freedom and dignity of the person (for example, intentional infliction of grave bodily injury (Article 108), torture (Article 113 of the RSFSR Criminal Code) then the money handed over, by virtue of its criminal procurement, was illegal unearned income. Parasitism charges could now be brought and, moreover, the guilty party was open to prosecution for the other criminal offences also. In cases of this kind, other branches of Soviet law, besides the criminal, could be brought into play. Thus, Articles 25, 67, 77 and 81-86 of the RSFSR Code on Marriage and the Family (KOBS) set down the mutual obligations to support spouses, children, parents, sisters, brothers and the other near relations stated therein. But, such an obligation arose only when these persons were in need of material assistance and were incapable of work. If they were able to work then the stated rules of the KOBS did not apply to them. "In this case", wrote I.M. Gal'perin, "money obtained from relatives or close-ones, against their will, must be deemed to have been acquired unlawfully; that is, it must be deemed unearned income" [150]. According to Oreshkina and Beliaeva, such income could be considered "unjustly acquired property", which in

accordance with Article 473 of the RSFSR Civil Code, ought to be confiscated and returned to its rightful owner [151].

Now and again articles and letters were published in the press calling for the introduction of laws to make any form of dependence illegal [152]. This proposal was rejected, however, both on logistical grounds - "this phenomenon is simply too widespread to allow the use of punitive measures in combating it" [153] - and on the grounds that this type of sponging was less socially dangerous than other varieties, "since the dependant's means of subsistence are often being obtained by a method entirely within the law" [154]. This did not mean that nothing could be done to counteract dependence. As Kondrashkov explained:

> So, do we really have to accept the situation where an adult, able-bodied but idle individual, who is squandering his parents' incomes, savings, pensions *etc.*, on drink, remains free to pursue this way of life without intervention? Of course we don't. We cannot tolerate such behaviour. We must use all possible measures of pressure in order to make him take the path of an honest life of labour, to make him realise that he is a parasite, to restore his sense of human dignity and incentive to work, to help him return to a normal life where he can stand on his own two feet with the backing of his family, friends and associates [155].

(b) BANK INTEREST FROM LABOUR SAVINGS: Article 25 of the Fundamental Principles of Civil Legislation, which listed the objects Soviet citizens could have in personal ownership, specified that labour savings were personal property. Classical Soviet economic theory concerning personal property emphasised the consumptive character of that property, the economic role of which should take the following course: part of the social product returned to the Soviet citizen according to the quantity and quality of work should be restored to the economic circle when consumed by the citizen. But, Soviet economic policy as well as Soviet law deprived this theory of its economic foundation. First of all, the Soviet citizen was not forced to consume his entire income; part of it could be saved. The law allowed such conduct (see Article 13 of the 1977

USSR Constitution) and actually promoted it by giving special privileges to citizens who wanted to make bequests out of these savings (Article 561 of the RSFSR Civil Code). Another problem with the economic foundation was that the supply of consumer goods fell far short of the purchasing power of the population. This discrepancy led to enforced saving: the unsatisfied demand for consumer goods and services was estimated to account for 50% of the total sum of savings deposits of the population [156]. At the end of 1981, the *pro capita* annual savings of the population were 615 roubles - three times the monthly income of a worker in Soviet industry. In an article in *Eko*, a journal of the Siberian branch of the USSR Academy of Sciences, S.V. Sverdlik expressed concern over the indirect and non-quantifiable costs of the disparity between the purchasing power of the citizens and the supply of consumer goods (there were also direct costs - the interest that had to be paid to savings, which in 1980 amounted to 3.5 billion roubles, plus the costs for running and maintaining savings banks). He suggested that one of the negative results of savings was on labour morality and supported his feeling by the following figures: as early as 1960 the sale of consumer goods amounted to 78.6 billion roubles, while the savings were 10.9 billion roubles. Using these figures, all workers could hypothetically take fifty days of unpaid leave. By 1980 the savings were 156 billion roubles and the sale of consumer goods 268.5 billion roubles, so that all workers could take 209 days of unpaid leave. Perhaps the rising percentage of savings, he conjectured, also explained why many young people were living off their parents' income and not working, why many workers were stalling longer between jobs [157].

The main point of note here, however, is that savings were providing Soviet citizens with income, which was not based on personal labour. The income was patently unearned, and by the time Gorbachev took office, it had risen to somewhere in the region of five billion roubles per annum. Moreover, there was growing anxiety over

the fact that proportionality was sometimes being violated in the distribution of savings among various categories of citizens. This was confirmed by V.Z. Rogovin, a sociologist, during a debate on how to combat unearned income held in the editorial offices of *Izvestiia* in mid-1985. He said that a study conducted in Latvia had discovered that more than half of the total sum of all bank deposits in the republic was concentrated in 3% of the accounts. D. Kazutin, who reported on the debate, asked:

> Just what measure of labour must there be for someone to have an income that enables him to make such large deposits in a savings bank? None of our conversational partners could give a convincing answer to this question. The fact that it is known from judicial experience that hardened swindlers rarely keep their "savings" in savings banks makes this an even tougher question. The participants in the debate were inclined to think that many types of off-the-books individual activity have become quite lucrative in our days. Such activity is not always unlawful, strictly speaking. Often it takes place "on the fine line" between lawfulness and unlawfulness. But in all instances, it is uncontrolled. Moonlighters who contract to make repairs in apartments, private motorists who compete with taxi-drivers, suburban homeowners who rent rooms to summer vacationers - it's difficult to list them all. But none of them are subject to any form of control over their income [158].

Despite his ritualistic denunciation of "levelling", Rogovin appeared to share the popular distrust of the well-off individual. This showed in the following statement made during the debate:

> ... even if it is assumed that the amount of savings owned by the 3% and the remaining 97% of the population was identical and that such a significant disparity was not tied to the existence of illegal unearned income, even then, in my view, IT SHOULD NOT EXIST IN A SOCIALIST SOCIETY [emphasis added].

Indeed, he was later to call for "an active state policy of redistribution" [159], which sounded like a euphemism for expropriation of the better-off members of Soviet society. His vehemence may have had something to do with the fact that his article was, in part, a response to the economist Gennadii Lisichkin, who had attacked Rogovin earlier in

the pages of *Literaturnaia gazeta* [160]. Contributing to a series of articles which posed the question "Is it Shameful to Earn (and Save) a Lot?", Lisichkin offered a spirited defence of enterprise and thrift, savaging proponents of "an active state policy of redistribution" along the way. After recalling how a scholarly Soviet journal had recently scolded Rogovin for attributing to Marx comments made by the 19th-century British economist David Ricardo, he turned his attention to Rogovin's example of the Latvian bank accounts asking:

> What if that the 3% of all account holders turned out to be people of crystal-clear honesty? What if they represented that small part of the republic's population that, long before the enactment of strong measures against drunkenness and alcoholism, led a voluntarily sober way of life, while the rest simply drank their money away? And what if the impulsive decision to "reduce" other peoples' accounts were to force those account holders to follow the example of the jolly fellows who blow their money on vodka?

Lisichkin went on to speak of the need to "teach [people] how to make money" and praised "those healthy people who want not merely to receive more, but to earn more". His comments had a certain historical resonance: they bring to mind Stolypin's "wager on the strong" [161] and Bukharin's infamous exhortation to the peasantry to "enrich yourselves" [162]. In any case, they clearly nettled Rogovin, who repeated them in support of his call for the creation of "a barrier psychology" against "the carriers of an enterprising spirit far removed from socialism" [163]. Such a psychology was already rather widespread in the Soviet Union, where, as the emigre writer Alexander Zinoviev stated in his 1985 book *The Reality of Communism*, "prevention - that is, the habit of dragging enterprising individuals down to 'some average social level' - is the main form of social struggle" [164]. Ironically, Rogovin lent credibility to Zinoviev's theory; he quoted an office worker with "a modest lifestyle", who said of a prosperous former classmate, "I don't want to live like her; I want her to live like me". "This", said

Rogovin, "reveals a correct understanding ... of the requirements of social justice" [165]. (In other words, to earn (or save) a lot more than one's neighbours was a violation of "social justice".) But, one may ask whether it was not precisely this attitude, and the official encouragement of it, which had made the "restructuring" of Soviet society necessary in the first place.

Beyond the matter of the uneven distribution of savings, there existed a rather troublesome situation in that some citizens had the opportunity to live as rentiers (*rant'e*) without needing to work anywhere. A number of writers unreservedly condemned [166], and some courts actually convicted these "lucky few" as parasites [167]. But, yet again there were no legal grounds for this, since interest payment on deposits was legal income:

> The income here is certainly unearned. But, you see, the citizen has denied himself the chance to satisfy this or that need by dint of the money which he has given to the savings bank. This serves as a ground for the receipt of a certain compensation - interest on the deposit .... Such income does not run counter to any rules of law and therefore cannot be deemed unearned in the sense of Article 209. If a person has been subsisting only on this income while not engaging in socially useful work, then the necessary element of the *sostav* of the leading of a parasitic way of life - the element of the illegality of the extraction of the unearned income - is absent. Despite the existence of the constitutional duty to work, labour in our country is not forced, and no sanctions may be applied against a person who is avoiding socially useful work but who is living on income obtained by legal means [168].

Another, more thorny issue, however, was sometimes present in this type of case. It involved: (c) INHERITANCE: The inheritance of large savings was generally seen to lay the foundations of social inequality. Equally dangerous, inherited wealth could enable people to live a totally or partly idle life. "'Spare' roubles", wrote one commentator, "have a special quality. They pass quickly from those who know how to work, to those who 'know how to live'" [169].

Inheritance was considered by Marxist-Leninist doctrine to be an extension of private ownership. (The institution of the right of inheritance was regarded by classical Marxism as owing its *raison d'etre* to the desire to perpetuate the ownership and control of the instruments and means of production in the hands of the capitalist oligarchy. The *Communist Manifesto* therefore had made the abolition of it a cornerstone of the socialist programme.) As a result, the slogan "Down with private ownership" was supplemented with the slogan "Down with inheritance". At first, the Bolsheviks strove to implement the mandates of both slogans, and, directly after the October Revolution, they not only proclaimed the "nationalisation" of the country's land, plants and factories, means of transport, and banks, *etc.*, but also passed a decree (27 April 1918) to the effect that inheritance was to be abolished [170]. Actually, however, it was not abolished but rather was substantially restricted with respect to the assets that could be inherited (not more than 10,000 roubles) and to the types of objects that could be inherited (furniture, clothes, small means of production, *etc.*). The introduction of NEP caused some loosening of these restrictions, and, surprisingly, the subsequent abolition of the NEP did not lead to the abolition of inheritance, as one might have expected. The 1936 Constitution introduced the category of "personal" property as a purely "socialist phenomenon", the creation of which was connected with an individual's labour at "socialist" enterprises and institutions. According to the said Constitution, such property as well as its inheritance was to be supported and protected by the Soviet state. Thus, there arose a new impetus to more fully develop the law of inheritance, and with the outbreak of World War II, which resulted in millions of casualties, this law was transformed into one of the most important legal institutions. The 1961 Fundamental Principles of Civil Legislation of the USSR and Union Republics, by eliminating any restriction on persons to whom property could be willed, evidenced a continued trend toward traditional civil law notions of inheritance. Naturally, Soviet jurists did not view

the history of the Soviet law of inheritance in this light but argued, rather, that the institution of inheritance was intimately related to property, the curtailment of inheritance in 1918 was intended as a provisional measure until all vestiges of private property had been eliminated and individual ownership of property placed on a new basis commensurate with socialist notions of the extent and nature of personal ownership.

Whatever the theoretical explanations, however, the institution of inheritance appeared to be totally inconsistent with the official theory of personal property. Here, too, the central problem was that the legal possibilities given to the citizen did not conform to the economic function of personal property. Legally, personal property still had the function of controlling the measure of labour and the measure of consumption. It still had to ensure that the Soviet citizen remained motivated to work harder and better and that he used his property for consumption purposes. But Soviet citizens could inherit a house, an apartment, savings, state bonds, *etc.* This legal possibility was in direct contradiction with the law of distribution of wealth according to quantity and quality of work.

It should be noted that the Soviet law of inheritance was characterised by features of the labour principle. It contained the special category of *izhdiventsy*, persons economically dependent on the testator for more than one year. This class inherited by law, regardless of whether they were related to the testator. They joined in the inheritance together with other heirs intestate. Reserves in the inheritance were also based on the principle of unfitness for work: minor and disabled children, disabled parents and *izhdiventsy* had an obligatory part in the inheritance. But, these measures did not seem to prevent the inheritance of considerable wealth by Soviet citizens.

In Soviet literature, the question was frequently raised whether inheritance law could be tolerated in a socialist society, whether it was not against the principles of

Soviet society that a citizen could inherit material wealth without working for it [171]. At the time of the codification of Soviet civil law in the early 1960s, that is, at the height of Khrushchev's anti-parasite drive, there were calls for the abolition of the right of inheritance:

> ... The right of inheritance ... puts children in a position in which they cease to be materially interested in labour .... Can one really imagine a man of our society, without labour? It must be said frankly that the right of inheritance is a survival of the past in our Soviet law. The capitalist is interested in an heir, to whom to transmit his "business", to whom he will bequeath the continuation of the work of robbing the toilers. In our society the road is open to everyone to increase his own welfare by his own toil. The outdated principle of inheritance creates conditions for the appearance of ever newer parasites, do-nothings, hooligans and drunkards, and in some parents generates a striving to "pile it up", to secure "an easy life" for their children in the future. The parents have laboured honestly. The state has rewarded them in accordance with their labour. The children have no right to the property of their parents. Children, in the event of their parents' death, ought fairly to be accorded a stipend till the end of their schooling and afforded the prerequisites for a normal life. But ... to make them the owners of all that their parents earned, is senseless and wrong. It contradicts the spirit of our time ... [172].

One possible reason for the rejection of these calls may have been the belief that abolition would probably not add as much to the labour incentives of the children as it would subtract from those of the parents. The question of abolition continued to smoulder during the Brezhnev years and became a "burning issue", once again, with the launch of the campaign against unearned income in 1986. Rogovin insisted that unearned wealth was leading to the development of "a distorted system of values in the USSR". Inheritance created the economic base for social independence and parasitism; young adults with the opportunity to live well on unearned resources could, and often did, lose their interest in socially useful work and in fully applying their strengths and abilities [173]. Zaslavskaia agreed. She argued that one of the most important practical tasks in distributive relations was overcoming differences in the material status of

individuals and families, *i.e.* differences that were independent of the contribution of their labour to the creation of social wealth. Observance of "this indispensable requirement of socialist justice", she said, required a "cutting down" of unearned incomes that, although legal, were nonetheless unearned and enabled people to live comfortable lives for a long time without making any appreciable effort to contribute by their labour to social production. One of the principal forms of such unearned incomes was, in her view, "the possession of private property (money savings and personal possessions) not earned by one's own labour and sometimes exceeding all reasonable limits because of the unrestricted right to inheritance" [174]. She and others [175] (Rogovin included) called for the introduction of a progressive inheritance tax, but for some, such as the vice-chairman of the Chita *oblast'* court, only abolition of the institution would "once and for all rid society of certain parasitic social dependants by eliminating the excessive material advantages of those who have goods without expending an iota of their own labour to attain them" [176]. Kondrashkov, on the other hand, argued against both proposals on the grounds that the Party was trying to steer a course away from "levelling" practices - even though he did admit to sympathy with both sides:

> Inherited wealth is undeniably unearned income, a source of social injustice and of parasitism. Thus, one young loafer, the son of a renowned scientist, after inheriting a fair sum from his father, placed this in a savings bank and calculated that even without dipping into the deposit, he could live out the rest of his life comfortably on the interest alone. This gave him the opportunity to cease working, to loaf about, to drink heavily. But, as the law stands, there were no grounds for instituting criminal proceedings against him for the leading of a parasitic way of life, since his means of subsistence had been obtained legally .... Such use of inherited wealth is, of course, morally reprehensible, but the said actions themselves are not illegal. More fundamentally, people like him are not the main danger of social parasitisation. There are only a handful of them and the inheritance of great wealth is not a mass phenomenon .... So, therefore, it is hardly possible to consider as reasonable and just, those proposals calling for the liquidation of the institution of

> inheritance or for sharp restrictions on the amount of inheritance. This, you see, would be a "throw-back to equalising". It is not mere chance that at a recent meeting of the Central Committee (*Pravda*, 15 January 1988) it was said that if these proposals were to be adopted, then it would be necessary to take a large iron and to smooth out the whole of society. There is no need to dwell on how stupid such a move would be [177].

Other, more unusual, and much rarer cases of individuals being erroneously convicted of parasitism included ones in which the accused had been living for a short time without working on money received from the sale of personal possessions [178]; on winnings from premium bonds or lotteries (such as *Sportloto*) [179]; on reward money received from the state for handing in an unearthed treasure trove or from private citizens for the return of lost property [180]. Once more these types of income, though unearned, were legal. While commenting on the second and third type, in particular, Malein observed that although they were not subject to taxation, their "limited scale" and the "small probability of the regular obtainment of them", meant that they in any case could "not exert any noticeable influence upon distributive relations" [181].

On more than one occasion, the USSR Supreme Court found it necessary to remind lower courts of their obligation "to ascertain precisely" the sources of maintenance of all suspected parasites [182]. At times, this proved to be no easy task, not only because many suspects refused to divulge the required information for fear of implicating themselves in other, perhaps more serious crimes, but also because most of them used not one but several methods to obtain their means of subsistence: one week they may have been living on handouts from parents or friends, the next on unearned income from petty speculation or begging, and the next again on casual earnings. Faced with such difficulties, the investigative agencies frequently attempted to cut corners by carrying out only the most superficial of preliminary investigations. Moreover, to the consternation of the USSR Supreme Court, a good number of courts were apparently

happy to accept the "findings" [183]. Thus, in bills of indictment (*obvinitel'noe zakliuchenie*) and court judgements, reference was not infrequently made to the "dubious methods" by which the accused had been obtaining income, without further elucidation on the exact source or sources. Sometimes, courts even justified the passing of "guilty" verdicts by alluding that the offender had used "casual means" to acquire his means of existence, believing this to be convincing proof of the unearned origin of the income [184]. Many writers were justifiably alarmed by the unsubstantiated nature of such a conclusion. Kostrov, for instance observed that:

> In law-application practice, casual jobs are frequently cited as a source of existence of vagrants: loading and unloading freight at ports, depots or warehouses, temporary unskilled construction or agricultural work in a brigade of seasonal workers, tending to citizens' private plots, *etc.* But, there appear to be no grounds to unreservedly deem the income obtained "unearned", since social usefulness is present in the stated activities and, in many cases, the payment received corresponds to the amount of labour expended. It is true that vagrants only episodically engage in work, that they derive their means of subsistence mainly by begging and other methods which either contravene the law or run counter to the principles of morality. But, the unearned nature of the incomes which form the principal, or one of the principal means of existence of a person who is leading a wandering way of life must, in any case, be established. Meanwhile, in the majority of vagrancy cases studied by us, the verdicts of "guilty" (*obvinitel'nyi prigovor*) contained only unverified information, taken from the explanations of those convicted, about "casual earnings" (*sluchainyi zarabotok*) [185].

Strictly speaking, income in the form of casual earnings was not "unearned", but rather uncontrolled income which readily eluded taxation. Put another way, the person had been working, but only for himself - in order to satisfy his own personal needs, and since the results of the labour could not be included in the aggregate social product, he had given absolutely nothing to society. One favourite casual means of deriving income amongst vagrants, for instance, was collecting bottles to return for deposit money: a sociological investigation conducted in 1982 by the Moscow *oblast'* executive

committee and the All-Union Scientific Research Institute MVD USSR, found that 26% of the "malicious parasites" prosecuted under Article 209 had named the said activity as their primary source of income [186]; another study of court practice in the Perm *oblast'*, carried out three years later by A. Pokhmelkin, revealed that out of the total number of parasites convicted, 14% had been subsisting on the "unearned income" received from returning bottles (*steklotary*) [187]. Press reports on various parasite trials nevertheless disclosed a clear lack of consistency of court judgements in such cases. A people's court in Vladivostok, for instance, dismissed the case brought against "M": although she had not worked for over a year and had lived entirely on bottle deposit money and on money gifted by a succession of generous lovers, the court ruled that her actions did not constitute the leading of a parasitic way of life [188]. Both citizens "E" and "L", on the other hand, who had been evading work for more than six months and just under a year respectively, and who had supplemented the money sponged from relatives with that obtained from the return of discarded wine bottles, were sentenced to deprivation of freedom for parasitism by the Kirov *raion* people's court in Leningrad [189]. Likewise, "K", a fifty-three year old alcoholic spinster, who had financed her vagrant way of life by identical means, was convicted by the Kavrov *raion* people's court in the Vladimir *oblast'* [190]. V.B. Borovnikov, a senior lecturer in law at Moscow University, suggested that the reason for this inconsistency lay in the fact that courts had different opinions on the matter of what actually constituted earned income:

> Courts frequently have to decide whether the income obtained from returning bottles for deposits is earned or not. They obviously find this a rather difficult question to answer, since court practice is full of contradictory rulings. At first glance, one must say that the income has been earned for definite labour expenditure had occurred here. But, does this mean that any form of labour activity constitutes socially useful work? Undoubtedly, no. Socially useful work - is conscientious enterprising work for the good of society. It presumes the

> putting into practice of such an economic law, according to which material goods for personal consumption are distributed amongst workers in accordance with the quantity and quality of labour expended. Without this socialism can't successfully develop. Can one say that in the case being examined these economic requirements are being fulfilled? No, on the contrary, an able-bodied person, for example, who has handed in bottles he has collected, may after no real effort on his part derive income which clearly does not correspond to his labour expenditure. For example, "KH" who had not worked anywhere for several years, lived on the deposit money from bottles which he collected in a park near his apartment. He made between 450-600 roubles per month from this. Moreover, he only collected the bottles a few days per month. Of course, such activity cannot be placed on an equal footing with socially useful work. Nevertheless, "KH" was not violating any law. His income was therefore not illegal [191].

Borovnikov did not mention whether a criminal case was brought against "KH", but he seemed to be implying that if one had been then this would have been wrong - even though the individual in question had not been performing socially useful work, and to all intents and purposes had been subsisting on unearned income. Only in the Estonian SSR was this moot point resolved. A resolution of the republic's Supreme Soviet, issued on 28 November 1984, by stipulating that the proceeds from the activity being discussed should be regarded as unearned income, removed any doubts which the courts may have had concerning the legality of convicting those engaged in it for parasitism, if the said proceeds had been their principal means of existence [192].

Another income source, especially of vagrants in the Far East of the USSR, was the gathering and sale of wild berries, mushrooms, nuts, medicinal herbs, *etc.* This type of activity, as mentioned earlier, bordered on criminality and for some writers, at least, was without question parasitic:

> In the Primorskii Krai, the gathering of ginseng, dogrose and other medicinal herbs and berries is a very popular pursuit amongst malicious parasites. Lovers of such a trade are extracting large incomes from a brief (two to three month) ramble through the *taiga*, are selling the fruits of the earth gathered by them to private persons at high prices, which many times exceed the purchase value of these medicinal plants. It

> turns out that the person is not working for many months of a year, is making no contribution to social production, is enjoying his life and drinking heavily, but nonetheless is still enjoying all the social benefits from the consumption funds on an equal footing with the honest toilers. In this way, many people predisposed to idleness and an idle life are freely leading it [193].

But, only under certain circumstances was the said activity unlawful: the unauthorised gathering of wild-growing fruits, nuts, mushrooms, berries, *etc.*, in areas where this was forbidden or permitted only by forestry cards (*lesnye bilety*), as well as at times prohibited by law, was an administrative offence [194], punishable by the imposition of a fine of up to ten roubles upon citizens and up to fifty roubles upon officials. In such instances any income obtained by the offender from the sale of the items gathered was (in violation of Article 34 of the Fundamental Principles of Forestry Legislation of the USSR and Union Republics) unearned, since it had been "obtained without compensation to the forestry agencies or kolkhozes for the losses incurred by them" [195]. In other, entirely different cases, however, some courts in prosecuting parasites erroneously deemed all income extracted via the method in question as unearned, even though the "offenders" had really been doing nothing illegal [196]. On the contrary, they had been exercising the right granted to Soviet citizens by Article 35 of the Fundamental Principles of Forestry Legislation "to freely stay in forests, gather wild fruits, nuts, mushrooms, berries and so forth". Here, the wild-growing produce was said to become the personal property of the gatherer, so that any income obtained from its disposal was not unearned [197]. Furthermore, those convicted had, in many cases, been providing a much needed service. A. Borodin, a department head of the Khavkass *oblast'* Union of Consumers' Co-operatives, told *Sotsialisticheskaia industriia*, that farms and lumber enterprises simply did not have enough manpower to gather all the wild forest products growing in the *taiga* so that only 10-15% of these resources could

be harvested. As a result, consumer demand far exceeded the available supply. Some farms and local procurement agencies had therefore (albeit reluctantly) arranged to receive wild forest products gathered by vagrants with no questions asked (for example, whether or not they had a residence permit) [198]. In so doing, a whole new complexion was given to the proceedings. Now, the earned nature of the income received was beyond all doubt, for as S. Tropin, an associate judge of the Stavropol' Krai court, explained: "Any labour performed on the basis of a verbal agreement with state organisations is socially useful work, and the income from it must be considered earned" [199].

One may assume, from what has just been said, that one of the indicia of socially useful work was the presence of a labour contract/(unwritten) agreement. It nevertheless would be a mistake to conclude (as some Soviet writers did) [200], that only work pursuant to contracts with various organisations and citizens was socially useful. M.I. Bobneva's assertion, for instance, that "only labour activity for, and in compliance with the rules of, state production organisations can be regarded as socially useful work" [201], not only failed to take into account the fact that such activities as housekeeping, the nursing of infants, the aged and sick, *etc.*, were also generally recognised as performance of the constitutional duty to work (*i.e.* they were socially useful), but also neglected the fact that the 1977 USSR Constitution contained the first official legal recognition that individual labour activity, allowed by law and based on one's own labour, could be qualified as "socially useful work". Revealing the inability of the socialist economy to provide citizens with even the barest necessities, the Soviets had been forced to broaden somewhat the economic opportunities available to citizens. As a matter of principle, however, Soviet officialdom remained hostile to private business activities. Hence, although Article 17 of the Constitution permitted, "in accordance with the law", individual labour activity in the spheres of handicraft,

agriculture, domestic services for the populace, and also other areas of activity based exclusively on the personal labour of citizens and their families - whether their activity was in conjunction with their work in Soviet organisations or was unrelated to such work, a myriad of rules, resolutions and directives, stifled and reduced the scope for private enterprise to the very minimum. Nevertheless, prior to the *perestroika* era, there was no single, comprehensive law regulating private enterprise. A federal statute from 3 May 1976 had detailed the procedures for engaging in artisan-handicraft businesses [202], but other forms of individual labour activity were either poorly controlled by outdated legislation (*e.g.* private medical practice was regulated by an antiquated 1950 decree - "On the Professional Work and Rights of Medical Workers" [203]) or completely unregulated by law. As a result, most of the private economy remained unregistered: in November 1986, there were only 97,000 registered private entrepreneurs [204]. At the same time, the size of the underground private sector and the number of its participants were growing uncontrollably, arousing concerns about the aggravation of social injustice and criminality. As I.I. Gladkii, the chairman of the USSR State Committee on Labour and Social Questions, remarked:

> ... conditions are being created for a segment of the population to derive unearned income and to manifest private-ownership aspirations that are alien to our system. There is no precise definition of the rights and duties of citizens who engage in individual enterprise. Many people who in fact engage in this activity ... work without authorisation, registration or the payment of taxes .... There is an urgent need to put in order and improve this whole area of endeavour [205].

A vast army of so-called *chastniki* was performing a great amount of useful private work in this legally grey zone: as "Jacks of all trades" (*mastery na vse ruki*), the legions included those who repaired cars, televisions, radios, home appliances, tailors, tutors, typists, photographers, bookbinders, false-teeth makers, home-repair specialists, *etc.*, and who in violation of legislation introduced during 1959-1960, which placed

restrictions on earning additional income (by ruling that having a second job (*sovmestitel'stvo*) was permitted only for persons with low wages and in a limited number of professions), were supplementing their incomes by providing under the table or "on the left" (*na levo*) services. The inherently illegal nature of the underground economy meant that measuring its size accurately was impossible; but this did not stop attempts by Soviet specialists to estimate its magnitude. An article published in *Izvestiia* in the late summer of 1985 reckoned that the private, unregistered, consumer (*bytovye*) services to the population amounted to some five to six billion roubles a year, while employing approximately seventeen to eighteen million people. These private services accounted for roughly 50% of shoe repairs, 45% of house repairs, 40% of repairs to private cars and 30% of repairs to household appliances in towns, and 80% of consumer services in the countryside [206].

Although the *chastniki* were filling the vacuum created by the state's inability to satisfy the demand for consumer services, they were seen by many as out-and-out parasites who had been infected by the "private property mentality". (In the Soviet view, property acquired through the second economy was the object of private, not of personal ownership. And while the state permitted the latter, it would not condone the former.) They were accused of taking advantage of the "temporary economic difficulties" and since their striving for "easy money" was threatening the "organic wholeness of the socialist social system", their private activities had to be vigorously combated, both administratively and ideologically [207]. In the opinion of Professor I. Karpets, Director of the Institute for the Study of the Cause of Crime and the Development of Measures to Prevent It, unregistered private entrepreneurs were not "parasites" in the strict sense of the word. On the other hand, they were acting "in the violation of the existing principles of the organisation of labour" and engaging in "parasitic activity at various 'bottlenecks' in our economic management" [208].

Gorbachev and his team realised that the state sector could not accomplish everything on its own, but were also aware that the unsatisfied demand for consumer goods and services and the concomitant large savings were temptations to private enterprise. They sharply criticised the uncontrolled diversion of riches from the communal sector to the producers and suppliers of the illegal private sector, but believed that the problem should be tackled not by the enforcement of restrictive administrative measures but through an increase in the supply of consumer goods and services by clarifying the role of the private sector in combination with measures to curb all sources of unearned income. At the 27th Party Congress, Gorbachev called for both forceful action against all illicit activities and the promotion of a wide range of private and co-operative enterprises, thus marking the boundary between legal and illegal "parasitic" activities. His intention was to bring the underground private sector out into the open so that it could be properly monitored and taxed by the government.

The Law on Individual Labour Activity (hereafter "the ILA Law") passed by the USSR Supreme Soviet on 19 November 1986 and which came into force on 1 May 1987 [209] was the first comprehensive law on private enterprises. It, in actual fact, marked only a very modest progress towards liberalisation of private business and must have been a disappointment to those who expected a commencement of a "neo-NEP". Moreover, it was later overshadowed by the 1988 Law on Co-operatives [210]. The policies pursued through the new ILA Law were listed in its preamble. The Soviet leadership wanted to expand individual, small business in the urban sector in order to "satisfy the society's needs for commodities and services more fully"; "increase the occupation of citizens in socially useful activity"; and "offer them opportunities to gain additional incomes in correspondence with the value of their work". Private enterprise was only supposed to act where the socialist sector had failed entirely, that is, to complement and not to compete with the socialist sector, neither for inputs nor on

output markets. The drafters of the Law were aware that an expansion of private activities under Soviet conditions would involve appreciable dangers. A diversion of resources (materials, tools, labour) from the public sector was one possible clear drawback. A large private sector, moreover, would probably contribute to income inequality as well as inflation thereby reinforcing taboos of the Soviet society. Thirdly, the same private sector would likely be perceived as contributing to the already massive corruption, a phenomenon that the Gorbachev leadership had committed itself to fight. Lastly, a liberal approach to the private sector could possibly be a political liability, or at least was so perceived in 1986 when Gorbachev's power was still far from consolidated. Everything considered, it was not surprising that the ILA Law struck a balance and that its provisions were well within the limits of Soviet orthodoxy. Private enterprise was, in short, perceived as a necessary evil and the return to it was to be strictly limited.

First of all, individuals engaged in private business, as previously, were not allowed to employ hired labour. They were to rely exclusively on their own efforts as well as on those of family members who lived in the same household (Articles 1 and 3). State concern about the possible diversion of labour from the public sector was reflected in the regulation that those employed in social production were allowed to engage in individual labour activity only after working hours (Article 3). Lists of permitted and forbidden private professions filled up half the law. Twenty-nine broad branches (covering mostly traditional handicrafts, consumer services, a few social services and artistic handicrafts) were specifically named as permitted (Articles 12, 15, 18), whereas twelve others were banned (Articles 13, 16, 19). The Law included also a general clause to the effect that activities not specifically prohibited "by the legislation of the USSR and union republics" should be deemed permitted (Articles 12, 15, 18 last sentences). Finally, the Law, as a general rule, required every individual engaging in ILA to obtain a permit from the executive committee of a local soviet (Article 6, section

1). Pursuing ILAs without a requisite permit as well as other violations of procedure (*e.g.* evading the payment of income tax, non- or late submission of declarations concerning income, *etc.*) were punishable administrative offences, while engagement in a prohibited activity was a criminal offence under an amended Article 162 of the RSFSR Criminal Code.

A variety of factors conspired to run the new ILA Law aground. One major factor constantly emphasised by the Soviet press was resistance by the middle and lower levels of the government machinery. Administrators at the union republic and local levels erected all kinds of "artificial barriers" (one commonly used method was a simple refusal to issue requisite business permits, another was demanding high fees for licences (*patenty*) in lieu of income tax [211]) and thereby created a generally hostile climate for private business. This resistance stemmed from sources other than mere political bias. Many local administrators, for instance, had vested interests in illegal private business and consequently had nothing to gain but much to lose by legalisation. The bureaucratic sabotage went hand in hand with popular hostility. Ordinary Soviets tended to resent people engaged in private business, a tribute to the success of decades of indoctrination. Their hostility was reflected in the assortment of pejorative terms they used to describe private business operators - *khapuga*, *levak*, *khalturshchik*, *vymogatel'*, *rvach*, *obdirala*, *kulak*, *etc.* [212].

It is hardly surprising, given this inhospitable environment, that the response to the ILA Law from the pool of potential candidates (it was immense - the number of pensioners and eligible students alone exceeded sixty million [213]) was far from enthusiastic. As of September 1987, there were only 200,000 individuals registered for ILAs, a number which *Izvestiia* commentators called a "drop in the sea" [214]. At the same time, it was reported that the underground service economy continued to thrive [215]. Most of those already in business illegally preferred to stay underground. In the

shadow they were free from taxation and administrative restrictions and becoming visible may well have subjected them to unwelcome questions about their sources of supply, means of transportation, and finances. During 1987, 38,000 people were caught engaging in ILAs without permits, and 18,000 were prosecuted for engaging in a prohibited trade [216]. On this subject, Malein argued that since the offenders had in effect been evading socially useful work while living on illegal income, there was no reason why they should not be prosecuted for parasitism also [217]. Others disagreed:

> In such a situation citizens bear responsibility for concrete infringements of the law, but the extraction of unearned income is not a grounds for instituting criminal proceedings against them under Article 209, since they are not leading a parasitic way of life. The unearned income here, like that obtained by theft, is the result of illegal activity, the consequences for which have been stipulated in the law [218].

The ILA Law applied neither to agricultural production pursued on private plots nor to the so-called *shabashniki* - members of itinerant construction brigades - who took up seasonal employment in construction or agriculture. While the state had been compelled to positively encourage the former, it had waged a long campaign on ideological grounds to restrict the unofficial activities of the latter - but the legal status of the brigades remained rather unclear since no law expressly banned them from operating. What was clear was that both these varieties of private enterprise offered high potential scope for "parasitic" activity.

It was in agriculture that the communist state first openly confessed that it was unable to satisfy the needs of the population. Two harvest failures (in 1972 and 1975) prompted the Soviet leadership to guarantee citizens the right to a personal plot in the 1977 Constitution (Article 13) and to decree a greater role for private farming [219]. By the mid-1980s, there were an estimated thirty-five million personal plots, covering an area of some 8.6 million hectares and providing the population with approximately 25-

30% of its agricultural goods [220]. These land parcels were still, of course, objects of exclusive state ownership, and a citizen's right to a plot was contingent on his or her participation in state-directed social production. They were still regarded as a transitory phenomenon which would theoretically wither away when collective production was able to satisfy the material and cultural needs of the citizens. Under the decrees of the CPSU Central Committee and USSR Council of Ministers "On Personal Household Plots of Collective Farmers, Workers, Employees, and Other Citizens on the Collective Cultivation of Orchards and Gardens", dated 16 September 1977 [221], and "On Additional Measures to Increase Agricultural Production on Citizens' Personal Household Plots", dated 8 January 1981 [222], personal plots were increasingly seen as "branch establishments" for kolkhozes, sovkhozes, and other state enterprises. They required no major capital investments, they employed a reserve of labour force that the socialised sector was unable to utilise, and they could specialise in certain domains where collective agriculture was failing (*i.e.* production of potatoes, meat, eggs, butter, fruits and vegetables) [223].

The personal plot had, according to M.I. Kozyr' of the Institute of State and Law of the USSR Academy of Sciences, the following characteristic features: (1) It was a form of production based on the Soviet state's exclusive ownership of land, and on the personal property and personal labour of the kolkhoznik, the workers and members of their family, and was hence of a labour-oriented character; (2) The activity on the personal plot was related to the growth of the collective economy of the kolkhoz, sovkhoz or other socialist enterprises. This relationship gave individual labour activity in the agricultural sector its socialist character; (3) The production of personal plots complemented social production; it had an auxiliary character vis-à-vis collective agricultural production but was also an auxiliary source of income for the citizen; (4) The personal plot could and should be used to raise the production of cattle and

agricultural products on contractual principles with kolkhozes and sovkhozes [224]. The delivery of the production of personal plots to kolkhozes and sovkhozes was preferred to the selling of these products on the kolkhoz markets since the high prices which could be obtained for them there threatened the auxiliary character of the plots. An efficient control was necessary, according to V. Nefedov, "in order to guarantee that the utilisation of the personal plot is not against the interests of collective production" [225]. It had been clear for some time, however, that such control was almost non-existent in many areas. Parasites of the *skrytye* variety were therefore turning to private farming as a means of unchecked gain: working their plots had become their principal occupation at the expense of the non-fulfilment of the measure of labour in social production (*i.e.* the labour had lost its supposedly subsidiary character). By turning out produce far in excess of their personal needs and earmarked almost exclusively for sale on the markets they were destroying the notion of the auxiliary character of personal plots, transforming them instead into commodity economies yielding high uncontrolled and untaxed incomes. "These high incomes", Liapunov observed, "often substantially exceed the individual's measure of labour .... The exploitation of personal plots is an economic problem - one that has not been properly addressed by precise and comprehensive legal regulations. This is enabling people to transform personal plots into private enterprises exclusively for the production of marketable agricultural produce, which is thereafter being sold in markets at inflated prices. The economic essence of the generation of unearned income is obvious - unjustified appropriation of differential rent. Here, the *chastnik* is without authorisation redistributing income amongst members of society through the mechanism of the market, whereas under the correct arrangement, the state must be the sole owner and possessor of differential rent" [226].

Moreover, from the perspective of the socialised sector of agriculture all this was

extremely dysfunctional: the distraction of a significant number of workers from regular and conscientious work in social production naturally had a negative effect on its productivity and this, in turn, intensified the shortage of agricultural goods being sold through the state trade network - with the result that prices in the markets rose ever higher, increasing the temptation for others to become more involved in this profitable business. And, as Dzhafarov and Riabinin remarked:

> When the concern for private production pushes the main thing - conscientious work for the good of society - into the background, when the temptation to stuff one's purse a little more tightly become an all-consuming passion, we again run into typical parasitic, money-grubbing. Our country values and supports private auxiliary farming ... but we cannot close our eyes to negative phenomena in the use of personal plots, to the fact that this sector is sometimes turned into a person's basic source of income with resultant relapses into the petit-bourgeois mentality [227].

The 1986 unearned income legislation, as mentioned earlier, called for "measures to improve the work of kolkhoz markets" which meant more control of the private traders to stop their speculation, and the promotion of state and co-operative traders. In an interview with *Pravda*, the USSR First Deputy Procurator General, N. Bazhenov, outlined the concrete nature of the campaign:

> In talking about personal auxiliary farming operations, I would like to place special emphasis on the fact that, with rare exceptions, the produce is obtained through hard work, during the time people have free from their main jobs, with the participation of all family members, and using their own money. Therefore, barefaced bans are simply inappropriate here .... Do not "put the squeeze" on honest toilers engaging in these operations, but give battle to speculators and money-grabbers - that is the point of the struggle against unearned income [228].

But, almost immediately, there were indications that the crackdown was hitting the wrong people. *Pravda* reported in July that the deliveries of privately-produced vegetables and fruit to kolkhoz markets in several large cities (Perm, Krasnoiarsk,

Ivanovo) had virtually ceased because of the lawless persecution of perfectly innocent private producers [229]. Labelled "speculators" and wrongly accused of "a parasitic lifestyle", their land plots were seized, their produce confiscated and destroyed, and their hothouses razed to the ground [230]. All this ran counter to the instructions laid down by Gorbachev at the 27th Party Congress: "... in the curbing of unearned income we must not allow a shadow to fall on those who receive additional earnings through honest labour" [231], and ensuing judgements by Soviet reformers were befittingly harsh. The economist N. Shmelev, in a particularly outspoken attack against the "excesses", suggested that in the summer of 1986 there had been signs of a new *pogrom* against [private] hothouses, gardens, personally-tended farms and violently condemned those responsible:

> Under the banner of the struggle for social justice, against unearned income, the most rabid leftism and bungling have appeared .... And who, at present, can calculate the damage done by the raging of "administrative insanity" throughout the whole country in connection with the passing of the premature laws against unearned income? Who specifically shall answer for the bungling implementation of them ?[232].

Not only did private agriculture suffer a severe setback (many citizens fearful of being labelled "parasites" simply ceased working their plots, with the result that over the first eleven months of 1987, total sales on kolkhoz markets fell by 4% as compared to the same period in 1986 and prices rose by 6% [233]), Gorbachev's whole reform endeavour suffered an early, near fatal blow. Shattered confidence meant that many people were deterred from getting involved in individual labour activities that were supposed to be encouraged by the next major law. Kondrashkov wrote in retrospect:

> The "cart was put before the horse". It would have been more advisable to have first passed the Laws on ILA and Co-operatives, aimed at developing initiative, reviving the economy ... and only then to have thought about the prohibitions, which are impeding the development of this movement [234].

In contrast to the pronounced official policy of promoting private auxiliary farming, the government had, for many years, been desperately trying to, if not exactly terminate, then to certainly keep a tight rein over the activities of *shabashniki*. Typically, they were men in the twenty to thirty age range [235] who hired themselves out as self-employed brigades of labourers-carpenters, bricklayers, plasterers, and sometimes agricultural workers, to build barns, garages, housing, roads, *etc.*, on kolkhozes and sovkhozes. These were often urgently needed projects that state or co-operative construction organisations proved unwilling or unable to undertake. By comparison, the *shabashniki* were both willing and able to complete the jobs quickly. In return, they received wages three to four times as great as the average industrial wage, which caused controversy [236]. The status of the brigades in the Soviet system was cloudy at best, so there was confusion and much debate over the acceptability, legality and honesty of their work.

Until 1976, Soviet courts were quite inconsistent in their treatment of private brigades performing construction work under specific contracts (either labour agreements or "independent work contracts" - *podriad*). Some courts treated such activity as lawful under Articles 350 and 351 of the Civil Code, some others found it to be criminal private entrepreneurship - many convictions being upheld on these grounds by the appellate courts [237]. A 1976 USSR Supreme Court decree [238] clearly endorsed the former current in judicial practice, but with a proviso. Work done on a contractual basis by private individuals or teams for socialist organisations was, in principle, legal - the Court said. Such activity was punishable under paragraph 1 of Article 153 of the Criminal Code only if the persons involved,

> using socialist organisations as a cover, unlawfully obtain construction equipment or other equipment, funded materials, *etc.*, and in connection with this derive income which obviously does not correspond to the labour spent by such persons.

Clearly, the Court was trying here to isolate the dysfunctional aspects in the activities of private construction teams and to limit criminalisation to these aspects only. Overall, a definite move was made toward decriminalisation and, in effect, the private construction business thus gained legitimacy.

Two years later, a joint decree of the USSR Council of Ministers' State Committee on Labour and Social Questions and the Secretariat of the All-Union Central Council of Trade Unions, seemingly directed at the *shabashniki*, confirmed a model contract for work as a hired construction labourer [239]. Part of the model contract required each worker to have a labour booklet or other document verifying that the worker was free at the time to work away from his regular job - the requirement to produce such documentation was aimed at eliminating payment for fictitious labourers. In practice, though, this regulation was often overlooked:

> These teams are being welcomed with open arms, although they lack not only the appropriate documents and labour booklets but even draft cards. As a rule, their working papers are drawn up on the basis of their internal passports alone, without any residence permits .... If they are supposed to be building with ten people, they build with five. The other five may be on the books, but they aren't there in person - they're relations and friends whose internal passports they have picked up before leaving for the migrant-labour stint. If the sum is still inadequate, they come out all right anyway - by jacking up prices and overstating the volume of completed work [240].

Such negative press tarnished the image of the *shabashniki*, an image which continued to be ambivalent. They were seen in some quarters as greedy parasites who were ignoring the needs of their native community and families [241], abandoning their homes and going elsewhere to wheel and deal, bribe, stage drunken debauches, perform shoddy work, receive outrageously inflated wages or "unearned" incomes, and then vanishing, leaving behind unfinished or substandard building projects, widespread resentment, a trail of corrupted local officials, and a bad example for youth. Two

members of the All-Union Institute of Crime Prevention depicted them as shrewd operators who were returning to their home towns self-satisfied, pockets bulging with "clear profits":

> The seasonal character of the work and first and foremost the rate of pay, attract to the ranks of the *shabashniki* a definite number of people who are evading work in the sphere of social production .... The incomes obtained via *shabashnichestvo* create objective opportunities for a subsequent protracted evasion of socially useful work and for the leading of a parasitic existence and, on the other hand, they serve to increase "self-seeking" tendencies ... and, in general, are conducive to the formation of undesirable, alternative working ways of life [242].

But, others rallied to their defence pointing to the higher productivity of the *shabashniki* and to the fact that they fulfilled the Leninist criterion of payment "according to one's work" [243]. According to this view, the phenomenon was an admirable response of work-seeking young people to mismanaged local economies and local unemployment [244], and the *shabashniki* themselves were portrayed as hard-working, highly-skilled, and often well-educated workers who introduced the work ethic by travelling long distances to work long hours. Their high earnings were justified since they laboured up to fifteen hours a day without holidays in remote, labour-starved areas of the country, building faster and more efficiently than that of local state construction teams and inter-kolkhoz construction teams. Indeed, many of the representatives of the kolkhozes and sovkhozes who hired them either praised their ability to get the job done or at least justified hiring them by criticising the performance of the regular construction contracting organisations. The chairman of the Red Flag kolkhoz in the Sverdlovsk *oblast'* told *Sovetskaia Rossiia*, for instance, that "without these hired hands it would take a much longer time to modernise rural areas .... In many instances the 'do-it-yourself' (*khoziaystvennyi sposob* [245]) method reacts more efficiently to demand. If management decides it wants to build a pigsty, it has the manpower to do it. By the

time an interfarm mobile mechanised column completes the paperwork needed to carry out the project, months may have gone by" [246].

In the mid-1980s, public opinion turned somewhat in favour of the *shabashniki*; a new spate of articles in the Soviet press defended these workers and condemned the reflex hostility of many authorities to their high earnings [247]. Again, Karpets conceded that such people were not strictly parasites because "they work, and sometimes quite well". He added, however, that this form of labour disrupted established ties in the economic mechanism:

> Brigades of migratory workers charge higher rates for work, as a rule, than state and public organisations - something that, in and of itself, causes "discomfort" in economic relations. They frequently obtain materials by illegal means. I am convinced that migratory workers walk on the brink of outright lawbreaking. It's easy to slip on this line [248].

He called for a more precise legislative regulation of their activities, a call echoed by the USSR Procurator General Rekunkov:

> We need to regularise the work of temporary construction brigades. The problem is that shady dealers have often taken advantage of the lack of supervision and the anarchy in this area to derive unearned income and to engage in private-enterprise activity. Through bribery, they have secured clearly illegal payment terms and the release of centrally allocated materials and have committed various abuses. In the Sumi *oblast'*, one such brigade was headed by outright criminals who had never even held a shovel in their hands. They stole money by enormously overstating work volumes and set up a special fund to pay bribes for the release of centrally allocated and hard-to-get materials. Dozens of people were drawn into the crimes. Tell me, can we tolerate such things? We must eliminate such abuses. But we must also protect from any arbitrariness and suspicion those who have decided to augment the family budget during their vacations [249].

Their wish was granted in May 1986 when, on the eve of the declaration of war against unearned income, the USSR Council of Ministers passed Decree No.576 - "On the Regulation of the Organisation and Labour Remuneration of Temporary Construction

Brigades" [250], which was followed soon after by the enactment of a new model contract for the *shabashniki* [251]. Brigades were permitted to perform construction and repair work for kolkhozes, sovkhozes and other enterprises, organisations and institutions but only if they had entered into a written labour contract with those bodies. Contracts had to be registered with the executive committees of local soviets and then approved by higher agencies. Brigade members had to be aged eighteen or over with a passport or draft card and had to produce a certificate (*spravka*) from their permanent place of work granting leave. Brigades were forbidden to independently engage in the acquisition of materials and equipment (these had to be laid on by the kolkhoz, *etc.*) and to enlist workers on the side. Remuneration was to be based on final results and calculated according to existing norms and state wage-rates for construction and repair jobs. In short, the authorities attempted to bring *shabashniki* under control by placing limitations on both their freedom and incomes. Thus controlled, their activities came to be seen as making "a substantial contribution toward strengthening and developing the material base of agriculture" [252], and were met by a much more liberal attitude on the part of the courts and the procuracy [253]. In addition, the legislation cut off an escape route hitherto used by some parasites to avoid prosecution, *i.e.* by claiming that they had been working in "moonlight" brigades. Courts found this extremely difficult to disprove since the employees, for the sake of "convenience" usually preferred to conclude oral contracts with brigade leaders. They did not care who did the work just as long as the job was completed quickly. This gave brigade leaders virtual free licence to recruit whomever they liked thus "allowing all kinds of rapscallions to take refuge amongst the *shabashniki*" [254] with no questions asked (employers intentionally kept no records). The difficulties facing the courts were exemplified in the case concerning a certain Iakovlev, found guilty of vagrancy by the Svobodnensk city people's court in the Amir *oblast'*: while not denying his frequent change of place of residence, Iakovlev

claimed in defence to having been engaged in *shabashnichestvo* during this time and that he had therefore been living on earned income. The court of appeal quashed the conviction on the grounds of lack of evidence, stressing in its ruling that "the fact itself of the frequent change of place of residence does not form the *sostav* of the crime covered by Article 209 of the RSFSR Criminal Code unless it is combined with existence on unearned income, which in this case the court of first instance has been unable to establish beyond all doubt" [255]. By stipulating that brigades could now only operate under written contracts, which were to list amongst other things the exact composition of the brigade and the names of its personnel, the new regulations effectively closed the above loophole for parasites. Courts were now in a better position to verify whether or not suspected parasites had been working in these brigades, thus making their task of establishing the true sources of the accused's means of subsistence much less troublesome than before.

* * *

Several concluding points can be made in summarising what has been mentioned above. First of all, unearned income was obtainable through the most diverse of means the range of which, on the scale of illegality, was extremely wide: from means openly violating Soviet laws, to semi-legal means not encouraged by the authorities but which nonetheless did not contravene any laws in force. At the same time, it could be obtained by entirely legal, yet socially and morally censurable methods. Second, the 1984 RSFSR Supreme Court definition of the concept was still far too vague and open-ended. This created confusion and division. G. Laevskii, a colonel in the Moscow militia, noted in this regard that because the court had failed to provide a "sufficiently precise clarification of the notion" and since the militia, procuracy and courts had diverging points of view on the matter of what in fact constituted unlawful methods of extracting

means of subsistence, every year a considerable number of cases initiated under Article 209 were having to be remitted to the internal affairs agencies for further investigation. The prosecution process was thus sometimes being subject to inordinate delays [256]. Third, the sources of unearned income cited in the definition were atypical of those being encountered most often in court practice. To the disbelief and anger of many jurists, the court appeared to be suggesting that only those spongers and idlers who were subsisting, without working, on illegal unearned incomes could be sentenced for parasitism, whereas it was common knowledge that the majority of persons evading socially useful work and leading a parasitic existence were "at the time of their exposure by the militia, pointing to methods of obtaining their means of subsistence which have been deemed lawful by the norms of various branches of law" [257]. In response to what they regarded as an unjustified restriction of their powers to combat the entire spectrum of "parasitic elements", many investigative agencies and courts either simply ignored the court directive or made no attempt whatsoever to ascertain the sources of income of suspects, finding them guilty as charged solely on the grounds of their non-participation in socially useful work [258]. Vast numbers of people, who technically stood beyond the limits of the criminal law, found themselves unjustly ensnared under the anti-parasite legislation as a result of these practices. Wrongful convictions of persons living on perfectly legal means, as can be seen from Table 5.1, were a widespread occurrence. "How can one explain such an inculpatory disposition of courts?" asked Kondrashkov. "It appears that attitudes and stereotypes which have arisen in public opinion, widely supported by the means of mass information, have played their own negative role here. Indeed, it is hard not to condemn morally (but only morally) the behaviour of those people who are living, say, on received inheritance, on money from relatives and close-ones, casual earnings, the gathering and sale of mushrooms, berries, bottles, *etc.*, but are not working in the sphere of social production

and sometimes are working nowhere at all.

TABLE 5.1

SOURCE OF MEANS OF SUBSISTENCE OF CONVICTED PARASITES (%) - PLACE OF SENTENCING/YEAR.

Legal Means	[1] Khabarov *krai* (1986)	[2] Vladivosto (1986)	[3] Moscow *oblast* (1983)	[4] Moscow (1989)	[5] Leningrad (Kirov *raion*) (1986)	[6] Perm *oblast* (1986)	[7] Tashkent (1980-85)
Money from parents, close relatives, wives, *etc.*	17.7	39.6	68	57.6	72	72	52.2
Money from cohabitees/ lovers, *etc.*	5.9	6.3	-	-	13	-	-
Income from one-off jobs, seasonal work, work for private citizens, casual earnings	35.2	37	20	7.7	8.5	8	38.2
Savings	21.5	-	26	-	6	10	-
Deposit money from income from the picking and sale of mushrooms, berries, *etc.*	12.9	10.3	-	5.7	-	-	7.5
Unlawful/criminal means	-	-	10	27	4	10	0.4

[1] M.A. Lapshin: "Ekonomicheskie faktory sotsial'noi profilaktiki pravonarushenii sredi tuneiadtsev", in Organizatsionno-pravovye i upravlencheskie problemy bor'by s pravonarusheniiami sredi lits, vedushchikh antiobshchestvennyi paraziticheskii obraz zhizni. Sbornik nauchnykh trudov, ed. V.A. Tekut'ev, Khabarovsk, 1985, p.71.

[2] R.M. Gotlib, L.I. Romanova, L.P. Iatskov: Sotsial'no-pravovye i meditsinskie aspekty bor'by s tuneiadstvom, p'ianstvom i narkomaniei, Vladivostok, 1987, p.92.

[3] K.K. Goriainov, S.A. Dzhafarov, V.S. Ovchinskii: "O nekotorykh rezul'tatakh izucheniia faktov tuneiadstava", Sotsiologicheskie issledovaniia, No.3, 1988, p.135.

[4] D.M. Zaripova: "Opyt profilaktiki sotsial'nogo parazitizma", in Ukreplenie zakonnosti i bor'ba s prestupnost'iu v usloviiakh formirovaniia pravovogo gosudarstva, Moscow, 1990, p.60.

[5] V.G. Pavlov: "Voprosy ugolovnoi otvetstvennosti za vedenie paraziticheskogo obraza zhizni", Pravovedenie, No.5, 1985, p.26.

[6] A.V. & V.V. Pokhmel'kin: "Obshchestvennaia opasnost' paraziticheskogo obraza zhizni i osnovaniia dlia ego kriminalizatsii", in Problemy bor'by s netrudovymi dokhodami, Gorky, 1987, pp.50-52.

[7] B.A. Mirenskii: "Kriminologicheskie i ugolovno-pravovye mery bor'by s tuneiadstom", in Effektivnost' ugolovno-pravovykh mer bor'by s narusheniiami obshchestvennogo poriadka, Tashkent, 1985, p.126.

Unfortunately, despite repeated explanations concerning this, many practical workers and court officials are still of the opinion that in these stated cases it is necessary to bring charges under Article 209. Such views are very firm. They are linked to narrow-

minded conceptions (- how can it be that there are people who are not working, are living at the expense of others or on casual earnings, yet there is no law which allows us to prosecute these parasites?!)" [259]. While some jurists, alarmed by the high incidence of unsound sentences, insisted that any expanded interpretation of the "unearned income" concept was totally unacceptable [260], others called for a more precise definition of it at legislative level - one that would answer the needs and more fully correspond to the principles of social justice [261]. But, other more radical suggestions were also made in the press. Laevskii, for instance, argued that there ought to be a separation of liability for the evasion of socially useful work from that for the existence on unearned income, and that the former should be recognised in the law not only as a necessary but also sufficient grounds for prosecuting anybody not working:

> The list of unlawful methods of existence on unearned income given by the legislator artificially narrows the range of people subject to criminal liability under Article 209. The legislator cannot objectively define all the means of extracting unearned income .... It would have been unrealistic to cover all their possible forms in the law. The solution to this problem ought to be sought not by way of an expansion of legal prohibitions on specific methods of extracting unearned income, but by working out a new interpretation of the evasion of socially useful work as a form of the extraction of unearned income [262].

One Ukrainian jurist even went as far as to suggest the exclusion of subsistence on unearned income from the objective side of the crimes dealt with by Article 209, making the evasion of socially useful work criminal in and of itself [263].

Despite the extremely diverse nature of the above suggestions, they all appeared to have been rooted in one common concern - the belief that the problem of combating parasitism was still in need of more precise legislative regulation. The problem seemed to be growing not ebbing with time, the number of inveterate parasites was on the increase but the law, as it stood, seemed incapable of stemming the tide. "Article 209", as one group of concerned jurists put it, "is no longer fulfilling that social role which it

must play" [264]. In the following chapter we shall examine the factors underlying this rather sombre conclusion.

CHAPTER 6

PARASITISM: ROOT CAUSES OF THE PROBLEM

6.1 INTRODUCTION

Soviet writings on the subject of parasitism often likened the problem to that of a highly contagious disease: if the carriers of this social "plague" were not immediately "quarantined" and made to undergo a course of "preventive treatment", the "sickness" would spread rapidly and quite probably even mutate into more virulent, socially-dangerous strains of criminal behaviour. By the 1980s, and following the death of Brezhnev in particular, growing alarm began to be expressed over the apparent escalation of parasitic activity and behaviour in Soviet society. Some hitherto relatively "healthy" sections of the population were now starting to show obvious symptoms of infection. Thus, while studies still appeared to confirm the long-held assumption that parasitism was a predominantly urban phenomenon (between 75-85% of convicted parasites were city dwellers (*gorodskye*) [1]), new and alarming evidence suggested that its roots were spreading to many rural areas also. An article published in *Kommunist* in June 1983, for instance, attacked the complacency of village soviets and demanded that they "without delay, recognise and address the reality that the parasite in all his varieties has recently become a noticeable figure in the countryside too" [2]. This revelation must have set off alarm bells, since up till then there had existed a general belief that the tighter-knit environment in villages facilitated the operation of informal social controls that were weakened by the anonymity of urban life, making deviant behaviour of any kind difficult to conceal and thus easy to contain and stamp out at source. As P.N. Partsei and N.I. Trofimov explained:

> In rural areas, the conditions for the labour upbringing of

> children are more favourable than in cities. The specific character of agricultural production and the presence of personal land plots create the objective prerequisites for the early enlistment of children in productive labour, during the process of which they develop a natural need to engage in socially useful work. An attitude of intolerance toward parasitism and idleness is thus more typical of public opinion in rural areas than in urban population centres ... the distinctiveness of agricultural production, the dependence of its results upon external natural conditions unites people, creates an atmosphere of mutual assistance, thereby neutralising the likelihood of parasitism arising. Hence, there exists an invisible form of social control over the behaviour of one and all. In the countryside, any negative phenomenon, including parasitic activity, is clearly seen by everyone and therefore cannot escape the application of appropriate countermeasures [3].

But, it was precisely because of their over-acceptance of, and reliance upon, this supposedly pervasive social control, that those rural Party officials criticised in *Kommunist* had been lulled into the false belief that parasitism could never be a serious problem within their communities. The simple truth was that such control had already broken down in many villages and this was identified by Kondrashkov as one of the main reasons behind the higher incidence of parasitic conduct being recorded there:

> In recent years there has been a trend towards an increase in the proportion of country folk not only amongst vagrants but also especially amongst the persons who are leading other forms of a parasitic way of life. Life in the countryside has changed. If in the past the peasant homestead was unable to support a drone (*truten'*), which in any case ran counter to the moral and psychological principles and to the practice of labouring in the village from dawn till dusk, that had arisen over the centuries, then today it is another matter entirely. Here, a greater number of factors are evidently having an effect: the means to maintain not only one but several non-working persons, the economic prosperity of the countryside in general, mechanisation and the alienation of the results of labour from the labour process itself, the loss of personal interest in work, the erosion and even complete loss of good working traditions, the enervation of social control and of the role of the family and, for sure, many more others. In any case, these are alarming tendencies which require urgent examination [4].

Moreover, during the 1980s it began to be argued that the whole phenomenon of

parasitism was considerably broader both by content and substance than simply the evasion of socially useful work and that it could not be reduced solely to the three "malicious" varieties dealt with by Article 209 of the RSFSR Criminal Code: "Reducing parasitism to vagrancy, begging and leading other forms of a parasitic way of life alone, theoretically impoverishes the problem of social parasitism, from the practical point of view leads to an underestimation of its social danger and, as a consequence, to a weakening of the struggle against it by all methods and means at the disposal of Soviet society" [5]. Article 209 was said to make punishable the most palpable forms of parasitic behaviour, but these formed "only the comparatively easily measured tip of that large iceberg which constitutes the totality of the various manifestations of social parasitism" [6]. In short, then, despite three decades of attempts to excise the "cancerous tumour" of parasitism from Soviet society, the malady had, and was continuing to, spread almost epidemically. How did the Soviets account for parasitism's resistance to prophylactic measures? Why, in fact, had the problem arisen in the first place? - Soviet writers, after all, vehemently insisted that there was no social base for parasitism in the USSR [7].

6.2 PARASITISM CAUSATION: THE SOVIET VIEW

(a) Parasitism as a "Survival of the Past"

During the twenty-odd years of Stalinist repression, open debate over the nature of crime and its causes was terminated. Consequently, criminology as a science was entirely non-existent in the Soviet Union. Most legal textbooks of that time contained short references to Marx and Engels pointing out that the origin of crime lay with the

rise of private property, and that since this had been abolished the basic cause of crime had been eliminated in the USSR. Its continued existence was explained to be as a result of either the "survivals of capitalism in the minds of some individuals" or the "morally subversive influence of the capitalist camp" [8].

The 20th Party Congress, which in so many ways marked a recovery from the Stalinist insanity, can be regarded as the turning point in Soviet criminological thinking as well. The discussion of the problem of crime started anew in 1957 and 1958. A ground-breaking article by Professor A. Gertsenzon published in *Sovetskaia iustitsiia* registered the insufficiency of the bare statement of the "survivals of capitalism" as the causes of crime [9]. By referring merely to these "survivals", he remarked, one did not explain why specific crimes occurred more frequently in one place and less in another, why the frequency of a particular crime tended to increase or decrease, why people who had never had any contact with capitalism committed crimes, *etc.* In subsequent years, several attempts were made to lay a basis for a scientific study of crime [10]. The general tendency of the various viewpoints, however, was to cling to the "survivals of capitalism" as the basic cause of crime in the Soviet Union. The advantage of this label was that it offered a profession of loyalty to the traditional Marxist views, but otherwise did not limit anyone in pointing out a great variety of causes of crime. In this respect, different schemes were developed by various legal scholars, dividing the causes or reasons (*prichiny*) for crime into objective and subjective reasons, socio-political reasons and psychological reasons, and so forth.

The clear point made by the "survivals" formula was an ideological one: socialism was in no way to blame for crime. I.I. Karpets, the Director of the Institute of Criminology in Moscow, nevertheless admitted that it was a general formula only; "survivals" were a starting point not the total explanation for why people committed crimes. The task of criminologists, he said, was to clarify and amplify the content of

general formulae and to provide a base for scientific crime prevention. But their research would not change the survivals formula which remained "non-disconfirmable". The formula itself was correct as the point of departure in explaining the presence of crime under socialism because, as he noted, it and it alone "explains the historically non-immanent character of crime and helps to reveal the fact that socialism does not give birth to crime, that the regularities (*zakonomernosti*) immanent in socialism do not give birth to crime" [11]. In line with such reasoning all forms of criminal deviance could be broadly viewed as "survivals of capitalism" in the sense that the socialist system contained none of the "inevitably" deviance-generating elements of the capitalist social order which preceded it.

As the basic label, the tag which defined the place of deviant social phenomena within the perceptual framework of Soviet Marxism, the "survival" label was, not surprisingly, applied to parasitism. "The desire for a parasitic existence", claimed one 1960 editorial,

> is an expression of bourgeois psychology and of ways inherited from the exploiting system .... It would be a mistake to think that because there are no supports for the survivals of capitalism in the socialist mode of production they will disappear by themselves or cannot revive. The point is that the old ways, habits and traditions persist and live. The socialist system has destroyed the antagonistic contradictions between personal and public interests that are characteristic of capitalist society, but it has not yet been able to exclude entirely the possibility of the appearance of private-property tendencies and other survivals of capitalism [12].

It proceeded to remind readers that Lenin himself had forecast that in its first phase, at its first stage, communism would not be economically fully matured, be completely free of the traditions or traces of capitalism, and had warned that it would take a long time to eradicate the "habits of capitalism". Since Lenin was in fact referred to in almost all serious Soviet writings on parasitism, it would be helpful to examine what exactly he

had to say. His views on parasitism were set forth most comprehensively in the article *How to Organise Competition?*, which was said to have been written at the end of December 1917 [13] but which was first published only in 1929 [14]. The article was imbued with the anger of a revolutionary in bitter and active class warfare as well as the idealistic naivety of the ideas underlying "war communism":

> The accounting and control essential for the transition to socialism can be exercised only by the people. Only the voluntary and conscientious co-operation of the mass of the workers and peasants in accounting and controlling the RICH, the ROGUES, the PARASITES and the ROWDIES, a co-operation marked by revolutionary enthusiasm, can conquer these survivals of the accursed capitalist society, these dregs of humanity, these hopelessly decayed and atrophied limbs, this contagion, this plague, this ulcer that socialism has inherited from capitalism ....
>
> ... The rich and the rogues are two sides of the same coin, they are the two principal categories of PARASITES which capitalism fostered; they are the principal enemies of socialism. These enemies must be placed under the special surveillance of the entire people; they must be ruthlessly punished for the slightest violation of the laws and regulations of socialist society. Any display of weakness, hesitation or sentimentality in this respect would be an immense crime against socialism. In order to render these parasites harmless to socialist society we must organise the accounting and control of the amount of work done and of production and distribution by the entire people, by millions and millions of workers and peasants, participating voluntarily, energetically and with revolutionary enthusiasm [15].

Parasitism meant for Lenin primarily the idle rich and their capitalist toadies, so that his advocacy of the use of compulsion against them was merely an extension of class warfare by the liberated workers and peasants against individual exploiters who remained in Russia after the successful revolution [16]. It was in the same context that he set forth as a "practical precept of socialism" the rule that "he who does not work, neither shall he eat" [17].

When, more than four decades later, Khrushchev harked back to this Lenin essay as part of the vigorous new assault on parasitism, he made some noteworthy shifts of

emphasis. Speaking at the Plenum of the CPSU Central Committee in January 1961, he omitted reference to "the rich" when quoting Lenin's phrase about the need to use the public to establish supervision and control over "rogues, parasites and rowdies", and to destroy "these survivals of the accursed capitalist society" [18]. The omission was not illogical in view of the fact that Soviet society had long since proclaimed the achievement of socialism, with the complete annihilation of the pre-Revolutionary exploiter elements. In Lenin's figure of speech, Khrushchev's fight against parasitism dealt with only one side of the coin - the exploiting rich having been long ago eliminated. The moral and economic parasites against whom Khrushchev inveighed were for the most part progeny of the class which in Lenin's day had been the victorious proletariat. The obvious problem of redefinition which this entailed was solved by Khrushchev through the expedient of making "survivals of capitalism" a psychological phenomenon among certain Soviet citizens rather than to label such individuals as enemies of the socialist revolution as had Lenin.

In order to make Lenin's earlier views on parasitism appear more relevant, Khrushchev engaged in one blatant distortion by claiming that Lenin "always devoted chief attention to the educational side and the training of the people ... in the struggle against the phenomena of the past" [19]. Even in the Lenin document which Khrushchev was quoting, Lenin made it clear that he also considered the category represented by the other side of this figurative coin as class enemies rather than misguided persons who might be reformed:

> No mercy for these enemies of the people, the enemies of socialism, the enemies of the working people! War to the death against the rich and their hangers-on, the bourgeois intellectuals; war on the rogues, the parasites and the rowdies! All of them are of the same brood - the spawn of capitalism, the offspring of aristocratic and bourgeois society [20].

Although Khrushchev's war on parasitism was less bloodthirsty in tone and

content, it was no less vigorous in its statement. He read to the Plenum a letter which he had received from two women in a Lipetsk *oblast'* village who complained that "some of our young women refuse to take jobs on the sovkhoz because they can earn more by illegal home-brewing - as much as 120 roubles in a single day if they produce three batches". They asked Khrushchev to "take measures against such people. The home-brewers are living like capitalists!". It was in this context that Khrushchev, after recommending that the union republics enact stricter legislation against home-brewing, set forth his own dictum on parasitism:

> We must mercilessly destroy such evils as parasitism, attitudes of indifference toward work, and the private-property psychology. An implacable struggle against the survivals of capitalism is necessary and in this struggle measures of social influence must be combined with measures of severe administrative punishment. But the main thing is to educate people [21].

This statement, coming in the midst of the massive anti-parasite propaganda campaign launched in the autumn of 1960, revealed that Party thinking had crystallised into a well-defined doctrinal posture on the topic of parasitism. First of all, parasitism was by definition henceforth to be treated as having equally moral and economic manifestations. Second, parasitism possessed a foreign and domestic aspect, in the sense that survivals of a capitalist mentality and bourgeois morals were treated as wholly foreign to socialist society but the reform of individual attitudes, especially with respect to work and social obligations, was the inseparable domestic antidote. Third, the struggle against parasitism was henceforth to be confined exclusively neither to the public nor to the state organs, but rather was to be subject, like crime itself, to the application of "combined" measures. The latter concept was fully incorporated into the anti-parasite decrees which appeared a few months later and it was the embodiment of this concept in a new procedural form which, as noted, constituted the principal

difference between the first and second anti-parasite laws.

This same January 1961 Plenum of the CPSU Central Committee decided to convoke the 22nd Party Congress, the main task of which was to be the adoption of a new Party Programme [22]. Parasitism was treated in the new Programme along the precise lines already indicated by Khrushchev. A paragraph of that document on "labour education" stated:

> Everything required for life and for the development of people is created by labour. Hence, every able-bodied person must take part in creating the means which are indispensable for his life and work and for the welfare of society. A person who has received any benefits from society without doing his share of the work would be a parasite living at the expense of others. It is impossible for a man in communist society not to work. Neither his own social consciousness nor public opinion will permit it. Work according to one's abilities will become a habit, a prime necessity of life for every member of society [23].

The Party Programme discussed the psychological side of parasitism a few paragraphs later under the heading "Overcoming of the Survivals of Capitalism in the Minds and Behaviour of People":

> The Party regards the combating of manifestations of bourgeois ideology and morality and the remnants of private-ownership psychology, superstitions and prejudices to be an integral part of the work of communist upbringing. The general public, public opinion and the development of criticism and self-criticism have a big role to play in the struggle against survivals of the past and instances of individualism and egoism. Comradely censure of antisocial acts will gradually become the principal means of eradicating manifestations of bourgeois views, customs and habits [24].

The chief implication flowing from this ideological stance was that parasitism represented the unfinished socialist revolution and this fact served in turn as one justification for the thesis that the guiding role of the Party had to be further enhanced. The metamorphosis of parasitism from an issue of class struggle into a matter lying in the realm of psychology eliminated the difficulty inherent in rationalising away

misgivings such as those expressed by I. Kalmanovich, an economist in Kishinev, who wrote to *Kommunist*: "The overwhelming majority of the violators of the principles of socialism - money-grubbers, parasites, embezzlers, *etc.* - are persons who were born and raised in the conditions of the building of socialism. Where did they get their attachment to private-property, the thirst for profit, individualism and other ways, habits and traditions of capitalist society?!". The journal found an answer to this query by reference to "a number of objective and subjective factors", but first considered it necessary to denounce the view of

> some comrades [who] are inclined to think that private-property tendencies spring directly or indirectly from the socialist system. This viewpoint is fundamentally groundless and wrong. Parasitism, money-grubbing, the plundering of socialist property, bribe-taking, *etc.*, are ugly phenomena, alien and hostile to socialism. The very nature of the socialist socio-economic system and its basis - the socialist public ownership of the means of production - and the political system, ideology and ethic of Soviet society are in irreconcilable contradiction to the parasitic desires of certain members of society [25].

Such parasitic individuals, although said to be few in number, were important ideologically because they were as a group - to use the phrase employed by L.F. Il'ichev at the "ideological" Plenum of the CPSU Central Committee in June 1963 - the "last refuge of foreign ideology and morality on Soviet soil" [26].

The coupling of this idea to the need for enhancement of Party guidance of all aspects of Soviet public life in the march toward communism found expression in a number of theoretical articles in the period after the 22nd Congress, of which the following will serve as a typical example:

> Let us take the field of social relations and spiritual life - a most complicated field by its nature. The building of a society in which all human activities are organised most rationally and subordinated to the aim of the comprehensive development of man's physical and intellectual abilities is a profound problem with many aspects .... Along the road to communism it is necessary to uproot the most stubborn habits, customs, and views - all survivals of the past - and to purge from the minds of

> the people the debris that prevents the assimilation of communist convictions and the upbringing of a new man who is developed in every physical and spiritual aspect .... Whether we take the field of material production or the process of shaping new social relations and the spiritual life of society, we everywhere clearly perceive the need to increase the organisational and guiding role of the Party. This is what life itself and the interests of communist building demand [27].

Party theoretical literature was, nevertheless, still left with the task of trying to explain to an, at times, rather sceptical public audience why "survivals of capitalism" such as parasitism continued to exist even in the conditions of socialism's complete and final victory. Writings of the early 1960s tended to focus most often on the following causal factors. First, a major component in the explanation of why deviance and the attitudes underlying it had "survived" so long was the Marxist-Leninist notion of the "lag in consciousness". "Life" (the realities of social and economic organisation) was seen to determine consciousness, but only in the long run. Hence, while the transition from capitalism to socialism had changed consciousness in some areas, in other areas consciousness "lagged" behind life, and old attitudes, including many of those which fostered parasitism, "survived". The "lag of social consciousness (*soznanie*) behind the development of reality (*bytie*)" was considered a historical fact, an "objective law" [28] dictating that attitudes and behaviour patterns characteristic of one socio-economic formation (capitalism) would unavoidably in some measure survive into another (socialism):

> Social consciousness by its very nature is a reflection of the life of society. Hence, various real, objective facts, phenomena and processes arise and become established first, and then the reflection of this reality, the social consciousness corresponding to these facts, follows. In this process, various forms of social consciousness change at an uneven pace, as historical experience shows. Political views change fastest, for they are directly associated with the system of government and more closely related [than other aspects of social consciousness] to economics; the working people of our country long ago became imbued with socialist political views. Changes take place somewhat more slowly in the sphere of morality and also in the

world outlook [29].

Parasitic and criminal attitudes to which socialism itself had not given, and, COULD NOT give birth, thus survived and were propagated amongst persons who had never themselves experienced the capitalism that was the presumed source of these attitudes.

Secondly, due to poor upbringing in "morally unhealthy" families, even persons born, raised and grown to manhood in the conditions of the struggle for socialism and communism could prove to be infected with a parasitic psychology. I.I. Konoplev, a procurator in Simferopol, expanded on this factor:

> The mentality of the young people is shaped of course by the socialist system, the production relations of socialism and the influence of the socialist ideology and morality which prevail among us. But this process is affected to some extent by the remnants of old views, convictions and habits formed in the depths of the exploiting system, preserved and passed on from generation to generation. These ugly survivals of the past, if given favourable conditions, will be enlivened and will make themselves known in the behaviour of backward individuals .... Very often, the instincts of the future money-grubber and parasite are acquired in the family. His character is shaped in the family and it is here that he obtains his first cognition of life. And, if in the family an unhealthy spirit of money-grubbing, a striving for gain and a contempt for labour hold sway, then this spiritual venom poisons him too [30].

Thirdly, the subversive influence of the capitalist camp was injecting life into those undesirable attitudes otherwise to be characterised as "survivals".

> The difficulty of overcoming survivals of the past depends not only on their tenacity in the minds of people but also on the fact that they are being inflamed by the capitalist world. While there is no social base for private-property tendencies within the country, this base does exist outside the USSR and the entire socialist camp: it exists in the shape of international capital. Imperialist propaganda is singing the praises of the bourgeois way of life and spewing streams of slander against socialism and its ethics [31].

In a less direct way, the capitalist world was seen in the role of an "attractive nuisance",

pregnant with danger for the attitudes and behaviour of Soviet citizens. While noting that capitalist society and ideology were "corrupt and crudely individualistic", P.M. Rumiantsev, a lieutenant-colonel in the Moscow militia, was forced to conclude that

> at the same time, with the high level of production in the leading capitalist countries and the rather high, though for a minority of people, standard of living, [capitalism] exerts a demoralising influence on the minds and moods of insufficiently mature members of socialist society. There are some people, especially amongst the young generation, who are falling under the spell of this alien ideology and, as a result, are committing serious violations of the rules of communist morality, are striving to imitate "Western style" way of life, are striving for the "beautiful" life [32].

Fourthly, Stalin was posthumously accused of impeding the elimination of private-property, individualistic survivals, since during the "cult of the individual", violations of the socialist principle of distribution according to labour had widely prevailed: "These violations took the form of a weakening of material incentive, especially in agriculture, and unjustified excesses in the payment of certain categories of personnel. Other hindrances were the shortcomings in economic state-legal and ideological-educational work and a tolerant attitude toward those who sought to be parasites on the healthy body of Soviet, socialist society" [33]. But, such shortcomings were still being observed in the early 1960s. One scholar from Tambov noted, for instance, that "deficiencies in indoctrinational work" was a major reason why parasitic tendencies were not being overcome with proper effectiveness, why parasites were still "growing like weeds" in some places:

> Only on account of the neglect of educational work with people it is possible to explain the fact that, for example, in the village of Ekaterinopol, one-third of the kolkhozniki are not participating in socially useful work, are engaging in home-brewing and drinking heavily. The village communists have reconciled themselves to the fact that the Party club is not open, that the library has been turned into private apartments, that no

lectures are being given, that agitators are standing idle [34].

V. Shandra, from Sverdlovsk, criticised local executive committees, procurators, courts and militiamen for showing liberalism toward parasites and accused them of "misinterpreting the policy of social influence in the re-education of law violators to mean the complete abandonment of judicial and administrative coercion" [35]. A Kazakh writer slated the press for failing to create a suitable atmosphere of moral condemnation around parasites and money-grubbers:

> The majority of articles published in republican and *oblast'* newspapers bear only an informational character. They are not revealing the causes of parasitism and are not disclosing ways to overcome them. Furthermore, some local newspapers instead of mounting a scathing attack upon parasitism are preoccupying themselves with detailed descriptions of the wealth of individual money-grubbers, even to the point of enumerating how many tables, chairs, strips of carpet, *etc.*, they have. In people with an unstable, private-ownership psychology, this provokes not condemnation, but admiration for these parasites [36].

He also identified what he considered to be a crucial, yet generally overlooked, factor conducive to the continued existence of parasitism - the problem had been aggravated simply because in the past it had not been properly appraised:

> In essence, up till recently, there was no legislation providing liability for persons leading an antisocial, parasitic way of life. From the objective factors of the liquidation of unemployment and the national economy's permanent need for manpower, the erroneous conclusion was drawn that we did not and could not have the problem of parasitism. But unemployment and parasitism are completely different social phenomena. An unemployed person while wanting to work, cannot find an application for his labour, but a parasite, while having this opportunity, does not want to work. This is why a resolute struggle must be waged against them [37].

Finally, Soviet writers directly or indirectly admitted that the prevalence of parasitic activity in the USSR was due precisely to the shortcomings of the economic system. Thus, *Kommunist*, in seeking to explain why parasitism existed under socialism,

conceded that:

> We still lack an abundance of means of consumption, the supply of some goods lags behind demand; in many cities and *raions*, moreover, there are interruptions in supplying the public with some types of products. Because of the bad work of trade agencies, it often happens that some goods are oversupplied to some *raions*, while the same items are lacking in others. Speculators take advantage of this, buying products in one place and selling them in another at exorbitant prices [38].

A deputy to a local soviet in Khabarovsk commented that "sometimes we ourselves create conditions for private craftsmen to flourish. In Khabarovsk, for example, you simply cannot find any handles for shovels, axes or brooms in the shops .... Apartment house administrations as a rule order these 'scarce' goods from handicraftsmen" [39]. The RSFSR Deputy Minister of Trade remarked in a conference that "speculation in farm products is possible because of the sluggishness of the trade organisations, which lag in the deliveries of vegetables and fruit, for example, as well as the poor performance of consumers' co-operatives" [40]. Lastly, *Kommunist* again observed that:

> In order to close all the loopholes through which parasites manage to rob society, great importance attaches to improving Soviet trade and strictly observing its rules. If trade organisations and consumers' co-operatives supplied the necessary goods and products, such as vegetables and fruit, on time and in sufficient quantity, the ground would be cut from under the speculators' feet. Every measure must be taken toward economically lopping off the possibilities for parasitism and other manifestations of private-property tendencies [41].

Despite admitting to such failings in economic organisation, Soviet criminologists of the early 1960s nevertheless still generally tended to externalise, spatially or temporally, the causes of crime, parasitism, and other social ills: the influence and machinations of other societies or the weight of past history were cited to show that the PRESENT social order bore no responsibility for such problems, since its ability to control

other nations and past history was quite limited. During the Brezhnev era, conservative hard-liners continued to endorse from on high the thesis that crime was a survival of the past; they saw no unavoidable pressures to commit crimes in the USSR and blamed crimes on their perpetrators' lack of character [42]. Survivals theory remained part of official ideology because it supported the irreducible core of doctrine: the need for the Party's leading role in society and the legitimising purpose of that role; its "historic mission" to build the best society the world had seen. If crime was a stubborn but "diminishing" survival of the previous social order, then its survival in the USSR did not blemish Party achievements, did not belie the doctrine that only the guidance of a single "Marxist-Leninist" Party and planned socialism could eliminate the evil side-effects of industrialisation [43]. Criminologists, too, still included formulations attributing crime to "survivals of the past in the minds of certain people and the influence of the imperialist camp", but by now appeared virtually united in the belief that to say this alone about crime "means not to explain it at all". Crime researchers now spelt out survivals in terms of specific factors they found associated with crime. They went beyond human failings to cite deep-seated material problems of development:

> Research studies have drawn attention to such reasons for crime as trouble in the family, the absence of a regular healthy influence of older people on the younger generation, shortcomings in schooling, difficulties in the job placement of youth, drunkenness, unfavourable housing conditions, material difficulties of the lower paid strata of the working people, deficiencies in recreational facilities for the working people, slipshod accounting of materials in state and public organisations, badly organised protection of socialist property, shortcomings in the work of corrective labour institutions, *etc.* [44].

Similarly, while the "survivals" concept continued to provide a frame within which criminologists could place parasitism, it did not, as they themselves acknowledged,

explain the concrete aspects of its causation. They therefore began to "operationalise" the survivals formula through focusing on the elements of the parasite's background where evidence of faulty socialisation and control, of the passing on of attitudinal survivals (or "parasitic orientations"), could be sought.

(b) Parasitism and Defective Upbringing

The main thrust of research efforts gravitated towards establishing that parasites were "defective products" of Soviet society, whose flaws stemmed from a breakdown in the functioning of some of the basic socialising institutions (family, school, *etc.*) in Soviet society. Such an approach involved, essentially, a denial that there were parasitism-provoking factors inherent in Soviet society and also denied that the parasite was, *ab ovo*, a special type of person (he was made, not born). It sought explanations in the workings of the infrastructure of Soviet society: the parasite had to be regarded as a finished product - however imperfect - of the Soviet socialisation process. He had been "processed" by the formative institutions but had emerged "flawed". Not only did he fall short of the ideal embodied in the "new Soviet person", he also fell short of the accepted minimum standards of behaviour considered acceptable. In what ways were the Soviet socialising institutions malfunctioning? Let us begin with the family.

Despite numerous post-Revolution shifts in policy [45] the family remained a vital institution in Soviet society. In the care, feeding, and basic socialisation of children, it was the regime's junior partner. As Antonian, Borodin and Samovichev put it:

> ... the family, while including the children within its structure, while providing for their initial socialisation, thereby "through itself" includes them in the structure of society. In other words, entry into society occurs through the family as its primary cell.

They warned, however, that:

> If the family fails to pave the way for this, if the child is alienated from it, then the foundation is laid for his very understandable alienation in future from society also. In this way, the defects of initial socialisation, if they are not offset by other upbringing measures, and in many cases also special educational and prophylactic measures, can be a major reason for the parasitism of an adult [46].

Amongst the duties imposed on parents by Article 18 of the Fundamental Principles of Legislation of the USSR and Union Republics on Marriage and the Family, were those of raising their children in the spirit of the moral code of a builder of communism, showing concern for their physical development and education, preparing them for socially useful labour and raising worthy members of a socialist society [47]. Judging by the frequency of press attacks on negligent parents, it appears that a large number of them were shirking their family duties. Antonian and his colleagues, who carried out an investigation into why there was a high level of recidivism amongst vagrants, concluded that one of the prime reasons for this was the neglect these people had suffered during childhood. Almost all the malicious vagrants studied by them had been brought up in families where their membership had been "especially formal":

> The parents either hadn't fulfilled their parental duties at all, or had devoted very little attention to them. Often they themselves had been leading an antisocial way of life, drinking heavily, committing violations of law. Control on the part of the parents had been absent, as had any warmth and emotional closeness to the children, who had been treated as virtual outcasts .... This unhealthy upbringing ... predetermined the children's subsequent inability to work normally, to discharge their own parental and other civic duties [48].

Another study into the backgrounds of convicted parasites, conducted by Dzhafarov and Riabinin, found that two-thirds of them had been raised in families "where interrelations (*vzaimootnosheniia*) could be described as bad". The drunkenness or alcoholism (45% had parents who had abused alcohol, 20% of whom had been treated for alcoholism) and debauched behaviour of one or both parents (almost one in three of the parasites

questioned had parents who had been convicted), systematic family conflicts (quarrels, fights), and the unwillingness of the father and mother to show any concern for their children's welfare, had created an unhealthy nurturing environment which, in turn, had adversely affected the process of the formation of their children's personalities: "It is understandable that in such families the children are unable to acquire the necessary working customs. Such a family structure cultivates negative qualities in them, which are conducive to the formation of very staunch antisocial attitudes, including the attitude toward work" [49].

A second problem stemmed, as mentioned earlier, not so much from unconcern as from parental readiness to grant their children anything they wished in the area of material goods. Such over-indulgence, in the Soviet view, triggered irresponsibility and parasitic-egotistical attitudes:

> In such families, as a rule, the children do not know the true value of material acquisitions; their ideas about life are usually not in keeping with social requirements and responsibilities, since from their first steps no liking for hard work or modesty, but rather selfishness and a contempt for work and public interests, are nurtured in them [50].

Guilty of far more culpable behaviour were those parents holding high-ranking posts who were attempting to pass over the privileges connected with their official position to their children (for example, helping them to gain places in prestigious universities, *vuzy*, *etc.*, to get fixed up in good jobs, ahead of other more qualified and able candidates). This was said to undermine one of the vital principles of social justice, that of equal opportunities for all members of society, to be conducive to the revival of the "social selectiveness (*izbrannost'*)" of certain sections of the population and the creation of the aristocratic principle "to each - according to his extraction".

> It comes as no surprise that children raised in these "greenhouse" conditions usually grow into social parasites who are willing to accept and enjoy the unmerited privileges but

unwilling to give anything back in return [51].

A final point of concern for those who looked to the family as one of the contexts in which forces promoting parasitism could arise was the high incidences of incomplete families in the histories of convicted parasites. The one-parent family, whether it arose through death, divorce or simple desertion, was viewed as a problem. In the words of Gotlib *et al.*:

> The raising of a person in a single-parent or broken family exerts an early negative influence upon the formation of his or her personality. The educational function of the family is reduced, exactingness and control over the child often become weaker, negatively influencing the long-term development of their character and often serving as the psychological basis which, in the presence of other unfavourable conditions, leads to antisocial behaviour. A future parasite with a negative attitude toward the principles and values of socialist society, more often than not, develops in such an environment.

They provided supporting evidence for this conclusion by revealing that around 40% of the male and slightly less than half of the female vagrants interviewed by them in the holding-and-assignment centres of Vladivostok and surrounding regions had been brought up in either single-parent families or without parents [52]. A similar study conducted by V.I. Grachev in Kiev produced almost identical results [53]. He concluded that because many of the convicted vagrants (approximately half) questioned had earlier been victims of what he called "an unfavourable family situation", they, too, had developed a negative attitude toward the family as a social institution, ignoring their conjugal and parental responsibilities.

One other vital institution sometimes failing to perform its tasks adequately, and thus linked to the causation of parasitism, was the Soviet school system. The tendency for parasites to have been under-achievers or school dropouts was taken by Soviet authorities as an indication that the schools had failed in their responsibilities towards

these people in their youth. A common complaint concerned narrowness on the part of school administrators and teachers in understanding their functions. Technical and cultural education were not enough, they were told, they should also make themselves responsible for the moral and ethical upbringing of Soviet youth.

> For many years, there has been a need for a substantial reorganisation of instruction and upbringing in the schools along the lines of thorough intensification of civic and legal upbringing, of moulding a sense of collectivism and of responsibility for one's actions and of moral tempering of the personality. Without solution of these key problems it is impossible to complete the establishment of conditions for the eradication of evils such as parasitism. More than 70% of the convicted parasites questioned by us had only an incomplete secondary education, which gives evidence concerning the presence of shortcomings in the ideological and moral educational work of educational establishments with those citizens, who more than anyone are in need of educational influence [54].

Teachers and administrators were taken to task for limiting themselves to instruction in academic matters and leaving the "private" matter of pupils' conduct to their parents and the militia. They were exhorted to see that their solicitude did not end at the school door, to see that their pupils' non-class hours were spent in useful, worthwhile pursuits. Ideally,

> the school should become the organising centre of all upbringing work with youth ... it should become the organiser of youth's evening leisure, turn into a place of leisure, where youth might spend an evening, dance, play chess, occupy themselves in favourite hobby groups or meet with interesting people [55].

The volume of complaints about shortcomings indicate that, on the whole, this ideal was far from realised.

If apathy toward the inculcation of desirable moral and social attitudes on the part of teachers and administrators was viewed as a problem, even more serious was the tendency of some school personnel to meet the challenges posed by academic and

disciplinary problem children by simply excluding them altogether from the academic track. In practice, this meant that despite the eight-year compulsory universal education law, many young people were either being allowed to drop out or were being "forced out" of schools, thus adding to the ranks of "those who neither work nor study" - the highest delinquency/parasitism-risk category. Two separate studies conducted in the mid-1980s revealed, for instance, that 73.5% and 81% of the total number of persons convicted of parasitism in Moscow [56] and Irkutsk [57] respectively, had earlier made unsatisfactory progress in their school studies, had violated school discipline, and had left school with only fifth- or sixth-grade educations. (Another investigation found that 16% of convicted parasites were either semi-literate or totally illiterate [58].) Allowing (or forcing) youths to drop out was criticised as "prematurely releasing" them from school discipline and from "pedagogical demands which stimulate development of the habits of proper social behaviour". The effects were seen as lasting, since

> lagging behind in level of general education makes for impoverishment of the personality and a low cultural level, which in turn facilitates the assimilation of antisocial and parasitic views and habits, breeds instability in the face of alien influences, and, in a dangerous situation, hinders self-control and the correct self-evaluation of motives and actions [59].

In summarising the defective upbringing approach as an explanation for parasitism causation, we can say that it traced the problem at hand to other problems; it explained one deviation (parasitism) in terms of others that constituted its presumed cause. Simply speaking, it placed dominant emphasis on the fact that "bad caused bad". Weak socialisation in the family and unconcern by school personnel did not always cause an adolescent subjected to these negative early inputs to become a parasite in later years; but they explained, it was argued, a great deal of the parasitism problem. The malfunctions referred to were infrastructural. They represented deviations from the ideal in PARTICULAR contexts - in SOME families, in SOME schools. No attempt was

made (or could be made, given the prevailing ideology) to knit these together into a picture of Soviet society problem-ridden as a whole. This approach thus maintained ideological acceptability (*i.e.* deviant behaviours were survivals of an outgrown but tenacious pre-socialist past; they were not, and COULD NOT be, symptoms of a "sick" society for ideology decreed that Soviet society was not sick) while admitting, as a practical matter, that the performances of concrete institutions of control and socialisation both could be and were frequently flawed. However, the question of why one person with a poor family and school upbringing went on to become a parasite while another in similar circumstances, with no lighter a load of disadvantaging inputs, did not, remained unresolved. (It should be noted that Soviet criminology and criminal law both viewed the offender as acting voluntarily. Being the bearer of "survivals" increased an individual's tendency to criminal (parasitic) behaviour, but did not DETERMINE that he would actually go on to commit a crime (to become a parasite). While crimes (parasitism) were seen as socially "determined", social in their causes, the determinism was of a sufficiently soft variety to accommodate the view of a crime (parasitism), in the last analysis, as a "subjective, voluntary act" [60].)

(c) "Non-Antagonistic Contradictions" as Parasitism-Provoking Factors

While defective upbringing, lag in consciousness, negative subjective characteristics, *etc.*, were looked upon by Soviet criminologists as being the primary "first order" causes of parasitism, they also identified secondary, "objective" factors conducive to parasitic behaviour. Chief amongst these were the so-called "non-antagonistic contradictions" (*neantagonisticheskie protivorechiia*) in socialist society. These contradictions, which were said to flow from the historically conditioned quality of social life, may be regarded, in other words, as the inescapable growing pains that Soviet society had to endure. One variety encompassed contradictions in economic life: specifically, the gaps

between urban and rural life and living standards, the differences, in levels of remuneration and job satisfaction, between mental and physical work, and lastly, temporary economic shortages and difficulties, the gap between the economic demands of the Soviet population and the ability of the socialist economy, at its then present level of productivity, to satisfy them. These contradictions were seen as sources of dissatisfaction in persons who viewed their lot as less than they deserved, facilitating, *inter alia*, such attitudinal survivals as parasitism, greed, selfishness, and others potentially related to crime. They were by definition problems of the SOCIALIST phase of the development of communism - the phase in which each contributed according to his abilities but was rewarded according to his "work" rather than to his "needs" as in the ideal solution of "full communism". Rewards according to the significance of one's type of work was seen as "socially just" in the socialist phase, but that phase itself was imperfect. The Soviets admitted, for instance, that there were inequalities flowing from this principle of payment "according to work" and that these inequalities provided a basis for manifestations of "parasitic and mercenary" desires, aimed at increasing one's share at society's expense, rather than through upgraded productivity [61]. The connection of the said non-antagonistic economic contradictions to crime in general, and parasitism in particular, was, however, occasionally challenged on the grounds that it was not the inequality-creating principle of reward according to work that fostered crime (parasitism) but VIOLATIONS of the principle;

> Under socialism, distributive relations contain well-known contradictions, which lie in the fact that every worker wants to obtain higher payment for his labour, whereas the interests of society as a whole dictate the objective necessity to pay work only in exact accordance with its quantity and quality. Such a distribution of material wealth guarantees social justice in this process and ensures the socialist accumulation necessary for production on an enlarged scale .... Any deviations from, any flagrant violation of this sacred principle will inevitably lead to a sharp exacerbation of the said contradictions, which at times assume the ugly form of social parasitism - the essence of which

> is to take more from society, but to give it less in return .... In those instances, when parasitism takes extreme, criminal forms of violation of this principle, for example, in cases of theft of state or public property, speculation, private-entrepreneurial activity, it so severely, irreconcilably exacerbates the contradictions between the narrow, mercenary interests of the parasite and the interests of society as whole that they acquire an antagonistic character. This conflict between the parasite and society cannot be smoothed over, resolved, as they say, "by peaceful means", but must be subject to liquidation through use of the coercive-repressive force of the law [62].

Generally, however, the affirmation of their role remained a part of the theoretical underpinnings of the social approach to explaining crime (parasitism) causation.

Those non-antagonistic contradictions identified as possessing the highest parasitism-breeding potentials included:

(i) Negative consequences of URBANISATION and POPULATION MIGRATION: Whereas Western social scientists linked increases in various forms of deviance to pressures and strains engendered by rapid social change and by the quality of urban industrial life, Soviet criminologists, for many years, rejected such connections, claiming that the processes of industrialisation and urbanisation as they took place under capitalism were indeed productive of crime and deviant behaviour, but that the same processes under socialism were completely different in their effects.

> Industrialisation brings about changes in the lives of people, but in socialist society it is a positive social factor. The possibility of planned regulation of the phenomena accompanying industrialisation, such as urbanisation and migration of population, makes it possible to neutralise the effect on people's life of possibly negative factors linked with urbanisation and migration (changes in the habitual life surroundings, displacement of large masses of the population, over-population, *etc.*) [63].

They viewed "socialist" urbanisation and industrialisation as progressive processes and refused to acknowledge that such processes, in themselves, had any potential for generating the social disorganisation that could give rise to criminal behaviour. This

optimistic position took little account of a stubborn fact: that the crime rate in Soviet cities was much above the rural rate. In this, the USSR mirrored other modern societies. On a crimes-per-10,000-persons basis the rate in urban areas exceeded that in rural areas by as much as 40% [64]. The urban-rural crime rate disparity demanded some explanation. An attempt to meet this demand was made in 1968, when an article on criminological aspects of population migration by a researcher at the Institute of Criminology appeared in *Sovetskoe gosudarstvo i pravo*. Connecting migration with the urbanisation-industrialization processes that were still going on in underdeveloped areas of the USSR, the author, M.M. Babaev, while noting that higher urban crime rates were not, in socialist society, a "fatal" attribute, argued that they were a product of the fact that,

> in many cases the scale of organisational and upbringing work does not yet correspond to the scale of the phenomenon itself - the tempo and scale of city construction in the USSR. As a result, in the cities there exists a larger quantity of negative factors, promoting the formation of antisocial views, habits ... than in rural locales [65].

Babaev did not expand in great detail on the "negative factors". But it is clear that he had in mind the large-scale introduction of young, male workers, predominantly of rural background and either single or at a distance from their wives and children, into cities undergoing rapid development of the industrial base but much less rapid construction of housing and leisure facilities. In this frontier-town environment a high incidence of deviant behaviour was perhaps to have been expected. With appropriate phraseological modifications, Babaev's observations on the situation of these migrants might well have come from a Western social scientist:

> Processes of migration may be and often are accompanied by some negative phenomena: with the move to the city, social control over the young man on the part of the family, the immediate everyday environment and the like, which is as a rule more effective in the village than in the city, weakens or is completely lost; the young man, coming from the village, is not

> always able to understand correctly, and manage to distinguish the real, progressive urban culture and as a result sometimes accepts the worst and most harmful things for the model of urban culture and "city behaviour" [66].

He did not argue that relatively high urban crime rates were inescapable under socialism; he only recognised that they existed, and linked them with shortcomings in those aspects of socialist planning and its execution which were supposed to "neutralise" the unsettling consequences of urbanisation and industrialisation. Later writings on this topic adopted much the same approach. During the 1980s, for example, increased scales of urbanisation and high rates of population growth were recorded in many areas of the Soviet Far East. An accelerated development of the productive forces in this region (in order to exploit the colossal reserves of natural resources found there) had been identified as a key element of the whole Soviet economic programme [67]. But, many local authorities were unable to cope with the large influx of new arrivals who had come to man the developing industries. Due to a backlog in the construction of new housing, adequate living accommodation could often not be provided; the sphere of the provision of services was also woefully underdeveloped; while the supply of consumer goods fell well short of the increased level of demand. This "inadequate development of the social sphere" in combination with the "objective difficulties of adapting to local climatic and social conditions" was reported to have generated widespread disillusionment, which in turn was pinpointed as one of the main factors behind the higher rates of crime, parasitic activity, labour indiscipline, alcohol-drug abuse, *etc.*, being recorded in the region [68]. These alarming trends were also seen as part consequence of the arrival of large numbers of "undesirables", some of whom had been lured to the Far East by the wage differentials offered to citizens willing to uproot themselves and settle there, *i.e.* they had come with the illusion that there were rich pickings for the taking:

> Amongst those who have arrived in the Primorskii *krai* under assignment from *Orgnabor* there are many of low skill and cultural levels including many ex-convicts, a no small number of dubious characters with weakened social ties and a staunch negative attitude toward work, as well as malicious defaulters in the payment of debt-arrears and lovers of quick gain. Those searching for "easy money" quickly come across the harsh realities, experience disappointment, give up their dreams about large, fast earnings and a life of idleness, and desert production often slipping down the path towards vagrancy and other forms of parasitism. The results of our investigation show that up to one-third of the total number of parasites being convicted annually in the Territory have come here from western *raions* of the country through *Orgnabor* [69].

Such individuals, by exerting a negative influence upon unstable sections of the indigenous population, were held directly responsible for the "poor moral climate" in many of the areas undergoing rapid development [70]. The "progressive character" of intensive economic development was, in the final analysis, said to have been offset by the "contradictions and difficulties of growth" which had created conditions for the growth of antisocial and criminal behaviour [71].

(ii) Problems in the sphere of the organisation of labour: One problem here lay in the fact that many (approximately fifty million) Soviet workers were still engaged in poorly-paid, heavy manual labour. Brezhnev himself told the November 1981 Plenum of the CPSU Central Committee that the "slow reduction of manual labour" was "the root of the evil of parasitism. In general, throughout the country around 40% of the workers are engaged in it, and in the sphere of services the percentage is even higher. *Gosplan* and GKNT must accelerate the development of a comprehensive programme for the reduction of manual, especially laborious labour. Socialism as a social system possesses huge potentials for the rational and humane use of society's chief industrial force - the man of labour. And these potentials must be made use of in full measure" [72]. There appear to have been two main reasons for the General-Secretary's concern. First, the low level of job satisfaction amongst manual workers delayed the process of the

transformation of labour into the "prime vital need" of every Soviet person. Moreover, job dissatisfaction, as one labour specialist observed,

> leads to depression and pessimism, which also spread to leisure time and other aspects of the worker's life not at all connected with the work that has given rise to this psychological state. This in turn gives rise to favourable grounds for the spreading of backward opinions, habits and modes of behaviour [73].

In fact, it is worth noting not only that unskilled manual labourers were in general six times more likely than skilled workmen to commit a criminal offence [74], but also that research into the labour histories of convicted parasites had shown that as many as 96% of them, owing to their lack of education and skills, had been performing this type of work before giving up work entirely [75].

Second, although dire poverty was ruled out as an objective cause of crime (it had been eradicated "for all time" in the USSR), the "relative" deprivation of the lower-paid stratum of manual workers compared to the better-off skilled workers created stresses as the less advantaged perceived the gap between their own situations and that of the higher-paid who enjoyed more of life's benefits. Here again danger lay in the fact that these tensions had the potential to boil over primarily in the form of criminal-parasitic behaviour:

> Some morally unstable individuals, instead of endeavouring to raise their skills and work effort in order to redress imbalances in material status, choose simply to cease working for the good of society and to meet their needs by illegal means [76].

The acute Soviet labour shortage was another major problem in this sphere. By the mid-1980s the number of unoccupied working places in industry alone was estimated to be in the region of some 700,000 [77]. While economists said that this shortage was the result of a fall in the birth rate during the 1960s [78], criminologists stressed that parasites were largely to blame and called for even tougher action against them [79].

They were able to base their demands on information such as that released by the USSR People's Control Committee which claimed that if the parasites arrested by the militia in the cities of Voroshilovgrad, Stakhanov and Kommunarsk in 1982 had actually been working, the manpower shortage in the Voroshilovgrad *oblast'* would have been 74% less than its present level, and that if the parasites convicted in Novosibirsk, Tatarsk, Barabinsk and Iskitim had been engaged in socially useful work earlier then there would have been no labour deficit whatsoever in the Novosibirsk *oblast'* [80].

Labour shortages in the conditions of the Soviet commitment to full employment entailed some extremely negative side-effects: the rate of manpower turnover (usually defined as resignations without reasonable grounds or dismissal for disciplinary reasons, and only discussed in connection with manual workers) was high [81], and labour discipline low and notoriously difficult to enforce. In fact, the lack of a ready supply of "working hands" created a situation in which many enterprise managers were actually prepared to turn a blind eye to undisciplined workers.

> The psychology of managers has become deformed .... For the sake of production interests they forgive instances of absenteeism, poor time-keeping, drinking on the job, sloppy workmanship and other displays of an unconscientious attitude toward work. To a certain degree the dismissal of an unconscientious worker may run counter to the direct interests of the enterprise (employers therefore consider it better to have a bad worker than no worker at all). Those who violate labour discipline do not fear the gravest consequence - dismissal - since the only threat is transfer to another, frequently better-paid job. Any manager will unquestionably think twice before instituting strict discipline for fear that his workers will begin looking for a job where the rules are not as strict [82].

One indignant factory foreman, who wrote to *Literaturnaia gazeta* criticising such managerial acquiescence, nevertheless felt compelled to complain that:

> Many laws and regulations are oriented not so much toward a struggle against violators of discipline as towards their protection. It seems that the egotistical good-for-nothing is sometimes in a better position than the administration of the factory and the collective .... Many workers would behave

> differently, would work as they should if they did not know that there was no unemployment in our country. Almost every enterprise needs workers. If a worker leaves one enterprise or is sacked he will be taken on by the neighbouring factory. He can dictate his own conditions [83].

But, for many writers concerned about the prevention of parasitism, the practice of retaining ill-disciplined workers was seen as more desirable than that of dismissing them - or, at least, the lesser of two evils. If they were kept on the staff then there was still a remote possibility that through the influence of the collective they might be made to see the errors of their ways. Dismissal, on the other hand, was often the first step on the downward path toward full-blown, unconcealed parasitism. It was the catalyst of a negative chain reaction: those dismissed were pushed into that contingent of "covert" parasites - the "rolling stones" (*letuny*) - who, while drifting aimlessly from job to job and thus deprived of any lasting positive educational influence of the labour collective, were more than likely, in the long run, to end up consummate parasites. As one writer explained:

> People do not become malicious parasites overnight. The evasion of work is, as a rule, preceded by at least some labour activity in social production, although even at this early stage there are often warning signs of impending parasitism: frequent job changes, unconscientious execution of labour duties, violations of labour discipline, resulting in frequent dismissals, followed by long breaks between jobs .... Unfortunately, some leaders of collectives are far from in full measure utilising the full range of educational means at their disposal; instead, they use any pretext to get rid of "difficult" workers, choose the "path of least resistance" ... And people of such a mould usually go on to become *letuny*, that is, those who are found at the stage which directly precedes downright parasitism. They repeatedly move from job to job and, in the end, completely give up all pretence of working and turn into parasites [84].

The results of a number of studies certainly lent support to this conclusion. Thus, a Ukrainian study into the "labour biographies" of those persons officially warned for the evasion of work in 1981-1982 in Kiev found that approximately two-thirds had over this

period changed their place of work once - 24%, twice - 20%, and three or more times - over 20%. Although they cited various reasons for this - insufficient earnings, remoteness of the job from their place of residence, unsatisfactory working conditions, dislike of shift work, illness, conflict with management, expiry of labour contract, *etc.* - the researchers concluded that they were nothing more than *letuny*, whose real reason for drifting in and out of jobs was their "complete lack of interest in work and its results" rather than the "sham reasons" noted [85]. A similar study conducted in the Uzbek SSR by the MVD and Tashkent University revealed that out of the total number of persons convicted of parasitism in 1985, 28.1% had over the previous three years either changed their jobs at their own wish or had been dismissed on two to three occasions, 31.3% on four or more occasions [86].

L.I. Romanova, a criminologist based in the law faculty of the Ivanovo State University, argued that the only way of preventing ill-disciplined workers from becoming out-and-out parasites was by reducing their ease of mobility:

> Labour laws cover all cases of violations of discipline and law and order in the sphere of social production only for as long as the persons who have committed them remain linked by a labour contract to the enterprise. But, offenders only have to desert the labour collective or be dismissed and they fall out from under its positive influence, and, sometimes, for a long period of time, they turn out to be beyond other forms of social control .... The matter of the struggle against the INITIAL STAGES of manifestations of parasitism is therefore of great importance. What appears to be necessary is a further improvement of the system of social control over the movements of able-bodied persons, especially those amongst the malicious violators of labour discipline who are having breaks in work but whose actions, nonetheless, still as yet do not fall within the *sostav* of the crime covered by Article 209 of the RSFSR Criminal Code [87].

Innovative experiments in social control were in fact already underway in a number of places. In the Belorussian town of Novopolotsk, for instance, an experiment aimed at strengthening control over the "temporarily unemployed" - those who had been

dismissed for absenteeism and other violations of labour discipline; *shabashniki*; *letuny*; school dropouts; migrants and persons returning from penal labour camps - had been launched in 1984. Labour collective organisations had to provide the job placement bureau of the town with information on every dismissed and engaged employee; schools had to inform the bureau on all boys and girls of sixteen years of age and older who drop out or return to school. The Department of Internal Affairs provided information on all persons who arrived in the city for permanent residence or who left the city. Having acquired this information and registered all citizens neither working nor studying, the job placement bureau (if necessary, in agreement with the commission for the utilisation of labour resources) decided how to approach those not working and to find out why they were not employed. If they maliciously refused to work case reports on them were drawn up and sent to the militia and the housing organisations. If necessary, persons were prosecuted as parasites. (During the first year of the experiment's operation the job placement bureau was notified about 3,771 people without jobs: 2,794 were placed in work; 699 took jobs in other areas of the country; ninety-three were detained on suspicion of parasitism, sixty-four of whom immediately got down to work after being officially warned; several were eventually charged under Article 209 and sent for compulsory anti-alcohol treatment, while most of the rest considered it best to slip quickly out of town [86].) This co-operation between the militia, the job placement bureau, the labour collectives and educational institutions had results: a better distribution of labour resources, better labour discipline (absenteeism alone fell by 18.6% in 1984 as compared to the previous year), less labour turnover (8.3% in 1984 compared to 8.8% in 1983) and hence more stable collectives, and less criminality. In 1986, the experiment was approved by the State Labour Committee and the All-Union Central Trade Union Council and other cities were encouraged to follow the example set by Novopolotsk [88]. Several, including Murom, Georgievsk,

Krasnoiarsk and Lipetsk in the RSFSR, Odessa in the Ukraine, and a number of towns in the Tatar ASSR, did so [89].

Generally, however, the labour collectives stood alone in manning the front-line defences against "pre-criminal" forms of parasitic behaviour. This was understandable since they much earlier than, say, the law-protection agencies, came across various types of indiscipline "signalling the beginnings of the deformation of a worker's personality". The 1983 "Law of the USSR On Labour Collectives" [90] had armed the collectives with a rich arsenal of weapons to combat those exhibiting an unconscientious attitude toward their labour duties: they were given the right to publicly censure idlers, drunkards, absentees, *etc.*; to pass on materials regarding these individuals to comrades' courts; to transfer them to lower-paid jobs or to dismiss them; to deprive them, completely or partially, of bonuses, of additional vacation for uninterrupted length of service, *etc.* (Article 9). It was noted at the 27th Party Congress, however, that the Law was still not being implemented wholeheartedly in some enterprises and that the rights conceded to collectives were not being used in full measure [91]. Managerial tolerance of indiscipline was indeed often mirrored by the extremely low standard of educational and preventive work being carried on in their enterprises by the social organisations functioning within the structure of the collective. The passivity of trade-union and Komsomol organisations, shortcomings in the work of the commissions for the struggle against drunkenness [92], and underutilisation of both prophylactic councils (*sovety profilaktiki*) [93] and comrades' courts, were regular targets of press criticism. "Instead of the creation of a social incandescence around violators of labour discipline", wrote one concerned commentator, "not always, and not everywhere, is the educational function of the collective operating in the best way possible to secure discipline. The unsatisfactory moral and legal climate within some collectives, the passivity of members of collectives, low standards of ideological-political education, tolerance of immoral

behaviour and displays of bad management, lack of criticism, improper organisation of production and work, are to a considerable extent reducing the effectiveness of the struggle against antisocial manifestations in the workplace. This is extremely dangerous, for one can say without exaggeration that parasites 'ripen' in such conditions of submissiveness and impunity" [94]. Even Gorbachev harshly condemned what he called "the psychology of mutual forgiveness" (*i.e.* cases where leaders of collectives were forgiving the indiscipline of personnel in the hope that the subordinates would, in turn, forgive them for their mistakes [95]) and proceeded to reinforce the criminal law aspects of disciplinary labour law by strengthening or introducing the following [96]:

- special disciplinary and administrative sanctions for drinking during working time;
- special disciplinary, administrative or criminal sanctions for managers who permitted drinking during working time. In this connection it should be mentioned that managers were, under the law, obliged to take action. Thus, if a worker was absent from work for a whole day his vacation was to be reduced by a day. If the manager failed to apply this rule, he could be obliged to pay the resulting damages to the enterprise;
- the rule that any damage caused by a worker whilst drunk had always to be reimbursed in full;
- the rule that drinking during working time would be enforced by dismissal;
- the rule that the first theft, even a petty one, could be grounds for dismissal, if the fact had been established by a sentence or by a decision of a social organisation, which had applied a social sanction [97];
- the rule that persons who committed hooliganism, drinking and petty theft could be deprived of premiums without there being any relation between the committed act and the quality of the work performed [98];

- the dependency of a worker's right to be housed in housing run by the employer not only on the worker's behaviour during work, but also in his own time [99].

All these measures together show that the regime used the worker's dependence on the state to discipline him. But, it was generally acknowledged by Soviet specialists on labour law that those administrative methods were ineffective and even an "improper, unjust use of labour law sanctions" [100]. According to R.Z. Livshits, this did not mean that nothing should be done against violators of labour discipline. He argued that one of the generally acknowledged principles of labour law was the inadmissibility of lowering the acquired level of the rights and guarantees of workers. This principle, however, needed to be defined more clearly. It was valid only for the honest and good worker; with regard to persons violating labour discipline, responsibility had to be strengthened. This, he believed, should not be achieved by introducing new, harsher sanctions but "by changing the current shortage of workers into a surplus" through giving up the commitment to full employment [101]. We shall return to this radical new development in Soviet thought in the next chapter, but for now we must continue our examination of the factors which, by Soviet accounts, were directly responsible for fostering or enlivening parasitic types of behaviour.

Beyond the "contradictions" in socio-economic life, there were also

(iii) Non-antagonistic contradictions of an ideological variety, which return us to the notion of survivals. Within certain individuals, for instance, some elements of consciousness could lag behind others, making for persons whose views on some dimensions were "progressive" but on others amounted to survivals. Even politically loyal Soviet citizens whose general attitudes were forward thinking could nonetheless show certain blind spots. Petty pilfering and other forms of disrespect for socialist property and drunkenness were among the most frequently cited examples.

Pilfering from the workplace had become so prevalent by the time of Gorbachev's accession to power that it was "deviant" in only the most formal sense of the word, since the standards it violated were routinely ignored by masses and elites alike. It is difficult to believe that the Soviet people would have become so accustomed to pilferage had the economic system been less fraught with distortions - if it could have provided for more of their needs legally, or if the demand for labour in an inefficient economy were not so high that thieving workers were better than no workers at all, and so on. In any case, the harm caused to the Soviet economy by pilferers (*nesuny*) was huge. *Izvestiia* reported in 1987 that over 260,000 people had been arrested the year before for petty theft of goods from the meat and milk industry alone, and that stolen produce to the value of some 1.6 million roubles had been confiscated from them [102]. In fact, it was estimated that pilfering inflicted 9.5 times more damage upon the economy per year than theft on a large scale [103]. Given such figures, it is hardly surprising that a research team from the Institute of Sociological Research, which interviewed the workers of a number of industrial enterprises in Moscow during 1986, found their general attitude of "indifference" toward petty theft extremely alarming. The team concluded that such passiveness and tolerance had been caused by the demoralising influence exerted upon the workers by bad management (*bezkhoziaistvennost'*) (lax controls, excessive hoarded stock inventories, and poorly guarded stocks, extravagance, and waste), and a relaxation of the levers of social control. This climate encouraged lawlessness and was an ideal breeding ground for "all sorts of social parasites striving to enrich themselves at the state's expense" [104]. Shokhin drew much the same conclusion:

> The formation of illegal unearned income is often facilitated by various kinds of shortcomings in keeping records on and monitoring the movement of raw and other materials and finished goods and by mismanagement. All this not only creates underlying economic conditions for embezzlement and illegal

> enrichment but also serves as a "moral excuse" for pilferers. It is no accident that among such people the following opinion is quite common: "Things are falling through the cracks anyway!" [105].

Although administrative liability for petty theft was increased as part of the 1986 campaign against unearned income [106], the heightened penalties, as one can see from Table 6.1, had no impact whatsoever in reducing the scale of the problem. This strengthened the position of those such as Anashkin [107], who had been calling for a return to the Stalinist practice of holding all petty thieves criminally liable (the Presidium of the USSR Supreme Soviet issued a decree on 11 August 1940 which decreed that petty theft, regardless of its extent, when committed at an enterprise or institution was punishable by deprivation of freedom for one year.)

TABLE 6.1

PETTY THEFT IN USSR (1985-1988)

Year	Number of Persons Prosecuted	Sentenced to Corrective Labour	Fined	Value of Stolen Property Recovered
1985	226,206	11,315 (5.0%)	214,891 (95.0%)	998,600 roubles
1986	237,692	12,712 (5.4%)	224,980 (94.6%)	956,900 roubles
1987	238,106	12,609 (5.3%)	225,497 (94.7%)	935,600 roubles
1988	241,592	13,253 (5.5%)	228,339 (94.5%)	1,007,800 roubles

Sources: Pravovye sredstva bor'by s netrydovymi dokhodami, Moscow, Nauka, 1989, p.99.
I.P. Golosnichenko: Administrativno-pravovye mery v otnoshenii lits, sovershivshikh korystnye pravonarusheniia, Sovetskoe gosudarstvo i pravo, No.10, 1990, pp.55-56.

Anashkin argued that the liberalisation of punishment had not produced positive results and that the absence of strict criminal liability gave unscrupulous people greater confidence. He reported that one-third of the workers at a meat combine in Volgodonsk, Rostov *oblast'*, had, over an eighteen-month period, committed theft, not

because of any pressing need but in order to satisfy their "parasitic desires", for example, in order to obtain money for vodka.

Alcoholism and drunkenness* , as is well-known, were substantial social problems in the USSR and in some respects seem to have been exacerbated by various specific features of Soviet-style communism. Excessive drinking was deeply ingrained in Russian life long before the 1917 Revolution but the oppressive drabness and boredom of life under Soviet rule, together with a number of ill-considered but deliberate policy choices on the part of the leadership, encouraged the practice of drinking as a leisure-time activity (and, as a consequence of alcoholism, a workday activity as well). For example, growth in real income during the post-Stalin period was not accompanied by commensurate growth in consumer goods and services, with the result that vodka and other alcoholic beverages were among the very few reliable outlets for consumer spending. Furthermore, inadequate official attention to the provision of leisure-time activities made alcohol an attractive outlet. Caught in the triple-bind of dependence on the huge revenues generated by its monopoly on alcohol, the heavy costs imposed in productivity and health care by alcohol abuse, and the need for investment in treatment and education programmes, successive generations of leaders almost always opted for the revenues. While the Soviet authorities conceded that there were social and even economic factors aggravating the problem [108], the ideas of survivals and the lag in consciousness were still regarded as providing "the" basic, rough social-psychological explanation of why drunkenness persisted under socialism. The evil had been cultivated for centuries by the old ruling classes, especially by the Tsarist government, which had used alcohol as a weapon to dull proletarian perception, inhibit the formation of a revolutionary consciousness, and thus facilitate exploitation. Exploitation was a thing of

* The Soviets made no sharp distinction between the terms "drunkenness" (p'ianstvo), and "alcoholism" (alkogolizm); therefore, in the following discussion we will follow the Soviet practice of not maintaining a clear differentiation.

the past, but the brutalised life of the industrial proletariat and the extreme poverty and deprivation of the rural peasantry in pre-Revolutionary times, which necessitated some escape from misery, had given rise to a tradition of heavy drinking - a tradition which continued to inhabit the popular consciousness as one of socialism's legacies from capitalism.

Although the authorities were greatly vexed by the fact that Soviet man had not been cured of the drinking habit, this was not, in practical terms, the main cause of their concern. The abuse of alcohol had more evident and more easily calculated costs: loss of productivity (due to alcohol-induced absenteeism, late arrival for work, defective workmanship, reduced work performance, *etc.* [109]); the high number of alcohol-related accidents in the workplace, traffic accidents, *etc.* [110]; the spiralling divorce rate in the Soviet Union [111]; the high suicide and death rates, plus the economic costs of running alcohol-addiction and psychiatric hospitals. At the centre of official concern, however, was the relationship between drunkenness and crime, especially violent crime. Statistical data interpreted by criminologists revealed the role of alcohol as the final link in a chain leading to a criminal act. According to the information cited in *Sotsialisticheskaia zakonnost'* in 1975, intoxicated persons committed more than half of all the crimes recorded in Soviet courts. A breakdown of the figures showed that some crimes were more likely to be committed by inebriates than others: hooliganism - 90%; assault with intent to rob - 84%; open stealing - 82%; theft - 60%. Approximately 30% of all murders were committed with hooliganistic motives and 96% of these by persons under the influence of alcohol [112]. The data published in another leading legal journal a decade later painted an almost identical picture: in 43% of all the crimes recorded the perpetrators had been drunk at the time of their criminal acts. For crimes such as hooliganism and open stealing the percentage reached 70-80%, while in the domestic sphere over two-thirds of all murders and cases involving the infliction of

serious bodily harm had been committed by the guilty party whilst drunk [113].

But, concern went beyond the obvious criminogenic influence of alcohol abuse. The long-term effect of "systematic drunkenness" on a person's conformity to the basic norms of acceptable behaviour was also emphasised by criminologists.

> It is necessary to see that the linkage between alcoholism and crime is not exhausted by the fact that a state of intoxication facilitates or directly calls forth the commission of socially dangerous acts, thanks to the peculiarities of the psychic activity of the person in such a condition. The negative activity of alcohol on the person consists also in the fact that systematic drunkenness deeply affects the general spiritual and moral make-up of the person. It narrows significantly the scope of his intellectual interests, coarsens his feelings and morals, activates and strengthens individualistic, antisocial, base desires and strivings, leads to the tearing away of the individual from the collective, and not infrequently to the complete moral destruction, the degradation of the human personality [114].

This represented an even more negative view of the alcoholic offender than did the oft-cited cases where, without the element of drunkenness, "nothing similar" to the crime would have occurred. This was more than saying that an offender would not have committed his act WERE IT NOT for his having been intoxicated, or that such an act could only be explained in terms of his temporary intoxication. On the contrary, crimes committed in a state of drunkenness were claimed to demonstrate something wrong with the offender beyond the incidental fact that he happened to be intoxicated.

> Alcohol ... facilitates the release and manifestation of the ACTUAL antisocial essence of the given subject, those negative moral qualities present in him, individualistic and egotistic impulses, base feelings, *etc.* [115].

Thus, alcohol revealed qualities which the offender, when sober, had managed to control or hide. Conversely, this meant that a "morally stable" person, while his drunkenness was no less reprehensible, would not behave as a criminal even if he was not fully conscious of his acts.

> Even in a state of intoxication, a person does not do that which

> is utterly foreign to his nature; possessed of high and strong moral principles, he even under the influence of alcohol does not commit an immoral act [116].

Parasites, as the most morally unstable and degenerate members of Soviet society, were typically used as models in accounts exemplifying the dangers of a predilection for the "green serpent" (*zelenyi zmii*). Parasitism, drunkenness and crime were generally regarded as being intimately related social phenomena which conditioned, supported, fed-upon and aggravated one another, catalysing the process of the social degradation of the personality. On the one hand, criminal activity and the means obtained from it enabled a person to finance his drinking and parasitic existence. On the other hand, the evasion of socially useful work in association with drunkenness pushed a person into committing criminal acts in order to subsidise his life of idleness. G.V. Antonov-Romanovskii, a frequent writer on crime and alcohol problems, observed that parallel to a growth in the mercenary behaviour of alcoholics, their penchant for a parasitic existence increased also, because of the inability and loss of desire to work:

> Such people [alcoholics] have a reduced capacity for work; industrial discipline lies heavy and is a burden upon them. The system of the payment of labour does not allow them to obtain daily funds for drink and so they turn to unearned income. Casual earnings, speculation, theft, fraud, extortion, begging, *etc.*, give the alcoholic an opportunity to derive money quickly, which he can immediately squander on alcohol [117].

Gotlib, Romanova and Iatskov spoke of alcoholism and drunkenness as being the "inescapable companions" of parasitism, the "indispensable (*nepremennyi*) symptoms" of a backward culture at the basis of which lay such moral defects (*poroki*) as social passivity, a contempt for public interests and duties and, first and foremost, for labour activity. After studying the histories of hundreds of parasites convicted by the courts in Vladivostok and the surrounding provinces, they concluded that these peoples' ultimate termination of labour activity had, as a rule, occurred against the background of what

they called "alcoholisation of the personality". Two-thirds of those interviewed had earlier been dismissed from their jobs, under sections 3 or 4 of Article 33 of the RSFSR Labour Code, for alcohol-related violations of labour discipline. They had crossed into the ranks of the *letuny*, all the while becoming more degraded and incapable of working conscientiously. From then on it had been a "quick and inevitable" downward path toward total degeneracy:

> Drunkards, as is well-known, reinforce the ranks of the labour deserters. The systematic violation of labour discipline by them entails dismissal. A person who frequently changes his place of work is far from always capable of performing new production functions because of the lack of necessary skills and experience. Moreover, systematic drunkenness which induces weak-will, parasitic tendencies, shirking from work, gradually leads to a lowering of skills and to not only an inability but also a total disinclination to fulfil one's labour duties in a proper manner [118].

The generally accepted Soviet etiological explanation of alcoholism was a simple one: alcoholic behaviour was learned behaviour. Alcoholism was therefore treated as a habit which developed from drinking increasing amounts over time. In other words, chronic drunkenness - "the chief cause of a parasitic lifestyle" [119] - was not a sudden affliction. While the state engaged in attempts to stigmatise alcoholics as deviants, responsible for the condition from which they were suffering, and thus deserving of condemnation, some Soviet doctors attempted to draw a line between drunkards on the one hand and chronic alcoholics on the other, putting the latter in the category of the "sick" and arguing that they were unable to help themselves [120]. They were met with criticisms that such an attitude was "unscientific" and "misleading to public opinion". The medical critics sometimes asserted that neither drunkenness nor alcoholism were illnesses, though illness could come as a result of alcoholism [121]. At other times, alcoholism was accepted as illness, but distinguished from other illnesses in that it was one for which the sufferer himself was responsible - a position which preserved the idea

of the sufferer's culpability [122]. But, virtually all parties concerned with alcoholism - state and Party officials, jurists, propagandists, journalists, and doctors - appeared to be in unanimous agreement on one issue - alcoholism was incompatible with work. It almost always resulted in a complete loss of the motivation to work, turning sufferers into "declasse elements" prone to criminal conduct. Ia.L. Gurevich and L.G. Kessel'man of the Khar'kov Scientific Research Institute of Neurology and Psychiatry dissected this downward process into six stages: at STAGE 1, the person's abuse of alcohol led him to commit episodic violations of labour discipline (showing up for work late or in a state of intoxication, drinking during working time, *etc.*) resulting in the imposition of administrative penalties upon him; STAGE 2 coincided with an increase in the frequency of his drinking, in consequence of which he frequently changed his place of work at his own wish after disputes with management and a deterioration of relations with the collective; STAGE 3 was marked by a "progressive negative change of the alcoholic's personality" and by his placement in a job requiring no particular skil'; at STAGE 4, protracted absenteeism occurred leading to dismissal at STAGE 5 for the malicious violation of labour discipline; at STAGE 6, the "degradation of his personality" was complete and characterised by the evasion of socially useful work and the total termination of labour activity. Unconcealed parasitism - often in the form of vagrancy, after eviction from his living space following his dismissal - was the "virtually unavoidable" outcome [123]. Other writers also spoke about the consanguinity (*krovnoe rodstvo*) between alcoholism and vagrancy. M. Orlov, a Russian jurist, claimed, for instance, that "unrestrained drinking, in the majority of cases, leads a person to that verge of social degradation of the personality, the embodiment of which is - vagrancy" [124]. He produced no evidence to support this conclusion, although studies conducted in Saratov and Moscow which found that 90.4% and 87% of the vagrants convicted in these cities respectively had simultaneously been

deemed chronic alcoholics by the courts [125] appeared to confirm its validity. Further proof was provided by an *Ogonek* correspondent who, after spending six months interviewing vagrants in the holding and assignment centres of various cities, reported that two-thirds of them had admitted ceasing work on a permanent basis because of their drink problems. Most were alcoholic derelicts, literally "people of the dump". They had completely degenerated to the point where they no longer possessed even the simplest work skills and all they were capable of doing was searching the trash in rubbish dumps for empty bottles which could be returned for deposits [126]. On a more general level, numerous statistical studies from the early 1960s through to the mid- to late 1980s [127] consistently revealed that the vast majority (usually somewhere between 70-90%) of those convicted under Article 209 of RSFSR Criminal Code (and the corresponding articles of the Criminal Codes of the other union republics) were either chronic alcoholics or habitual drunkards, thus verifying the invariably advanced Soviet hypothesis that systematic alcohol abuse was the basic cause of parasitism.

Russian governments had been grappling with the problem of alcohol and crime for centuries; both the Tsarist regime and the early Soviet leaders had sought palliatives for this problem. In the search for remedies two alternative, though not mutually exclusive, approaches developed. One approach attacked the root of the problem, excessive drinking. Variations of this strategy included the prosecution or the treatment of alcoholics and restrictions on the sale or use of alcohol. The Tsarist government carried the latter to its logical extreme in 1914 by legislating total sobriety. The other approach focused upon the criminal consequences of intoxication, especially upon the brawls and public disturbances which drunken persons often created. In 1922 the young Soviet state ruled all such activity illegal by introducing a new crime, "hooliganism", which remained in all the subsequent Soviet criminal codes. During the 1920s both approaches co-existed, but in the 1930s punishing the hooligan became the dominant

means of handling the problems of crime and drink: Stalin introduced a series of measures increasing the severity of sanctions applied to hooligans. In the decade immediately after Stalin's death the pendulum swung back again. By a special decree in 1956 establishing a new category, "petty hooliganism", post-Stalin liberalisers substantially reduced the penalties applied to many hooligans [128]. Moreover, in an attempt to renew the struggle against alcoholism and its effects, Khrushchev introduced a variety of restrictions on the sale, production and consumption of alcoholic beverages in 1958 [129]. But, the implementation of many of these restrictions was half-hearted, and therefore in terms of reducing levels of alcohol consumption had little lasting impact.

During the middle 1960s Soviet political leaders decided once again to tackle the alcohol and crime problem. At first, they considered introducing a complex of measures to reduce alcoholism; later, they decided instead to apply harsher sanctions to hooligans and to other criminals who offended while intoxicated. The commission of a crime while in a state of drunkenness became an aggravating circumstance (section 10, Article 39 of the RSFSR Criminal Code) making the punishment more than normally severe [130]. In addition, a decree of the RSFSR Supreme Soviet on 8 April 1967 [131] provided for changes in the applicable legislation that simplified significantly the procedural requirements for committing a person to compulsory treatment for alcoholism and specified a new variety of institution for the containment of alcoholic offenders. Previously, an offending drunkard had to be on trial for a crime before a people's court in order for the question of compulsory treatment to be raised (Article 62 of the RSFSR Criminal Code). Now,

> Habitual drunkards who regularly misuse alcoholic beverages, shun voluntary treatment or continue to drink to excess after treatment and who violate labour discipline, public order and the rules of the socialist community, in spite of public or administrative measures taken against them, are subject to

> sending (by decision of a people's court) to TREATMENT-LABOUR MEDICAL INSTITUTIONS (*lechebno-trudovoi profilaktory*) for compulsory medicinal treatment and labour re-education for a period of one to two years.

The treatment-labour institutions (LTPs) fell under the jurisdiction not of the ministries of health, but of the Ministry of Internal Affairs (MVD). Prior to the creation of this new variety of institution, compulsory treatment was generally carried on either in special sections of psychiatric hospitals (for convicts who had not been sentenced to deprivation of freedom for their crime, or who had received a suspended sentence) or in treatment-labour divisions of corrective-labour colonies (for those who had been sentenced to deprivation of freedom). The new LTPs were intended to serve, in addition to this clientele, a whole new class of non-criminal but socially disruptive alcoholics, and represented a tougher attitude toward the alcoholic than any yet taken. (It should be noted, however, that the idea of a broader application of compulsory treatment was NOT a novelty. During the early 1960s, varieties of compulsory treatment for non-criminal alcoholics had been introduced in ten of the fourteen other republics. The criteria for a compulsory treatment order varied from republic to republic. One criterion, evidence of "public nuisance or an antisocial, parasitic way of life", suggested that some republics introduced the commitment procedure in the wake of the anti-parasite campaign. Five republics required a court order for committal; four others authorised executive committees of local soviets to make the decisions [132].) Though undoubtedly not so harsh in many aspects as corrective-labour colonies for criminals, the new institutions operated on the same cornerstones as the colonies (with the exception of medical treatment) - a "regime" of confinement, compulsory labour, and political educational work.

In June 1973, almost exactly a year after the launch of another nation-wide alcohol-sales restriction drive backed by many new administrative and criminal sanctions

against alcohol law violators [133], the USSR Supreme Court ordered lower courts to make more use of compulsory treatment statutes when dealing with alcoholic parasites [134]. This command seems to have been largely ignored, however, evoking criticism that the courts were still too often simply passing sentences of deprivation of freedom while underestimating or neglecting the significance of medical treatment in the prophylaxis of parasitism. One investigation found, for instance, that although 90% of the parasites convicted by the courts in the Vladimir *oblast'* had been declared chronic alcoholics by pre-trial medical examiners, only 17% of them were sent to LTPs [135]. Compulsory treatment, according to another report, was being prescribed "very rarely" in the Uzbek, Kirgiz, Georgian, Armenian and Kazakh republics and "not at all" in the Tadzhik and Moldavian SSRs [136]. There were even accounts of courts reversing their committal orders simply because of the strenuous objections raised by those upon whom the order had been passed. Thus, the Pervorechensk *raion* people's court in Barnaul, which found citizen "B" guilty of violating both Articles 209 and 198 of the RSFSR Criminal Code, noted in its judgement that it "had not felt compelled" to pursue the matter of sending this alcoholic parasite to an LTP any further, since he had made it patently clear during the trial that he would actively resist its committal order and refuse to be subjected to COMPULSORY treatment. But, the court should not have backed down, since the consent of the offender was not required when treatment was being imposed under Article 62 of the RSFSR Criminal Code [137].

At the other extreme, procuracy supervision (*prokurorskii nadzor*) uncovered serious violations of legality. Some parasites had been sent to LTPs without having first undergone the required examination by a three-person medical commission to prove whether or not they were actually alcoholics; others had been committed on the basis of false denunciations by their spouses, relatives and acquaintances, despite evidence clearly disproving their alcohol addiction. Sometimes, commitment had been decided

without the alcoholic present or without carefully reasoned and worded decisions: "Some courts draw up and duplicate standard texts of decrees on which they leave spaces for entering names of judges, defendants and length of treatment decided" [138]. Cases were also reported of courts prescribing compulsory treatment even though such treatment had been contraindicated by the medical commission on the grounds of the offender's health: the Nakhodka city people's court convicted a certain "V" for violation of the passport rules and systematic engagement in vagrancy and simultaneously ordered that he be given compulsory treatment for alcoholism. The medical commission had, however, already advised against this since "V" was suffering from a hypertensive illness and infectious TB [139].

Anti-alcohol treatment in LTPs was made mandatory for all alcoholic parasites under the October 1982 parasite decree of the RSFSR Supreme Soviet. However, the synchronal introduction of a new form of punishment for parasites (which the courts could impose as an alternative to deprivation of freedom) - committal to an educational-labour rehabilitation centre (*vospitatel'no-trudovoi profilaktory* (VTP)) - appears to have had the unintentional effect of diverting courts' attention away from the compulsory treatment provision. The place of this new punitive measure was clarified by the addition of a third paragraph to Article 21 of the RSFSR Criminal Code authorising such a kind of punishment, while the introduction of a new Article 34-1 set certain limits on its application: especially dangerous recidivists; persons previously convicted of especially dangerous state crimes; banditry; murder; premeditated infliction of grave bodily injury; rape; especially malicious hooliganism; as well as persons previously convicted of violating the parasite statute, could not be sent to VTPs. The primary task of these centres was to "re-educate" first-time offenders by means of compulsory labour - socially useful work in the form of labour therapy, which was calculated to give the inmate a sense of self-sufficiency, the feeling of "mastery" he

needed in order to re-enter society and be effective there - in combination with political-educational work and general educational and professional-technical instruction. Those committed were given training in industrial trades which could be put to use for the good of society on their release. They were considered "reformable", capable of being moulded into honest, hard-working citizens without the help of the regime established in prisons and corrective-labour colonies and where it was impossible to isolate them from the destructive influences of incorrigible criminal elements.

Initially, this new type of correctional measure was praised for offering a flexible and realistic alternative to that of deprivation of freedom and for the great potentials it possessed both in restoring parasites to a stable working life and in reducing the high level of recidivism associated with this particular category of offender [140]. There were even calls for expanding its use to other wrongdoers, such as those who had violated Articles 198 or 122 of the RSFSR Criminal Code [141]. But, later assessments were far more sober. A group of researchers from the All-Union Scientific Research Institute wrote that "the lack of a uniform understanding of the essence of this punitive measure by the practical workers of the courts as well as a number of unresolved organisational problems" were blocking its wider application [142]. Moreover, Article 34-1 came under attack for disallowing entry to VTPs to all previously convicted parasites, since this stipulation was reducing the overall effectiveness of these institutions in the struggle against parasitism [143]. O. Soroka, the Assistant USSR Procurator General, had a more fundamental concern in this regard. He complained that the courts were still too readily applying the most severe form of punishment against first-time offenders, without even considering the question of sending them to VTPs:

> Although practice has shown that parasites can be more effectively re-educated in these institutions than in places of deprivation of freedom, the courts in 1986 sentenced over 66% of vagrants and other types of parasites to imprisonment and sent only a handful to VTPs [144].

By far the most serious problem of all, however, was that some courts actually confused the functions of VTPs with those of LTPs, erroneously believing these entirely different institutions to be of one and the same type. They thereby began sending alcoholics to the former when they should really have been committed to the latter. According to one 1984 investigation carried out in Tashkent, 93% of those who had been placed in the city's VTP were "systematic abusers of alcohol". Instead of being hospitalised, as would have been the case in an LTP, these people had been put straight to work, since it was not the function of VTPs to organise anti-alcohol treatment [145]. Such court errors made VTPs' tasks of re-educating and rehabilitating the offenders wrongly referred to them virtually impossible, since they had neither the facilities nor indeed the mandate to address and tackle the root cause (*i.e.* alcohol abuse) of these people's parasitism. All the effort put into teaching them new skills was usually in vain, since after release they simply slid back into their former drinking habits and parasitic lifestyles [146].

In May 1985, the CPSU Central Committee complained that the measures introduced earlier to eliminate drunkenness and alcoholism had been unsatisfactorily implemented. The struggle had taken on a haphazard character, lacking the necessary organisation and follow-through:

> Many Party, soviet and social organisations do not decisively repulse deep-rooted, unfounded views of drunkenness [on the assumption that it is] a phenomenon that is unavoidable and cannot be overcome. The abuse of alcohol is frequently not considered to be immoral, antisocial behaviour. The force of law and of public opinion are not being used in full measure in relation to drunkards [147].

This was, in fact, the opening shot of Gorbachev's vigorous anti-alcohol campaign, a campaign initiated with the intention of refocusing the energies of the people on work, productivity and sobriety and away from the excessive drinking and slovenly work that

had characterised the Brezhnev period. Production of all alcoholic beverages was cut back sharply, prices were raised, beer halls closed, and the number of retail outlets and the hours they served drastically reduced. Increased administrative and criminal sanctions were introduced, affecting not only those who consumed alcohol but those who were responsible for supervising the activities of their subordinates [148]. Penalties for being drunk in public or intoxicated at the workplace were increased. So too were the penalties for those engaged in illegal home-brewing, those violating the rules governing trade in alcoholic beverages, and those speculating in alcohol [149].

When the Central Committee reviewed the campaign two years later it noted that these measures had produced positive changes: an improvement in the moral atmosphere of society, a strengthening of labour discipline and of law and order. The consumption of alcohol in 1986 had been little more than half the figure for 1984; losses of working time due to absenteeism had dropped; the number of individuals found drunk in the street and taken to medical sobering-up stations (*meditsinskii vytrezvitel'*) had decreased by one-third; and the number of crimes committed by intoxicated persons had fallen by 26%. Nevertheless, it also expressed concern that in many places the work on eradicating drunkenness had slackened off because of an overestimation of what had already been achieved. This, the Central Committee warned, was endangering the whole campaign as evidenced by the fact that in a number of republics, *raions* and *oblast's*, alcohol-related crime had once again been on the increase during the first quarter of 1987 [150]. Indeed, when official Soviet crime statistics were published for the first time in the late 1980s they revealed that after the passing of the legislation intensifying the struggle against drunkenness in 1985, the number of persons convicted of alcohol-related offences declined over the years 1986-1987, but had started to grow in 1988, and had reached the pre-campaign level by 1989 (in 1984, 35.3% of the total number of persons who had committed a crime, had done so in a state of intoxication; in

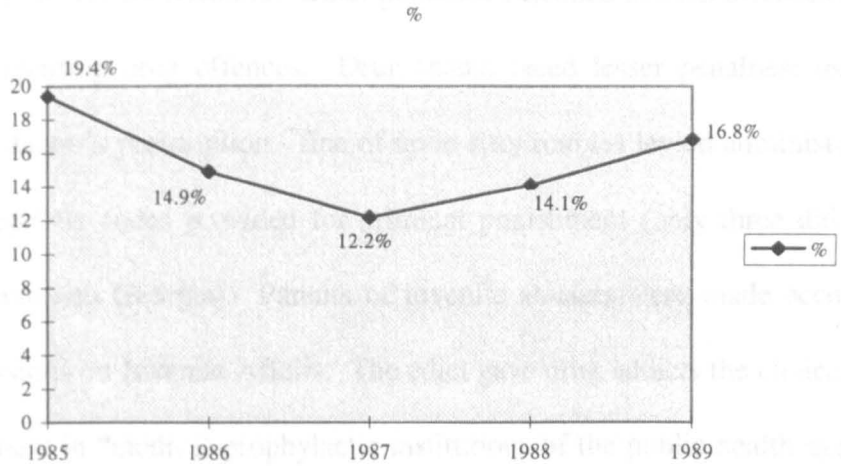
1986-1987 - 24-25%; in 1989 - 33.4% [151]). Particularly interesting in this regard was the information given concerning the share of parasites amongst convicted criminals. The fact that their numbers fluctuated (see Table 6.2) over the periods corresponding to the highs then lows of the anti-alcohol campaign, must surely have been more than mere coincidence.

By 1988, it was admitted that the campaign had been a disastrous and expensive failure. Not only had it aroused enormous popular resentment against Gorbachev personally, it also had unintended economic side-effects. The loss of some ten billion roubles a year in tax revenue to local and central authorities placed a heavy burden on an already overextended budget. The cutback in alcohol sales and the scarcity of consumer goods led to a gap in the domestic market which was not compensated by removing potential purchasing power. The great mass of money in circulation was not backed up by goods and paid services on which people could spend the money that formerly went to alcohol, leading to powerful inflationary pressures within the economy. Furthermore, the prohibitive administrative methods used in the campaign had the effect of driving the alcohol problem deeper underground, making it less accessible to social and administrative control: there was a huge growth in the production of *samogon*, for instance, leading to sugar shortages. Of most importance to us, however, is that the failure of the campaign dealt a near mortal blow to the ongoing struggle to stamp out parasitism. V. Kravtsev, the Deputy General Procurator of the USSR, told delegates at a police conference held at the end of July 1989 in Tula that, because the anti-alcohol measures had proven ineffective, he saw little hope of any realistic headway being made on the parasitism front. "Alcoholism", he said, "breeds parasitism, and vice-versa. If we still have the problem of alcoholism, then we still have the problem of parasitism". He further admitted that the crackdown on alcohol consumption had enlivened another parasitism- breeding factor - drug abuse; a growing

number of people had turned to drugs as a substitute for drink [152]. (The number of registered addicts jumped from 52,000 to over 121,000 by mid-1989 [153].)

TABLE 6.2

PROPORTION (IN %) OF PERSONS NEITHER WORKING NOR STUDYING AMONGST ALL CRIMINALS OVER SIXTEEN YEARS OF AGE



Source: Prestupnost' i pravonarusheniia v SSSR: Statisticheskii Sbornik 1989. Moscow, 1990, p.83.

The problem of *narkomania* was not new to the Soviets. The government had been concerned enough with drug abuse to resort to repressive measures in the 1960s and 1970s: sentences increased in 1962 from one to ten years maximum for possessing or selling narcotics (defined in the USSR as opium, cocaine, morphine, heroin, hashish and marijuana) and for cultivating the opium poppy or hemp without permission [154]. Five years after the particularly punitive 1967 decree for compulsory treatment of alcoholics guilty of no crime, a similar decree appeared ordering compulsory treatment of drug addicts who refused voluntary treatment or persistently created disorder [155]. An edict of the Presidium of the USSR Supreme Soviet, "On Intensifying the Struggle Against *Narkomania*", of 25 April 1974 [156], extraordinary in its length and differentiations, marked a second time since 1962 that the government stepped up punitive measures against drug abuse. Containing ten subtypes of offence and altogether twenty-five

degrees of liability, this was one of the longest Soviet edicts ever published on a single category of criminal offence: drug thieves and pushers were made liable to up to fifteen years imprisonment, plus property confiscation; growers of opium poppies or marijuana hemps, up to eight years; proprietors of drug dens (*pritony*), five to ten years with or without property confiscation. Other penalties extended to such offences as covering up or not reporting drug offences. Drug USERS faced lesser penalties: use of narcotics without doctor's prescription - fine of up to fifty roubles levied administratively, unless union republic codes provided for criminal punishment (only three did so - Kirgizia, Uzbekistan and Georgia). Parents of juvenile abusers were made accountable to the Commissions on Juvenile Affairs. The edict gave drug addicts the choice: either submit to treatment in "medical-prophylactic institutions of the public health agencies" or face compulsory treatment in LTPs of the MVD upon court order for a term of six months to two years.

Although drug offences prompted increasing coverage in Soviet law journals around this time, the absence of a concerted media campaign against drug abuse shows how keen the authorities were to hush up this problem. They prided themselves in not having a major epidemic of drug abuse such as the one plaguing the United States; drug addiction was symptomatic of capitalism's moral decay. Very little attention was therefore paid to it as a factor precipitating parasitism. Only occasionally did articles filter through into the press linking the problems. The Deputy Minister of Internal Affairs of the Abkhaz Autonomous Republic, for instance, wrote to *Zaria vostoka* in early 1982 calling for more stringent measures to cut down the "twin evils":

> There is an obvious relationship between crime, parasitism and *narkomania*. Most crimes committed by addicts are for personal gain and many involve violence. The addict has a growing need for money to purchase drugs, while at the same time he becomes less and less employable as his personality deteriorates. It's alarming that a large percentage of identified drug addicts have no jobs and lead the life of parasites. Although it's becoming

> rare to find addicts who have shunned socially useful labour for a prolonged period, it must be admitted that even if they have been idle for only three or four months this constitutes a serious defect in upbringing and crime-prevention work. Late in January Sukhumi internal affairs personnel arrested and filed criminal charges against A. Khvindia, who had several convictions for larceny and had not held a job since September 1981, for the regular use of narcotics. On the same day and in the same city the drug addict G. Markarian, a young villager from the Gudauta *raion*, also an ex-convict who hadn't worked since September, was arrested. These and many other instances indicate that stepping up the struggle against parasitism can be an effective preventive measure against drug addiction and other crimes [157].

It was only after Gorbachev took office that the Soviets began to fully acknowledge and show real concern that drug addiction was on the rise in the USSR. The growing strength of *glasnost'* forced an end to the "ostrich policy", as Boris El'tsin called it [158], and a campaign against this so-called "victimless crime" joined the broad assault against alcohol consumption. A.V. Vlasov, the USSR Minister of Internal Affairs, told *Pravda* at the beginning of 1987 that 46,000 people were on the medical register with a diagnosis of drug addiction, 80% of whom were under the age of thirty. He was highly critical of the former practice of attempting to hush up the problem which he said had "dulled social vigilance" and "wittingly or unwittingly facilitated the spread of drug addiction". The struggle against *narkomania* was now a "top priority task" for the internal affairs agencies since "drug addiction is linked with crime far more closely than is alcoholism" [159]. Research into the cause-effect relationship between drug abuse and parasitism was simultaneously stepped up: the process of the physical, mental, moral, *etc.* decline of addicts culminating in their abandonment of socially useful work tended to be traced by Soviet narcological experts along identical lines to those charting the progressive deterioration of alcoholics, the only difference being that it proceeded at a much faster pace [160]. It was reported from Georgia that 45.6% of those prosecuted for drug-related crimes in 1986 had not been engaging in socially

useful work at the time of their offence [161]; in the RSFSR the figure was put at 33%, 70.9% of whom had not been working for a protracted period of time [162].

Medical treatment and punishment were the two main responses to drug addiction. The RSFSR Minister of Health, A.I. Potapov, admitted, however, that the treatment side was not adequately developed and often left much to be desired. The reason for this, he said, was that medical science had been drawn away from the disease:

> The reasoning was that since there is no drug addiction in the Soviet Union, then why spend time on it, why distract scientists from their more immediate concerns, why waste money? And any experiments that might have been conducted were skimpy and ineffective in the extreme. We do not know what biological mechanisms make an organism dependent on drugs. This is why we cannot target our struggle. But we still treat them .... Drug addicts are treated for an average of seven or eight days. But what, may I ask, can be done in that time? Good, high-quality observation alone requires seven or eight days .... About 90% of drug addicts and toxic substance abusers who have gone through such "high speed" treatment go back to taking dope [163].

Researchers at the Far East University also criticised the quality of care available to addicts, questioned the success rate of treatment and claimed that the authorities often lost track of those discharged from inpatient clinics. Most had been placed under administrative supervision but shortcomings in its implementation meant that they had been left free to resume their drug-taking and parasitic existence. As an example, the researchers cited the case of a certain V. Arkashin, who after this release from an LTP in November 1986, failed to engage in work for the next five months and went on to commit six large-scale thefts to the value of around 5,000 roubles, even though he was supposed to be under the close observation of the local militia [164]. They also complained about the lack of a "single bank" of information on parasites-drug addicts, which they said was impeding both an active offensive against these "socially disruptive individuals" and a successful co-ordination of the organisational, medical, legal and other measures designed to strengthen this offensive. Most shocking of all in their view

was the fact that the militia agencies, medical establishments and labour collectives in many cities were doing "virtually nothing to combat *narkomania* and parasitism, simply contemplating these vices, acknowledging their impotence, and putting the blame onto each other for the feebleness of the struggle. According to our study of 220 cases concerning drug crimes, over one-third of those convicted were addicted parasites. In many cases, their predilection for drugs had been no secret but literally only a handful of them had been put on the medical register as addicts and even less had been subject to compulsory treatment as is demanded in the Supreme Soviet Resolution of 13 December 1984 on the procedures for applying Article 209 of the RSFSR Criminal Code" [165].

Similarly, Iu.M. Tkachevskii, in his book *Legal Aspects of the Struggle Against Narkomania and Alcoholism* published in 1990, pointed out that the battle against the drug-parasitism problem would have enjoyed greater success if the internal affairs agencies had not spent so long mulling over how to tackle it and if the value of medico-social means in re-educating offenders had not been so underestimated:

> Compulsory medical treatment for drug addicts-parasites, although undoubtedly necessary, has never been widely or effectively prescribed. An acquaintance with practice has shown that the agencies of internal affairs in many cases did not ensure a timely medical examination of detained vagrants on the matter of addiction to drugs even though the necessary prerequisites for raising such a question were frequently present. As a result, the suspects suffering from drug addiction were more often than not released from holding and assignment centres without any anti-narcotic treatment being ordered ... only to end up, sooner rather than later, in the dock (*skam'ia podsudimykh*) [166].

Another target for complaint was that the full force of law was not being brought to bear enough upon those profiting from the misfortune and suffering of addicts - the drug producers and dealers. Despite increased law enforcement efforts to combat drug addiction at its source (*e.g.* the destruction of over 140,000 hectares of wild hemp,

seizure of forty-two tons of narcotics in 1987 which would have fetched 300 billion roubles if sold on the black market [167], the police were still accused of making only half-hearted attempts to close the channels by which the drugs were being obtained and of failing to show sufficient vigilance and interest in this area. Thus, although tens of thousands of drug-related crimes were being detected annually, only about a tenth of those being prosecuted were "dealer-parasites" [168], who were pocketing billions of roubles in unearned income (in Georgia alone some 36.5 million roubles per year [169]).

The general position adopted by Soviet writers which identified alcohol and drug abuse as major factors in the mechanics of parasitism causation was reasonable enough. Likewise, their oft-drawn conclusion linking parasitism's persistence under socialism to the failures of the measures to root out alcoholism and drug addiction was also quite plausible. When, however, they invoked the "survivals" theory as a means toward explaining away, at least in part, the longevity of parasitic attitudes and modes of behaviour, their arguments (as they realised) tended to lose any credibility. We of course have to recognise that they were forced to operate within strictly imposed ideological-political limits in explaining the reasons behind negative social phenomena. The identification of parasitism as a survival of the past may indeed have flown logically from Marxist-Leninist "social science"; but no Soviet criminologist was in a position to question whether Marxism-Leninism WAS scientific, whether it provided an adequate base for explaining social phenomena. They were left with no real option but that of supplementing the theory of survivals and, as we have seen, focused on the idea of the parasite as being a "flawed product" of Soviet society, whose flaws they imputed to malfunctioning social institutions such as family, school; to non-antagonistic contradictions inherent in Soviet socialist development which involved the question of social stratification owing to "the inadequate living standards of a part of the population,

the lower level of culture, and the lack of social consciousness of a segment of the populace" [170], to the temporary economic shortages and difficulties; to negative aspects of the immediate environment - drunkenness, immorality, venality and so forth on the part of associates; and to other socio-environmental elements of a negative sort which could condition the formation of deviant personality traits. Persons leading a parasitic way of life had such traits but certainly HAD NOT BEEN BORN with them, and they did not excuse these people's behaviour. Nevertheless, with the exception of those at the stage of absolute degradation, parasites were generally seen as "malleable" and responsive to change by way of "correction and re-education". If they were reached in time their personalities could be "re-formed" and new, positive traits substituted for the old, negative ones. But this required, first and foremost, effective implementation of all the measures provided for by the law, and at the disposal of state agencies and social organisations in their battle to cleanse Soviet society of these undesirables. Sluggish and evasive bureaucratic enforcement efforts, however, continued to undermine the struggle against parasitism, and this was perhaps the main reason for the lack of real success with regard to the set goal of completely obliterating the phenomenon.

6.3 WEAK POINTS IN LAW-ENFORCEMENT PRACTICE

At the June 1983 Plenum of the CPSU Central Committee it was noted: "We would be wrong to view all negative phenomena such as ... the evasion of socially useful work, parasitism ... as only survivals of the past in the minds and behaviour of people. The causes of many of these 'sores' (*boliachki*) ought to be sought also in the shortcomings in the practical work in various fields of public life, in the delays in solving urgent problems, in the difficulties and other problems of our development" [171]. Particular

concern was expressed about both "shortcomings in the organisation of the work of the law protection and other state agencies and social organisations, which are waging the fight against parasitism" and the absence in many places of a "broad police-public front for combating this evil" [172]. Large-scale public assistance in parasitism prevention was still regarded as essential. Though the enthusiasm of the late 1950s and early 1960s for directly involving the public in the struggle with all manner of deviant behaviours was now muted, and general public meetings, comrades' courts, *druzhiny*, *etc.* were no longer presented as part of a grand design of "self-administration" as the USSR marched toward full communism, the general public still had a vital role to play - by functioning as an auxiliary of the official social control agencies. Take the public points for the maintenance of order (*obshchestvennye punkty okhrany pravoporiadka* (OPOP)), manned by volunteers who co-ordinated the deviance-control work being performed by various community-based, social organisations. OPOPs first began to be set up in the 1970s under the direction of Party committees - by the mid-1980s an estimated 50,000 existed nation-wide in residential districts [173], maintaining close ties with the local police apparatus. They helped to activate anti-deviance and pro-conformity sentiments by giving lectures on the dangers of parasitism [174] and by drawing the public directly into the deviance-management process. In cities such as Khabarovsk, for example, they became actively involved in the process of the social rehabilitation of those vagrants and beggars who had been released on probation. The probationers were assigned to jobs in various city enterprises where volunteers from the collectives were appointed as their *nastavniki* - mentors-instructors. The council of the OPOP for the territory in which the enterprise was located jointly with the local militia aided the volunteers in exercising control over the behaviour of the *poruchniki* (probationers). Thus, a certain "K", detained on suspicion of vagrancy, was sent to work in the city's slaughter-house by the holding and assignment centre. He apparently "knuckled down" so well that he became

a *peredovik* (front-rank worker) and was given a special flat in recognition of his good work. The OPOPs also helped the militia to round up the beggars operating in the city: 40% of whom, it was discovered, had been evading work for a considerable period of time and abusing alcohol. They were placed under wardship (*shefstvo*), whereby individual volunteers from the OPOPs became their *shefy* or patrons, helping them to find work and after that keeping a tight rein over their general behaviour. This system had positive results: over 55% of the beggars arrested in 1984 went on to become "normal citizens" with permanent jobs [175]. In like manner, these bodies were reported to have played a great role in the prophylaxis of parasitism in both Odessa and Murom, where all non-working, able-bodied citizens were summoned to appear at the centres by a specific date. If they could give no valid reason for their idleness, they were immediately sent to specifically selected enterprises for placement in socially useful jobs [176].

OPOPs sometimes assumed a far more sinister role. Ukrainian *samizdat* claimed that they had been involved in the recruitment of informants. Kievan residents in 1981 received postcards requesting that they report anonymously to the council of the public order points the names of parasites, alcoholics, problem families and of adolescent drop-outs [177]. While always eager to strengthen public order, this approach obviously raised some eyebrows in Moscow. For early in the following year an article appeared in *Izvestiia* criticising the Kiev request for anonymous denunciations [178], a practice all too reminiscent of the Stalinist era. Elsewhere, they were given a bad press for providing little back-up and only spasmodic assistance to the militia in uncovering idlers and loafers. *Druzhiny* activists, who manned the OPOPs in the Moscow and Pskov *oblast's*, were slated for their inertia and indifference after it was discovered that they had helped in exposing only one in ten of the total number of persons criminally prosecuted for leading a parasitic way of life in these places over 1984-1985. The

already over-stretched militia agencies had, in other words, been forced to wage a virtually lone fight against parasites. This "inadequate" state of affairs was said to have come about partly because of "the low legal education of the volunteer law enforcers and the generally low level of legal consciousness amongst the populace of the *oblast*'s", but primarily because public opinion in these areas had "not been sufficiently activated against negative phenomena of every kind" [179].

In the general Soviet view, success in the struggle against parasitism was possible only through the creation of an atmosphere of active public intransigence against spongers and the implementation of strict social control as demanded by Lenin. Prevention, as the principal means of this struggle, was not solely the business of the law enforcement agencies. The combined efforts of state organs, family and school, labour collectives and social organisations were necessary. The Soviet public, however, given the competition of other private and more pressing concerns, was often reluctant to take on its fair share of responsibilities:

> The citizens of some micro-*raions* are doing nothing to help avert the moral degradation of certain individuals in their midst, are not supporting the authorities in their efforts to rid society of parasites. Public passivity manifests itself not only in this - that in public opinion a position of non-intervention prevails, that an effective and uncompromising fight is not being waged against loafers, but also in this - that often the brunt of the struggle is having to be borne by the agencies of the police, procuracy and court, that the basic weight of the struggle is being laid on the force of law [180].

Hence, there existed a wide gap between the ideal of a smoothly functioning set of parasitism-prevention mechanisms, manned co-operatively by professionals in law enforcement and by public volunteers, and the real situation with its defects. The public was sometimes simply not displaying the requisite civic, volunteering spirit. This must have alarmed the government since part of the significance of public participation in general crime prevention lay in its relation to the attempt to form and solidify attitudes

the regime wished to create: to build, Soviet-style, a "collective conscience".

On occasion, the ideal of a "comprehensive approach" toward tackling parasitism was jeopardised not so much by the lack of public-police co-operation as by the lack of co-ordination of their efforts. In 1984, the USSR Procuracy complained about the "disconnection" of the preventive work being carried out by the militia agencies and other state and social organisations. It especially reproached the local executive committees in the Donetsk (Ukraine) and Chimkent (Kazakhstan) *oblast*'s for their failure to unite and maintain a precise co-ordination of the activities of the bodies called upon to combat parasitism, and ordered them to perform their co-ordinative functions with "much greater exactitude" [181]. This order was apparently ignored by the local soviets in Chimkent for three years later they were again severely reprimanded, this time by the Presidium of Kazakh Supreme Soviet, for identical failings. As a result, the value of the work carried out by the *druzhiny*, OPOPs, street, house and flat committees, mobile units, *etc.* had been reduced, and these and other social organisations were now beginning to show indifference toward exercising strict social control over parasitic elements [182]. There is evidence to suggest that this was far from being an isolated case of official negligence. Rather, it was just another instance of a widespread dereliction of duty on the part of local executive committees. A May 1986 *Zaria vostoka* editorial, for example, similarly complained that the executive committees in the Lenin and Twenty-six Commissars *raions* of Tbilisi, in Poti, in the Meskhetiia-Dzhavakhetiia region, and in several *raions* of Abkhazian and Adzhar ASSRs, had taken no steps to become "proper co-ordinating centres" [183], while those in the Rostov, Tiumen, Iaroslavl, Voronezh and Orenburg *oblast's* of the RSFSR were accused by the Deputy USSR Procurator General not only of neglecting the information on suspected parasites being sent to them from the passport services, Criminal Investigation Department, "sobering up" stations, *dezhurnye* departments, enterprises

and housing organisations, but also of failing even to unite the anti-parasite efforts of the various subdivisions of the internal affairs agencies [184].

Most of the above executive committees attempted to defend themselves by passing the blame further down the line onto subordinate organisations, venting their anger particularly on the local militia agencies which, they claimed, were guilty of adopting a passive stance toward, and of failing to take timely measures against, parasites. Slow-moving law enforcement efforts, as we have seen, were rather typical of the slipshod militia work on implementing earlier versions of the anti-parasite legislation. Such laxity, judging by the frequency of its condemnation in the Soviet press, appears to have increased over time and to have become more extensive. It was especially rife in the RSFSR: *e.g.* 62% of those charged with parasitism in the Moscow *oblast'* during 1986 had not actually been working for six or more months prior to their prosecution [185]; in the Kuibyshev *oblast'* only 7.5% of those convicted under Article 209 had been officially warned within the first six months of their inactivity, 49% had been evading socially useful work for between six months and a year, 17.5% for one to two years, and 26.5% for more than two years [186]; in the Iaroslavl *oblast'* over half of the parasites called to account had stopped working five or more months earlier [187]; while a study of parasite cases heard by the courts in one of the largest *oblast*'s (unspecified) of the Non-Black Earth Zone between 1985 and 1986 found that in 70% of them those accused had "not been exposed in good time by the militia" [188]. The militia agencies, in their turn, tried to fend off the executive committee attacks and to excuse their poor enforcement record by criticising the unwieldy procedure established by the law for filing criminal charges against parasites. They certainly had a point. No other crime covered by the RSFSR Criminal Code required so long and complex a procedure for initiating charges as the one (or more accurately the three) dealt with under Article 209. It was spelt out in the Resolution of the RSFSR Supreme Soviet of 13 December 1984.

When there was sufficient information for suspecting a person of engaging in vagrancy or begging or leading other forms of a parasitic way of life, then he (or she) was to be summoned or brought before an internal affairs agency after three months for an official warning. The militia were required to register the suspect, who in turn had to acknowledge, in writing (*pod raspisku*), his receipt of the warning. It was to be explained to him that if he continued to lead a parasitic way of life he would incur the criminal liability established by Article 209. He was to be instructed to select a place of employment at his own discretion and obtain a job within a month, although if need be, he could be provided job placement assistance upon request. Local executive committees had to provide job and living arrangements within fifteen days of the request; they had to take into account the training and education of the offender. Their job placement order was binding on the managers of enterprises, institutions and organisations, who in turn were obligated to provide housing and vocational training. Only if the person warned was continuing to evade socially useful work and live on unearned income one month after the issuance of the warning could the militia begin to institute criminal proceedings against him for parasitism.

As one can see, it was definitely an extremely complicated, long and cumbersome procedure. Critics attacked its imperfections and weaknesses, especially with regard to the four-month period of "inviolability" (*neprikosnovennost'*) accorded to offenders, which they argued was far too long and totally unjustifiable and, worse still, was preventing the militia from taking quick and effective measures to nip parasitic behaviour in the bud:

> The overgrown, malicious idler, who is living on the means of his parents or clearly on unearned income, has the right to very quietly prosper for three months before he may even be warned by the militia. And then he is given YET ANOTHER MONTH to find work! How can we possibly expect to defeat parasites given this restrictive set of rules ?[189].

But, there were others who rallied to the defence of the legislature. According to Kondrashkov, for example, the procedure was explainable:

> ... by the necessity and expediency, before the taking of punitive measures, to make maximum possible use of all organisational and educational measures for enlisting those persons leading a parasitic way of life in work. Such a procedure emanates from the principles of the social policy of our state, the essence of our society: to mould a conscientious attitude toward work. This is achieved first and foremost by educational measures, not by punishment under criminal law .... The chief means - is explanatory, upbringing work directed toward the stimulation of a conscious, voluntary change of behaviour .... Of course, it would be so much easier to simply "cast a net", to carry out raids and put all those detained in the "lock-up" (*v kutuzhu*) .... But parasitism is a most complex social problem. It cannot possibly be solved by administrative coercive measures alone. An aggregation of social, organisational, administrative and educational measures is necessary. This is not spinelessness on the part of the legislator with respect to spongers as some zealous administrators and hot-heads sometimes try to portray it, but an intelligent social policy [190].

He believed that employees of the militia agencies were deliberately exaggerating the difficulties involved in prosecuting parasites solely in a bid to excuse their own passivity and lack of organisation. The situation, he said, was not helped by inaccurate press reporting. A perfect example of this was a *Trud* correspondent's account of a discussion he had had with the divisional militia inspector of the Komintern *raion* in Voronezh - L. Goncharov - concerning the problems facing himself and his officers. The inspector described the case of the parasite Uvarov who had failed to report to his office despite seven summonses. Eventually, Goncharov caught up with him, warned him, but was told in response: "Nowadays I have the legal right to be given a month within which to find work". After the month was up, Uvarov explained that he had not taken a job because of illness. The inspector therefore ordered him to undergo a medical examination at the local polyclinic. He failed to appear for it: "I literally had to take his hand, lead him to the surgery and stand with him in the queue for the

therapeutists, surgeons and stomatologists". Several days later, the medical report confirmed that Uvarov was healthy and capable of work. But then he played a new trick: "I'll go to the personnel department, but what if they don't hire me?" he asked, shrugging his shoulders. So Goncharov took him personally to the enterprise and made sure that he was accepted for work. But no sooner had he "drawn a sigh of relief" he was told that Uvarov had only worked there for a couple of months before terminating his contract because the wages had not suited him. "What can one do?" he asked. "Nowadays the parasite has obtained the full right to 'try and find' work for himself over the course of a full three months, to loaf about. Then the traditional warnings, and after that he still has a month for 'job placement' - and everything starts all over again. My journey with the parasite goes round in a circle" [191].

This report contained two conspicuous pieces of misinformation. First, the militia had the right to take into custody any person failing to respond to a summons and/or avoiding a medical examination (Article 2 of the December 1984 Presidium Resolution). Second, if after an official warning the person only stayed in a job temporarily, giving it up to resume a parasitic existence, then a repeated official warning was not required. In other words, the inspector did not have to wait again for three months before repeating the whole procedure. Nevertheless, his as well as the correspondent's disapproval of the established procedure ("How much time is it necessary to waste in order to make a parasite work?" the latter asked with incredulity) appeared to epitomise the general public opinion on the matter - the law was simply too soft on parasites. A first deputy of the Moldavian MVD claimed, for instance, that he had been inundated with letters from enraged citizens demanding a "tightening of the screws" [192]. This, of course, was easier said than done, since real difficulties and complications (as distinct from the "imaginary" ones described above) were being encountered at virtually every stage of enforcing the law's commands. We ought to

dwell on several of these because they were generated not only by the poor organisation and co-ordination of the work being performed by the various agencies responsible for administering the law, the lack of knowledge about or incorrect interpretation of the law, but also by frailties in the prosecution process itself. Let us begin at the first stage of this process - the preliminary investigation (*predvaritel'noe sledstvie*).

The preliminary investigation had to be completed within a maximum of thirty days, so speed was of the essence. Employees of inquiry agencies frequently complained about having to work under such a strict time limit, which they considered inadequate for the purposes of collating and examining evidence on suspects, as well as for proving that the crime covered by Article 209 had indeed been committed (as required by Article 68 of the RSFSR Code of Criminal Procedure). Pressed for time, they often tried to cut corners: in bills of indictment they would sometimes write - "Suspect not working in the sphere of social production" - hoping that the courts would regard this as sufficient evidence of the accused's evasion of socially useful work (which of course it was not); more common in practice was their failure to prove that the suspect had actually been subsisting on unearned income obtained by illegal means. Superficial investigations into this vital element of the crime were said to account for the courts rendering a high number of "not guilty" verdicts annually in parasite trials - in 6% of all cases according to one estimate [193].

Violation of the one-month investigation period was another regular occurrence. At times, the inquiry dragged on beyond the set time limit because of difficulties in ascertaining the identities of suspects, especially those of vagrants. One way of counteracting this problem, in the opinion of some commentators, was through the setting up of a nation-wide computerised information network allowing quick access to the names and other personal particulars (distinguishing marks, nicknames, *etc.*) of all the parasites being sought by the authorities [194], but the idea had to be rejected, "with

reluctance", on the grounds that the sheer size of the country made this "economically impractical" [195]. Even if the person's identity was well-known, however, this still did not always guarantee a swift activisation of the prosecution machinery. An *Izvestiia* journalist reported on how many vagrants in the Far East were routinely and voluntarily checking into reception and assignment centres in order to sit out cold winter months in warmth. At the Khabarovsk centre he had been approached by the vagrant N.A. Meshcheriakov who asked him to be "a good fellow and write about the solicitude of the local police. I was in the old holding centre seven times, and this is my fourth time here. Believe me, there's no comparison. Here it's clean, bright and roomy. They bring you lovingly cooked grub from the cafeteria". Meshcheriakov had in fact been enjoying such "genial hospitality" for almost 100 days. The journalist made no attempt to conceal his anger:

> What is striking is that the principal institution designed to combat parasites and vagrants and to accustom them to work is beginning this struggle by indulging their idleness. Do these carefree idlers have it so bad, frittering away their time as they lie for days on cots in a warm room? They don't have to worry about getting something to eat: food will be brought at the usual hour. And when a "detainee's" stay is up he will be escorted by militia officers "to his chosen place of residence". Yes, the idler points to a place on the map and is driven wherever his heart desires at public expense! [196].

At other times completion of the investigation was delayed by tardiness in sending suspects for a medical examination to determine their fitness for work. Over 60% of violations of the thirty-day investigation deadline were caused by this [197]. In consequence, the process of filing charges was also held up. The procurator of the Iaroslavl *oblast'*, A. Petrovskii, expressed his deep dissatisfaction over the fact that up to 80% of parasite cases in the *oblast'* were reaching the courts only three or more months after that time when the initial investigation should have been completed [198]. Worse still, the cases against citizens "K" and "S", both of whom had been arrested in

the Kirov *raion* of Kuibyshev on suspicion of parasitism, had taken so long to get off the ground that they, in the interim, had gone on to commit more serious crimes - assault and swindling respectively - for which they were tried and convicted long before having to answer the parasitism charges [199].

The RSFSR Supreme Court Resolution No.4 of December 1984, as we mentioned earlier, ordered the lower courts to respond sharply with "special rulings" in cases of delays due to bureaucratic red tape (*volokita*). V.I. Grigor'ev of Tashkent University believed that this problem stemmed from the fact that the law did not specify a definite time limit within which parasite proceedings should be initiated. He therefore proposed extending the procedure laid down in Article 109 of the RSFSR Code of Criminal Procedure to parasite cases (this article stipulated that "an ... investigator, agency of inquiry ... shall be obliged to accept declarations (*zaiavlenie*) and communications (*soobshchenie*) concerning any crime that has been committed ... and to take decisions concerning them within a period of not more than three days from the day of receiving the declaration or communication"). If the question of instituting criminal cases against parasites was likewise to be decided upon within no more than three days from the day of expiry of the one-month warning period then, he reasoned, "red tape would be completely eradicated" [200]. This proposal looked good on paper and, in theory at least, would have cut out stalling in the administration of justice. Grigor'ev, however, appeared to take it for granted that the official warning itself had been, and was always, issued promptly. This, most certainly, was not always the case in practice. The Deputy Chairman of the RSFSR Supreme Court, V. Shubin, lashed out in 1985 against the sloppy approach being adopted toward parasites by the militia agencies in many areas: on average warnings were being issued only five (or more) months after these persons had stopped working [201].

The purpose of the official warning was to notify the individual that he stood in a

"conflict relationship" with Soviet society and if he continued to lead his current parasitic way of life his behaviour would be classed as criminal. One may be inclined to understand Shubin's anger since deferral of the warning not only gave parasites the opportunity to freely continue their sponging without fear of prosecution (the official warning, as previously explained, was of vital pre-trial importance: no person could be prosecuted for parasitism unless he or she had been warned beforehand about the impermissibility of their parasitic existence), but also undermined the prophylactic role it was supposed to play - the longer the delay, the more set the person became in his parasitic ways, thus making him less responsive to the call asking him to change his lifestyle.

Non-observance of the procedure for issuing warnings further complicated matters. Despite previous Supreme Court condemnation of erroneous and illegal practices, violations of legality at the warning stage continued to blight the prosecution process. Cases were reported in which:

- criminal proceedings had been instituted against persons before the expiry of the one-month warning period [202];
- non-competent officials such as divisional inspectors, duty officers in holding and assignment centres had issued the warning (only the head of an internal affairs agency or his deputy had the power to do so) [203];
- the warning had been signed by relatives without the suspect being present (this was tantamount to non-declaration of the warning);
- the exact date of the warning's declaration had not been recorded on the warning form, thus making it impossible to determine its expiry date;
- the internal affairs agencies, instead of using the standard warning forms supplied had drawn up their own "in arbitrary fashion, without due legal precision": for

example, suspects were warned about their "incorrect behaviour", ordered to terminate such behaviour "in the shortest possible period of time", or told that "after a repeated arrest" they MIGHT be called to account [204];

- repeated warnings had been issued to one and the same suspect [205] (the 13 December 1984 Presidium Resolution explained that no second warning was necessary when a person who had temporarily returned to work relapsed into vagrancy or other parasitic ways of life within one year of the first warning).

Most of the slack, dubious and violative "pre-trial" procedural practices mentioned above could quite easily have been redressed by procurators if they had been performing and executing their general supervisory responsibilities with due care and attention. According to Article 28 of the Law on the Procuracy of the USSR [206], they were supposed to "effect supervision over the execution of laws by agencies of inquiry and preliminary investigation so that: ... the procedure established by law for initiating and investigation of criminal cases, the periods for investigating them, and the rights of participants in the trial have been observed; when crimes are investigated the requirements of the law concerning a comprehensive, complete and objective investigation of all the circumstances of the case have been undeviatingly observed ...". In parasite cases, however, they often tended to adopt an extremely "formal" approach toward such matters, sometimes even to the point of ignoring the special directive issued by the USSR Procurator General, which had instructed them to carry out quarterly check-ups for the purpose of ensuring that all procedures in these cases were strictly adhered to [207]. The net outcome was that citizens' rights were not always being fully protected. Thus, although Article 43 of the Law on the Procuracy empowered procurators to "visit systematically and at any time" all places of preliminary confinement with a view to verifying the observance of laws and to order

the immediate release of any person being illegally held therein, the procurator of the Voronezh *oblast'* chose not to make use of these powers. If he had visited the *oblast's* holding and assignment centre he would have found that thirty entirely innocent individuals had been detained there during 1987. It was only considerably later that higher court bodies discovered the illegalities of the arrests and detainments, which was of no real comfort to the unfortunate citizens, whose rights, by then, had been violated for some considerable time [208].

Supervision and control over the job placement of parasites warned by the internal affairs agencies remained by far the weakest link in the whole procedural process. Not only were the parasites themselves loath to accept their job assignments (*e.g.* annually in the Pskov *oblast'* around a third of those assigned to enterprises simply failed to show up, and most of those who did tended to give up their jobs after several weeks: "Only a handful will be working at the place selected one year on" [209]), enterprise managers continued to be most reluctant to accept the "no-gooders" assigned to them. One manager's statement to a newspaper correspondent was illustrative:

> What do you think I am, an enemy to myself and my collective? Just think how many indices I would spoil. Personnel turnover would rise, law violations and absenteeism would increase, and the sobering up station would deluge us with reports [210].

Consequently, according to the observations of the correspondent in the Khabarovsk Krai, the following simple process had developed:

> A militia officer drops off a detainee with instructions that the enterprise give him a job and house him in a dormitory. He leaves the detainee in exchange for a voucher stub. The personnel staff understands and accepts the rules of the game: they readily clip off the little pieces of paper, but they aren't so ready to place the detainee in a job. There are a great many reasons why this is not done: he has no residence permit, his documents are not in order, no dormitory space is available at the moment. Or, sometimes, an enterprise hires a detainee but two or three days later, if you check, there's no trace of the applicant for the job opening. But the voucher stubs for the official reports are still there. Many idlers are "placed in jobs"

> in this way several times, improving the statistics even more ... [211].

In response to this recurrent problem, the RSFSR Council of Ministers ordered executive committees to establish a list of specific BASE enterprises willing to accept parasites for work [212]. Ideally, they were to be factories with stable collectives capable of organising effective upbringing work, and where the appointees could be given both work according to their trade (if they had one) and adequate accommodation. But, once again, things did not always go exactly according to plan. Enterprises were placed on the list without their foreknowledge or consent: in the Novgorod *oblast'*, for instance, the managements of thirty-nine supposed "base" plants officially informed the *oblast'* executive committee that they would "under no circumstances whatsoever" let any parasite into their collectives [213], while eighty-seven equally "dumbfounded" enterprise managers in Iaroslavl registered their opposition by adopting a policy of total non-co-operation, refusing to employ the 225 "undesirables" who suddenly appeared at their doors, even though their works were "labour starved" [214]. (In doing so they were guilty of violating Article 9 of the Fundamental Principles of Legislation of the USSR and Union Republics on Labour, which prohibited unfounded refusals to hire for work. Procuracy and court agencies nevertheless "almost never" raised the question of bringing charges against the guilty officials under Article 138 of the RSFSR Criminal Code (Violation of Labour Legislation) [215].) In Orenburg, on the other hand, the thirty-seven enterprises chosen by the city soviet to accept parasites were eager enough to employ them. The problem here was that because of a terrible bureaucratic blunder the parasites ended up being assigned to work in ten entirely different factories, none of which were on the recommended list, and some of which were actually in the process of making staff reductions [216]. Elsewhere, local executive committees displayed an alarming lack of selectivity when drawing up the list. In the Tadzhik and Uzbek

Republics, in particular, they frequently chose construction organisations with notoriously volatile collectives and chronic levels of labour turnover, *i.e.* where the prospects for "re-educating" the offenders were virtually zero [217].

The situation was not entirely bleak however. Amidst the mess there were several success stories. At the Taganrog combine-harvester factory (designated a base enterprise for receiving parasites by the Rostov *oblast'* executive committee) the management decided to set up a special social rehabilitation service for alcoholic parasites after experience had taught them that almost all of those assigned for work there were heavily addicted to drink. New arrivals were therefore sent to the factory's narcological unit for intensive de-tox treatment (usually lasting up to ten days) and then put to work in one of the four workshops hand-picked by the management because of their "morally healthy and solid" collectives. They continued to receive anti-alcohol treatment (on average from two to four months) and with the approval of the medical personnel were given jobs appropriate to their state of health and level of skill. Those who had not lost their former skills were encouraged to take on higher skilled work and those with no previous vocational training were made to take trade courses. Their salaries were calculated according to the existing norms and wage rates in the factory, although 40% of the earnings was withheld as payment for their treatment. The rest, minus taxes and other deductions, was deposited in a "Patient's Money" account and paid out either to them on the day of their discharge from the narcological unit or by proxy direct to their families. *Shefy-nastavniki* were appointed to carry out educational work with them, while the local militia, with the management's assistance, exercised control over the general rehabilitation process. The experiment produced the following results: out of the 102 persons assigned to the factory, twenty-one were completely cured of their alcohol problem and given full-time work contracts; thirty-one, after being restored to full health, took on skilled work in other enterprises; twenty continued

to undergo the treatment course; fifteen were sent to LTPs for compulsory treatment; and only five were prosecuted for parasitism (no mention was made about the fate of the remaining ten). A 40-60% treatment success rate was achieved - considerably higher than that achieved in LTPs. More importantly, this had been accomplished "without any adverse effect on the general state of discipline in the factory and without harming its production indices", thus showing that "accepting parasites into the collective need not always be detrimental to an enterprise's interests" [218].

Meanwhile, in Odessa the Central *raion* soviet had been constantly frustrated in its attempt to make local firms take on parasites. The *raion* procurator, A.V. Komarchev, came up with the idea of sending them to rural localities where they could be used by those farms experiencing acute labour shortages. This would also eliminate the necessity of having to deploy skilled enterprise workers for field work during the farms' busy periods. As an experiment to test the feasibility of the idea it was decided that the "Red Beam" farm be made a base sovkhoz. With the consent of its director it took on fifty individuals: thirty were natives of Odessa who had been arrested for work evasion and the rest were vagrants, who before being put to work were made to wash, shave and collect work clothes from the sovkhoz storehouse. They were given food and lodgings as well as access to the farm's social and recreational facilities. Everything possible was done "to help them stand on their own two feet and regain their moral dignity". Apparently, half of this original group decided to stay on in the sovkhoz on a full-time basis and most of the others, by proving that they could in fact be hard workers (they regularly fulfilled the set norm of picking 800 kgs of potatoes), were given permanent jobs in city enterprises and construction projects. Encouraged by the success of the experiment, the *raion* soviet decided to extend the scheme and encouraged others to follow its example [219].

One major obstacle blocking attempts to anchor parasites in permanent employment

was the high availability of temporary, casual work. Kondrashkov spoke of an "astonishing enigma" in this regard: some *bichi*, who could not be dragged into full-time jobs in enterprises "even by lasso", were nevertheless "sweating their guts out" for temporary employers. He referred to the unofficial employment "market" that had been operating for some time in the city of Dushanbe. Employers who needed day labourers came to the market and hired the "illegals" who gathered there (*i.e.* those who could not get jobs legally because they had no passport or *propiska*). Not only were they bypassing the city's job placement bureau, they were also sending out so-called "interceptors", who stationed themselves at the approaches to the bureau where they recruited people just given job assignments by promising them higher wages. (Employers often reneged on these promises, knowing full well that those they hired would not "kick up a racket" if they were not paid the agreed sum since they could not exactly go to the police. A vagrant, Il'ia Iu., wrote to *Sovetskaia Rossiia* saying how he had been hired to work on a private holding but instead of being paid the promised wage was only given "grub" (*kharchi*): "The holding was large, eight heads of cattle, 200 sheep. I worked as a farm labourer from dawn till dusk. But, I was in no position to grumble" [220].) The "private exploiters", Kondrashkov argued, were impeding the fight against parasitism. But why, he asked, were the official agencies struggling unsuccessfully to place parasites in jobs whereas the illegal "employment exchange" in Dushanbe was coping admirably with this task? He put this down to a number of "interacting factors" - primarily the poor and clumsy job-placement work of the city executive committee and to the fact that the *bichi* themselves, despite being exploited, still preferred to take work unofficially: "It gives them a definite freedom of choice. They only work when need be ... they are not being forced to work from above, but instead remain their own masters" [221].

Enterprise directors, it appears, had no qualms about hiring the cheap labour of

parasites on a short-term or one-off basis when necessity dictated (this arrangement suited both parties). What most of them were not prepared to do was to accept those "renegades" officially assigned to their factories for full-time work. The perceived risks were simply too great. They either seized the first available opportunity to offload these "socially unwelcome elements", or instructed the social organisations within the labour collective to alienate them. Therefore, even if some parasites had a genuine desire to get down to work, the environment of hostility and resistance which greeted them often made this impossible. In short, the parasite was a social outcast. Nobody needed him. The words of one Moscow enterprise manager can be used to sum up the general attitude of the others: "What's the sense in taking time and trouble over these misfits, especially when you receive no kind of benefit from, and encouragement for, this thankless work, when you cannot count upon positive results?" [222]. Attitudes of this type hardened still further when Soviet enterprises began to go over to the *khozraschet* or self-financing system in 1988. As the editor of *Sotsialisticheskaia zakonnost'* noted at the time:

> Parasites sent to work in enterprises have, quite understandably, never been looked upon as "gifts" by managements and collectives. In the conditions of radical economic reform - now all the more so. With the transition of enterprises to self-financing, it is becoming significantly more difficult to place spongers in jobs. And this again is understandable. What manager would agree to give work to a parasite, vagrant, and then have to re-educate him? You see, this conflicts with the economic and financial interests of the enterprise. For the time being the requirements of the law concerning the compulsory execution of the orders on the job placement of spongers are still in force. But, these rules of law, these old methods obviously run counter to the new principles of management and selection of personnel. Job placement difficulties, it seems, are likely to increase tenfold [223].

He was right. Gorbachev's efforts to revive the Soviet economy set in motion a process which ultimately and unavoidably led to the termination of the struggle against persons

evading socially useful work.

CHAPTER 7

THE DEMISE OF THE ANTI-PARASITE LAWS

7.1 INTRODUCTION

Perhaps the most important principle of social and economic justice that the post-revolutionary Soviet leadership had honoured was that of providing a job for all those who wanted to work. For more than half a century after unemployment was officially declared eliminated in 1930, a policy of FULL EMPLOYMENT was one of the cornerstones of the USSR's labour policy. The RIGHT TO WORK was laid down in the 1936 and 1977 Constitutions as the most important social right of the people. The Party Programme in its new redaction of 1986 repeated the same principle:

> The task ahead is to continue to carry out a series of scientific, technological, economic and social measures aimed at ensuring full and effective employment of the population and granting to all able-bodied citizens the possibility to work in their chosen sphere of activity in accordance with their inclinations, abilities, education and training, with due account of the needs of society [1].

However, the myriad changes, intended and unintended alike, that took place in the functioning of the economic system during the *perestroika* era were to make continuing declarations reconfirming the state's commitment to full employment sound increasingly hollow. In fact, unemployment was to become a new and menacing social phenomenon and an extremely worrisome prospect for many Soviet workers.

7.2 ECONOMIC REFORM AND REAPPRAISAL OF THE PARASITISM PROBLEM

The deeply troubled economy inherited by Gorbachev in 1985 was in all essentials basically the one constructed by Stalin from 1928. The system of management created

for the old-style command economy still remained in operation and was holding back the development of the economy. Economic decision-making was hyper-centralised: everything had to emanate from the centre, right down to instructions for every nut and bolt. Such a high degree of centralisation presupposed both perfect obedience on the part of the managers and workers who had to execute the "plans", and perfect information about resources and the results of production. As is well known, neither managers nor workers had any incentive to provide such obedience. Managers lied about capacities and distorted production programmes to make nominal plan fulfilment much easier. Workers took advantage of the perpetual disorganisation within the factories, coupled with the severe labour shortage and the absence of any threat of unemployment, to take back a certain amount of control over the labour process: they worked slowly, showed slack discipline, and turned out defective or low-quality products which deformed the quality of other products in whose production they were used. The end result was an economy crippled by its huge wastefulness. Quality was bad; managers and workers resisted technical innovation; productivity was poor. There was growth, but it relied on "extensive" development, on the sheer quantitative expansion of the number of factories put up. More crucially, this growth was partially self-consuming. Because quality was so bad the economy needed more and more inputs of things like coal, steel, and building materials, just to keep production stable, much less to increase it. The end result was a vast industrial apparatus which could not feed, clothe, or house its population and which, by the end of the Brezhnev period, had fallen into a state of long-term decline. The stagnation of the economy could be seen in the significant decline in rates of economic growth in the quarter century preceding Gorbachev's ascent to power. Economic growth, which during the decade 1961-1970 averaged 4.8% annually, fell by fully half to 2.4% a year from 1971 to 1980, and to a

mere 1.7% a year from 1981 to 1985 [2].

Gorbachev believed that this economic decline could only be reversed through implementation of radical economic reform, by modifying the centralised command mechanisms in an attempt to free production from the stranglehold of the bureaucracy, the planners, ministries and party officials. There had to be a transition from an extensive economy to an "intensive" one: from one concerned with building steel plants, railways and suchlike to an economy focusing on what was going on inside the factory, the productivity of labour, the effectiveness of the machine tools, and the quality of the goods produced. The challenge of *perestroika* was to move from a labour-intensive economy to a technologically advanced capital-intensive labour-productive economy. Intensive development demanded productive, energetic, responsible workers and rhetoric about the need to tighten up "production discipline" came to play a major role in the propaganda of *perestroika.* Stress was placed on poor motivation, and sociologists described how work had become an increasingly peripheral part of people's lives [3]. This was seen to stem in part from the fact that workers' needs and aspirations had for decades been subordinated to the requirements of physical production. The prevailing ideology had considered men as workers first and foremost. Their primary mission was to fulfil and overfulfil the planned work quotas. A maximum labour contribution was required and considered to be the centrepiece of a man's life. But the satisfaction of worker demands was reduced to a bare minimum: low wages, low aspirations, no more than adequate working conditions, poorly developed social infrastructures, insufficient opportunities to use and develop individual capabilities at work, *etc.* This was accompanied by permanent shortages of goods and services, often very elementary ones. Priority was given to primary industries extracting raw materials and to those producing production machinery. Industries satisfying

consumer demands were given lower priority and the planning system to all intents and purposes neglected their development. Low labour motivation was also a consequence of the widespread wage-levelling and equalisation that had taken place under Brezhnev. There were insufficient rewards for greater achievements, different levels of qualification, professional experience and work attitudes. Employment policy favoured the equalising wage trend because it promoted a steady growth of employment and labour force participation. This conformed with the ideological line extolling the so-called universal character of labour. In practice, this boiled down to the obligation to work on all those capable of working. As a result, employment grew faster than could sensibly be absorbed by industry. Correspondingly, wage funds were distributed to as many workers as possible, but ceased to function as an incentive to work. As N. Shmelev and V. Popov put it:

> The "levelling" caused by the indicative planning of the labour market suppresses any incentive to work, causes shake-ups, lack of discipline, and a parasitic certainty of a guaranteed income that does not depend on one's contribution to the job .... As a result, scarcely a third of those employed in our country work at full capacity [4].

Gorbachev realised that the low earnings of managers, highly educated engineers and other professionals, in relation to earnings of manual workers, was stifling the initiative of just those people on whom he had to rely for technological progress. A wage reform in the material sectors was therefore introduced by a decree of 17 September 1986 [5]. It sought to address the problem of incentives by widening differentials between technical personnel and workers, and between different categories of workers, in the belief that the prospect of higher rewards would encourage workers to exert greater effort. A major difference with past wage reforms, however, was that the wage increases, although centrally mandated, had to be financed with the enterprise's own

resources. A second basic aim of the wage reform was to encourage enterprise management to make more effective use of labour and to release "hoarded" workers. The intent of requiring enterprises to finance their wage increases was to harden the budget constraint and to make it to their advantage to release redundant workers. Soviet labour experts had for years been stressing the need to find some mechanism to ensure the "releasing" of superfluous, hoarded workers and their redeployment in more productive jobs. In order to keep production flowing and in an effort to insulate themselves from the vagaries of supply deliveries, enterprise managers substituted labour for capital in the production process, maintaining an excessively large roster of workers, many of whom were idle most of the time but all of whom were needed when supplies did arrive; to carry out the feverish production activity known as "storming" (*shturmovshchina*) - *e.g.* the production of two-thirds of output during the last ten days of the month. This practice, coupled with the promise to provide jobs to everyone, contributed to the long tradition in the Soviet Union of *skrytaia bezrabotitsa* ("hidden unemployment"). The number of superfluous workers was commonly said to represent 15-20% of an enterprise's workforce - one estimate claiming that eight to ten million people were in unessential jobs [6].

One of the central goals of the economic reforms of *perestroika* was to free up the excess labour resources locked inside industrial enterprises in order to provide manpower for new industries and services. But enterprise directors would have to be given an incentive to rationalise. Managerial thinking had been conditioned and, in many respects "deformed", by years of trying to cope as best they could with the chronic labour shortage that perpetually plagued Soviet industry. Due to workers' virtual security of employment, managers were reluctant to discharge employees for discipline violations unless they were perceived as distinct trouble-makers, while the effectiveness

of imposing disciplinary penalties upon "disrupters of production" was weakened by the threat that the worker might quit. The labour shortage permitted workers almost total freedom of action which, by causing or exacerbating tendencies towards inefficiency and waste, constantly recreated the conditions that required management to hoard labour, thus reproducing the labour shortage in each successive production period. Moreover, because of the stress on the right to work, Soviet dismissal procedures were very strict. This raised a number of problems for employers, especially as far as the problem of excess workers was concerned. In a speech delivered at a conference held in January 1969, relating to problems of labour law and the 1965 economic reforms, the labour lawyer Iu.P. Orlovskii raised the question of who should be responsible for providing excess workers who had to be dismissed after a reduction of the workforce (*po sokrasheniiu shtatov*) with new employment [7]. Orlovskii suggested that the existing legal duty of the employer to provide workers with other work should be abolished and, if the duty were to exist, then it should be restricted to cases of redundancy. He further argued that its execution would give rise to certain difficulties, as in practice an employer may provide redundant workers with other work only if there is a vacancy in his own enterprise. As one of the aims of the 1965 reforms was a more efficient redistribution of the labour force, it would be much better to transform the duty of the employer into a duty of the local employment offices (the agencies for the utilisation of labour resources, created in 1966-1967) [8].

The 1970 Principles of Labour Legislation extended the guarantees for redundant workers by enacting the ruling that in cases of a reduction in the workforce dismissal was permitted only "if it is impossible to transfer the worker, with his consent, to other work" [9]. Therefore, the worker's position was clarified, although whose responsibility it was to transfer the worker was not indicated [10]. Most commentators

were of the opinion that it was the employer's responsibility under the law in force, aided by the employment office, though they would have preferred that the employment offices take the responsibility [11]. In any case, the result was that the employer had to prove that it was impossible to transfer an excess worker to other work [12]. The RSFSR Supreme Court interpreted the expression "transfer to other work" on two occasions. In 1973 the Court stated that dismissal of an excess worker was possible if the worker could not be transferred with his consent to other work "if the proposed work in his employer's enterprise or in other enterprises in the same locality did not constitute work of the same nature. If this is unavailable other work may be proposed" [13]. Should the worker not accept the alternative job, then the dismissal procedure (*uvol'nenie*) could be used. This interpretation of the law was overruled in 1980, when the USSR Supreme Court made dismissal of excess workers easier and restricted the employer's duty to provide an excess worker with other work to work within the employer's enterprise [14]. (The Supreme Court reasserted this holding in 1984 [15].) Nevertheless, the responsibility of enterprises for finding alternative employment for released workers was consistently quoted by Soviet specialists as a major disincentive for them to release their surplus manpower [16].

Throughout the 1970s and 1980s experiments based on the example of "Shchekino" were used to try and offer enterprises incentives to release workers. The Shchekino experiment of 1967 was conducted in a chemical plant in the Tula *oblast'*, near Moscow. Essentially, it was conducted to show that productivity of labour could be significantly raised by a system in which an enterprise's wage fund savings resulting from cuts in the workforce could partly be used for additional premiums and bonuses for the remaining workforce which would raise their labour productivity. The results were impressive as a reduced workforce increased output, productivity, and wage levels.

But, as we have just mentioned, the management of an enterprise was under obligation to provide excess workers with alternative employment. A number of writers considered this "outdated" rule and the absence of unemployment benefits obstacles on the way to a more rational utilisation of the labour force [17]. These factors were responsible for the fact that the Shchekino method was in use in only 4% of all enterprises in 1983, and that many enterprises still kept a reserve of workers whose work was not related to the enterprises' activities (*e.g.* work in the fields during the harvests, building activities, *etc.*) [18]. In addition, the director and other managerial staff were not personally interested in the implementation of the method because in a number of branches, their salary depended to a large extent on the size of the enterprise's staff [19]. Since the wage fund was adapted to the workforce, the Shchekino-system was not very attractive. The so-called "ratchet effect" came into play, whereby the short-term rewards of releasing workers were outweighed by the long-term effect of the manpower plan in the following plan period being calculated on the basis of the reduced number of workers required to fulfil the output target in the base period. Finally, the experiment was never extensively copied simply because the attempt to achieve greater efficiency by giving more autonomy to the enterprises met with great resistance from those in the central economic and political bureaucracy. They were well aware of its broad social and political implications: large-scale redundancies could turn into high unemployment thus threatening the Constitution's guarantee of a job for every citizen. They played down the extent of labour under-utilisation and its social consequences and saw the main employment problem as being a labour shortage not one of overstaffing.

In his political report to the 27th Party Congress, Gorbachev scoffed at fears of a labour shortage:

> There are great reserves in the use of labour resources. Some

> economic managers complain about a shortage of manpower. I think that in most cases these complaints are groundless. If you look into the matter more deeply, you may find there is no manpower shortage. On the other hand, the level of labour productivity is low, work is inadequately organised, and incentives are ineffective. One must add to this unwarranted decisions by planning and economic agencies allowing the creation of superfluous job slots .... Once enterprises begin to seriously tackle the improvement of the organisation of labour and incentives and increase discipline and exactingness, they will uncover reserves that they never suspected they had. The application of the Shchekino method and the certification of workplaces are convincing confirmation of this. When Belorussian railway workers switched to a new system of pay, in which one person combines several job duties, in a short time about 12,000 workers were freed to take jobs in other branches ... [20].

He believed that the most fundamental problem of employment in the USSR was the presence of an enormous hidden labour surplus. Overcoming this problem presented two major difficulties - economic and social. On the economic side, it would be impossible to achieve the necessary improvements in labour efficiency without getting rid of excess workers. It would also be impossible to end wage-levelling, to create efficient labour incentives. If there were surplus workers a wage-levelling approach was inevitable. On the social side, there was the question of what to do with workers if they were released from their jobs, how to provide them with alternative work and means of subsistence. Successful restructuring of the economy necessitated the introduction of large-scale layoffs: in the early days of *perestroika* it was estimated that some sixteen million people would lose their jobs by the year 2000 [21]. Two distinct, if not conflicting, strategies emerged among the reformers concerning the fate of these workers. The first, championed by the more radical of the reformers, saw redundancies leading to genuine unemployment, which was to act as a disciplining vehicle and a means of coercing workers into surrendering shop floor prerogatives. They questioned the necessity of full employment under socialism, suggesting that unemployment be

considered as an inevitable corollary of an efficient economy and attacked the principle of the right to work in terms rather similar to, though sharper and more realistic than, the arguments put forward in connection with the economic reforms of 1965 [22]. Shmelev argued, for instance, that if one was to "look at life realistically and intrepidly", then one would find that unemployment "already exists" - around 2% natural unemployment (*estestvennaia bezrabotitsa*) of the labour force (due to the high mobility of labour) and up to 3% unemployment if one took "vagrants and other parasites" into account. Moreover, one of the effects of state guaranteed work was "loose discipline, alcoholism, slipshod work". A real danger of losing one's job, of having to draw unemployment benefit or of being obliged to take work "where one finds it", would therefore, he insisted, be "a good medicine against laziness, drinking and irresponsibility". It would be cheaper to pay the temporarily unemployed an adequate allowance for several months than to keep a lot of idlers in work who "could undermine attempts to raise the quality and efficiency of social labour" [23]. According to the other, more dominant strategy, which formed the basis of official policy, the workers made redundant as a result of technical modernisation and the general streamlining of production would be redeployed almost *in toto* in other areas of the economy. Thus, workforce reduction would not lead to long-term unemployment, but would merely release workers currently unproductively employed for the expanded production of use values or the provision of services. This was certainly the official position of the State Committee on Labour and Social Questions, *Goskomtrud*. One of its representatives, Alexander Kotliar, took the view that in the socialist economy there should be no category of unemployed in principle (because of the important legitimation role played by full employment in Soviet politics) and that under all circumstances, full employment had to be ensured:

> Those who argue that unemployment is related to growth of

> efficiency never reveal how this mechanism is supposed to work in a socialist economy, beyond the naive belief in its disciplining influence. They suggest that if a small section of the workforce (2% of labour resources) were to receive unemployment benefit instead of a guaranteed salary then labour efficiency would improve by forcing people to work harder and observe work discipline [24]. Alas! This supposition is basically erroneous. The era of the "command economy" gave birth to people who no longer had the habit of normal labour. In such conditions, the prospect of legally receiving something without working will undoubtedly attract many people and produce the opposite results to those intended [25].

Although he saw some erosion of legal and *de facto* protection of employment as essential to introducing labour mobility and undermining the practice of labour hoarding, he believed that employment policy should nevertheless still be geared toward the prevention of unemployment:

> Full employment is an important goal for society not because it is appropriate to socialism, but because it is universally desirable. First, full employment makes possible implementation of the labour principle that all able-bodied members of society should contribute socially useful labour and not live at the expense of others. This is a matter of social justice. Second, full employment creates the conditions for maintaining people's psychological and physical health and all-round development. Unemployment creates feelings of uselessness among the jobless, destroys their psychological well-being, and provokes antisocial behaviour, crime, drug addiction, parasitism, and so on .... It is a personal tragedy and a tragedy for society as a whole. Unemployment is not simply bad in social terms, but costs society dearly because a worker's labour is a source of additional wealth, and unemployment an unproductive deduction from that wealth. It is for these reasons that Western governments spend on unemployment reduction programmes up to 5.5% of gross national product. Thus full employment is a social benefit in any social and economic system. But socialist societies, in particular, cannot afford to renounce full employment, without which it is impossible to fulfil the socialist ideas of the universal character of labour (the rejection of exploitation and of the possibility of some living off the labour of others) and the main distribution principle "from each according to his abilities, to each according to his work". Because income distribution under socialism depends on the quantity and quality of labour, every member of society able to work must have the <u>possibility</u> of doing so .... Many industries and regions still lack workers. Thus data produced by

> GOSKOMTRUD shows that the national economy has between 1.5 and 2 million vacancies. While people in Western economies become unemployed because their labour cannot be used profitably and its output has no market, the Soviet goods market, suffering widespread shortages, is ready to absorb any volume of products and labour. In this sense, we have both the need and the conditions to guarantee full employment and prevent unemployment [26].

Gorbachev himself rejected any thoughts of unemployment: although he predicted large-scale redundancies, he was convinced that the workforce would be regrouped and told the June 1987 Plenum of the CPSU that "the social guarantees of employment for the working people and their constitutional right to work" would be ensured [27]. This was repeated by I.I. Gladkii, the chairman of the State Labour Committee:

> the method of the "free market", of "free competition" would be a way to solve a number of problems, but it would be a violation of the right to work, guaranteed by the USSR Constitution .... The State Committee has the task to secure full and rational employment. The employment offices will be improved and the job placement bureaux will be placed on *khozraschet* and they will also occupy themselves with professional orientation and further retraining [28].

Although at times the principle of the right to work still came under attack, the principal choices had been made and they had been embodied in the law [29].

The first statutory regulations in this field and other measures adopted by the Gorbachev leadership showed various approaches, and it was rather unclear what kind of policy would be followed. Under the 1986 wage reform, the direct relationship between the income of an enterprise manager and the total wage fund, and thus the size of the workforce, was abolished. This was an attempt to give enterprises an incentive to rationalise by increasing the centrally-set wage tariffs for all categories of workers, but asking enterprises to finance the increase out of their own funds. The Law on the State Enterprise of 30 June 1987 [30], requiring enterprises to be completely self-financing,

strengthened the above provision of the wage decree. As in the earlier Shchekino and Belorussian railway experiments, improving labour productivity, including reducing employment, was to provide the means for increasing wages of those who remained in the enterprise. A rather complex procedure for certifying or "attesting" workplaces was introduced to assist in the task of deciding which jobs to eliminate. The enterprise was to evaluate each workplace to determine whether it met economic, technological and health and safety standards, whether it could be upgraded to meet such standards or should be eliminated [31]. The Law went into effect on 1 January 1988 when about 60% of Soviet industry began to go over to the *khozraschet* (cost accounting or self-financing) system. Its main objective was to have enterprises shoulder complete responsibility for the economic outcomes of their activities. Investment would no longer be financed by the state, but would come from the enterprise's own resources. Enterprises were also to have much greater freedom in determining what they would produce, and state orders for goods were to comprise a much reduced proportion of total enterprise output. Enterprise inputs were to be distributed through a new wholesale network and only scarce producer goods would be rationed by the old state system. The entire pay structure of the country was to be redone, and, most important of all, any wage increases were to be determined by an enterprise's capacity to pay and were supposed to be linked to productivity. In theory, self-financing enterprises failing to reach a certain minimum standard of profitability would face bankruptcy and closure. The logic of *khozraschet* made surplus labour expendable and factories began to cut back sharply on their excess workers: the number of workers released during the three-year period 1987-1989 was 3.3 million or 5.6% of those scheduled to be shifted to the new pay conditions [32].

The Enterprise Law made the higher agency (*i.e.* usually the economic ministry)

responsible for reorganising or liquidating an enterprise and guaranteeing the dismissed workforce the rights established by the Constitution (*i.e.* the right to work) and the law. The workers had to be warned of their redundancy at least two months before the reorganisation or liquidation. In line with the practice that had developed over the previous thirty years [33], the redundant workers were to receive their average wage during the period that they needed to find new employment but for not longer than three months. The agency that had decided to reorganise or liquidate the enterprise and the local soviet concerned had to help the released workers find a new job. If it was not possible to place a worker in a job in accordance with his skills, he was guaranteed a new job on condition that he agreed to a retraining programme.

However, a decree of the CPSU Central Committee, the USSR Council of Ministries and the All-Union Central Trade Union Council of 17 July 1987, "On the Strengthening of the Work for the Realisation of an Active Social Policy and Enhancing the Role of the USSR State Committee on Labour and Social Questions" [34], charged the State Labour Committee and its local agencies with the responsibility of guaranteeing full employment, organising a system of job placement, training and professional orientation for workers dismissed from existing enterprises as a result of technological developments and the introduction of the new economic system (Article 8). This involved more than simply an increased role for the State Committee in the job placement of dismissed workers under the decree on changes in the planning system of 1979 [35]; it implied that the implementation of the right to work should become the responsibility of the state and not of the individual enterprise.

The latter line had already been followed in the wage decree of 1986 in the productive branches of the economy, which presupposed that part of the workforce would be made redundant as the intended increase in wages had to be paid out of the

enterprise's earnings. Implementation of release had to take into account the interests of the persons concerned and be done in such a way that able-bodied workers did not enter housekeeping or the private economy. The manager received a certain amount of room for manoeuvre as he was allowed to arrange retraining courses for redundant workers and certain rules governing the wages of such workers had been laid down. However, this did not give the worker a guarantee because the manager was not under an obligation to apply these opportunities. The "Temporary Regulations on the Manner of Job Placement and Retraining of Workers Dismissed from Associations, Enterprises and Organisations", which was the first regulation issued in the Soviet Union on mass redundancies since 1928, contained the rule that the local executive committees and their employment office were charged with the placement of workers who could not be placed elsewhere in the enterprise or in the branch [36].

A joint resolution of the Central Committee, Council of Ministers and VTsSPS of 22 December 1987, "On Ensuring Effective Employment of the Population, Improving the System of Job Placement, and Reinforcing Working People's Social Guarantees" [37], finally put an end to the different approaches practised in the first years of the reforms. But the text of the resolution reflected the ambivalence of the political and economic leadership toward the issue of unemployment. On the one hand, there was the long-standing socialist commitment to everyone's right to have a job and, on the other, there was recognition of the need for economic reform and greater efficiency. It started by stating that the right to work was "the most important achievement of the people and the indisputable advantage of socialism". But labour resources were being used inefficiently since many enterprises did not operate in shifts; they did not operate smoothly; and workers had too many duties outside their direct responsibilities. Therefore, enterprises were hoarding workers and this was causing an

artificial labour shortage in areas with a labour deficit. Moreover, the period needed by workers to change from one job to another was much too long. The economic reforms required more effective employment and a much better job placement system but "all workers should be convinced that the right to work really will be guaranteed to them". The resolution considered the retraining, job placement, and dismissal of workers. The first two were merely desiderata without the commitment of additional resources to deal with them. The failure to confront emerging joblessness was reflected in its statement that the first line of defence against unemployment was to find released workers jobs within the enterprise that had just fired them. The substantive heart of the resolution was its effort to protect workers' rights. The dismissal procedure required management to give workers two months notice. A person losing his job was also entitled to a severance allowance equal to a month's average earnings and was guaranteed a maximum of two months pay (including the severance payment) between jobs (three months pay in the case of liquidation of an enterprise and if workers registered with a job placement bureau within two weeks of being dismissed). These payments were to be made by the enterprise where he or she had originally been employed. The uninterrupted work service record, *stazh* (important for entitlement to pension supplements, extra vacation and other benefits) was lost if another job was not started within three months.

These rules were subsequently laid down in a new version of the RSFSR Labour Code published in 1988 [38]. It contained a new section specifically dedicated to "Guaranteeing Employment for Released Workers" which spelt out the rights of persons made redundant and the procedure for releasing (Chapter 3-A, Article 40). The offer of alternative employment was now expressly cited as the means of guaranteeing the released worker the right to work and policy statements contained assurances that

unemployment would not be tolerated in the Soviet Union. In reality, the result was that the principle of the right to work was maintained, at least on a national level, but not on the individual level. Social guarantees did not exist if the local labour market could not provide sufficient jobs for redundant workers. The journal *Sovetskaia kul'tura* reported, for instance, that of the three million people who lost their jobs from 1987 to 1989, 600,000 were unable to find alternative employment when they were let go [39].

While some commentators talked of the "disciplining" effect which layoffs, or the threat of layoffs, were likely to have on workers within production,

> Until recently a job had little prestige in our country. Many people, knowing that they could always find work in their trade, did not value their job or their duties. Even though these workers did not always work conscientiously, the administration turned its head the other way, excused their indiscipline with the sole desire to keep them from leaving the enterprise and leaving the workplace bare. This, to be sure, is one of the reasons for the ineffectiveness of many of the measures designed to strengthen labour discipline. Now the situation is gradually changing. A place to work has gone up in price, since the enterprise now has an economic interest in cutting the number of cadre. When this interest becomes general the worker will constantly face the choice: either work well and be necessary to production, so that the question of dismissal never comes up, or work badly and become a candidate for dismissal [40].

others made doom-laden predictions about a potential explosion in parasitism,

> Not all workers laid off will rush to secure new jobs; conditioned by idleness at their former place of work, they will simply seize the opportunity presented by their redundancy and give up working completely [41].

Kondrashkov, who had particularly mixed feelings about the *khozrashchet* system, sympathised with both of these arguments. On the one hand, he applauded the fact that many idlers, whose dismissal had previously been virtually impossible, could now be released, leading to improvements in both the efficiency and quality of labour as well as labour discipline. On the other hand, the creation of a "reserve army of labour" could

well bring "untold harm":

> Wouldn't this be an even greater social evil (than keeping idlers in work), an even bigger breeding ground for a parasitic (officially approved by the state and society) way of life? Wouldn't this provoke an unimaginable growth in crime and lead to other undesirable social consequences?

His chief concern, however, was that *perestroika's* attempt to create labour mobility and an unfettered labour market had placed the authorities in a predicament - one directly linked to the problem of parasitism. While they were still trying to persuade enterprises to accept parasites for work, the directors and collectives were simultaneously being forced to rationalise, to search for ways of cutting down on the number of superfluous workers, and this was resulting in the cancellation of the labour contracts of many employees who were actually prepared to work conscientiously:

> Who ought to be given preference in job placement - those who against their will are being made redundant, who want to work, have experience and skills, or those who by their own desire and through their own fault have excluded themselves from the sphere of socially useful labour, and who, moreover, have in every possible way been trying to evade it and as a result have lost their skills and let themselves go to pieces? Who should be taken care of in the first place ?[42].

Although there had already been suggestions that a possible solution to this dilemma would be through the setting up of enterprises or self-financing subdivisions within enterprises, especially for the "parasitic contingent" [43], Kondrashkov identified two major flaws in the reasoning behind such an approach. First of all, it would be economically as well as organisationally very difficult to create enterprises of this type. In order to pay their own way, they would have to function on a permanent production base, with professionally trained workers. This was not possible with the "special contingent" in question. Secondly, parasites needed to be assigned to enterprises where there were "healthy" collectives since otherwise the chances of their "re-education"

were slim. But, under the proposed solution they would basically be left to their own devices, making for an extremely poor microclimate within the enterprise, mutual contagion, and non-existent re-educational measures. A more realistic solution had to be found, one which, in his opinion, would necessarily have to entail amendment of the existing anti-parasite legislation and changed practices in the struggle against parasitism [44].

A small but vocal group of lawyers and academics had in fact been calling for amendments long before the *perestroika* years. In 1981, for instance, A.A. Kovalkin had proposed the introduction of administrative liability for vagrancy or leading other forms of a parasitic way of life on the grounds that the methods used up till then to place parasites in jobs and return vagrants to a settled way of life had proven to be "totally ineffective" [45]. Meanwhile, other writers such as Kostrov, who noted that convictions for begging were extremely rare in practice, urged the legislature to consider excluding this particular offence from Article 209 of the RSFSR Criminal Code and making it an administrative misdemeanour - especially in cases where the beggars were either not evading socially useful work or were disabled/elderly [46]. Yet another group criticised the lack of administrative liability for pre-criminal parasitic behaviour. A.P. Lonchakov, a senior lecturer in law at Khabarovsk University, counted approximately thirty offences listed in the RSFSR Code on Administrative Violations, the main perpetrators of which were parasites. But since this Code did not contain any provision outlawing "evasion of socially useful work", he said that law enforcement officials often tended to turn a blind eye to those offenders' wrongdoings, preferring instead to wait until such individuals could be ensnared by the criminal law (*i.e.* after four months of work evasion) and thus dealt with far more severely. This meant that parasites were effectively being allowed to enjoy "a rather prosperous standard of living" for quite a

substantial length of time without fear of punishment. If work evasion was made punishable under administrative law, he reasoned, then the militia could clamp down early on those people and perhaps reduce the likelihood of their criminal prosecution at a later date [47]. Two academics from the University of Omsk reached the same conclusion but only after noting what they considered to be an obvious inconsistency in the law dealing with parasites. They pointed out that the summoning of suspected vagrants, beggars and other parasitic types before an internal affairs agency and their detention, if necessary, for the purpose of establishing identity, *etc.*, the sending of suspects for a medical examination in order to determine their fitness for work, and the issuance of official earnings, were all measures of administrative influence and that the use of these measures created the necessary pre-conditions for "engaging" the mechanism of criminal repression in the event of continued parasitism. This was all very well - but as they wrote:

> The content of these measures ... suggests the idea that they are being applied for the purposes of the prevention and suppression of a serious administrative misdemeanour and that after their application a no less serious administrative punishment must follow. However, in the cited list of measures there is not one single measure of administrative penalty for non-compliance. Does this mean that administrative penalties are in no way whatsoever being imposed upon parasites? Of course not. But they are being imposed upon persons who are evading socially useful work, not for the leading of a parasitic way of life, as such, but for the commission of individual misdemeanours which may accompany, be elements or even the means of the leading of such a way of life, for example, petty speculation, petty theft of state or public property, non-criminal engagement in a prohibited trade or poaching, *etc.* The actual leading of a parasitic way of life itself, however, both before the issuing of an official warning to the suspect and during the one-month period after it, is not, according to the administrative code, an administrative misdemeanour. In other words, at present there is no administrative liability for parasitism.

This, in their opinion, was a serious lacuna in the law since parasitic behaviour, even

though it was not criminally punishable in its early stages, was still socially dangerous enough as to merit some form of suppressive action:

> A person who has chosen the path of a parasitic existence must not only be informed officially about the probability of the institution of criminal proceedings against him in the near future, but also must be made aware at the earliest stage through an administrative penalty, that the state and society will not tolerate such conduct. The introduction of administrative sanctions for parasitism would be conducive to preventing it from developing into an act punishable under criminal law and would serve as a means of the early prophylaxis of other crimes committed by those evading socially useful work [48].

It must be noted that neither Lonchakov nor the Omsk scholars were actually advocating the decriminalisation of parasitism. For them, the introduction of administrative liability was simply a means of reaching and holding parasitic elements in check during the initial four-month period of work evasion when no criminal charges could yet be brought. In the late 1980s, however, when it became apparent that not all workers being released from self-financing enterprises were finding alternative jobs quickly and easily, thoughts increasingly began to turn toward the necessity of a radical change in both the appraisal and legal handling of non-participation in work. This necessity stemmed in large part from the fact that as joblessness grew in 1988, 1989 and on into 1990, the Soviets continued to hold on to their old definition of the unemployed, which, unlike the standard Western definition (that is, those who are without work, but seek work), put all those who were able-bodied and not in education among the ranks of the unemployed, even if they did not want to work. The underlying ideological principle that every member of society should be involved in "social production" still remained firmly in place. Under their definition of "unemployment" it was impossible to make a distinction between a person who was involuntarily unemployed and one who did not care to work: they both were "unemployed". Obviously some method of

differentiation needed to be found since as matters stood the genuinely unemployed could quite possibly end up facing parasitism charges if their search for work proved fruitless or became protracted. It was believed by many - especially those who had great faith that the vast number of job vacancies throughout the country would absorb workers losing their jobs - that the probability of such an injustice ever arising was minimal. Typical in this regard was the view of V. Potapov, a senior scientific worker at the Institute for Sociology of the USSR Academy of Sciences, who wrote to *Trud* saying that there were 2.8 million vacancies which could be filled by the unemployed and that in future the second and third shifts in plants could absorb another seven million workers [49]. Indeed, there appears to have been a commonly held belief that the large number of job vacancies was evidence that the unemployment problem was exaggerated. In essence, job openings were taken as proof that, whatever the current level, unemployment could be a great deal less if only the unemployed would fill the vacancies. What was often not understood in these calculations was that the problem was structural in nature: the demand for labour did not match the skills of the available labour supply. Viktor Polishchuk, a philosophy lecturer from Tobol'sk, to be fair, had actually predicted a sizeable amount of structural unemployment (*i.e.* the growth in unemployment with the simultaneous presence of a large number of job vacancies) as early as April 1988. In a letter to *Sovetskaia Rossiia* he argued that if joblessness mushroomed as forecast, then the basic principle of distribution "from each according to his abilities, to each according to his work" would have to be relaxed. More radical still was his call for the abolition of the duty to work and the exclusion of Article 60 from the USSR Constitution, which he saw as a means of giving redundant workers breathing space and time to search for alternative employment according to their abilities without fear of being categorised as "parasites". He was confident that they would secure new

jobs sooner rather than later and believed that his proposal, if accepted, would help the authorities in the long run to separate "the chaff from the corn", to make the necessary distinction between the involuntarily unemployed, who were willing to work, and any idlers taking refuge amongst their ranks [50]. But, this line of reasoning contained one major weakness: parasitism would have to be decriminalised thereby rendering the said distinction totally worthless. If Soviet citizens were no longer duty-bound to work, then Article 209 would also have to be written out of the Criminal Code since failure to perform one's labour obligations in the form of evasion of socially useful work was one of the key elements of the *sostav* of the crimes covered by that article. In other words, parasites could no doubt be identified and separated from the genuine job seekers but what was the point in doing so if no legal action could be taken against them? This flaw aside, Polishchuk's proposal was a little too far ahead of its time. It provoked howls of outrage from old guard conservatives in particular, who could scarcely believe that some young interloper had actually had the audacity to challenge the idea of the universality of labour under socialism - which, in point of fact, had only just been reaffirmed in the new Fundamental Principles of Labour Legislation of the USSR and Union Republics passed in March 1988. The reason for their anger and horror was quite simple: if the duty to work and distribution according to the quantity and quality of labour expended were abandoned then the Soviets would be compelled to renounce the socialist way of life. Spurred on by this realisation, some extremists began to propose particularly nasty and inhumane "final solutions" to the parasitism problem. These ranged from rounding up all parasites, towing them out to sea on barges and "drowning them without mercy", to driving them into special labour camps without trial, where they would be placed on a bread and water diet and compelled to "work to the bone" for sixteen hours a day [51].

Meanwhile, at the other extreme, calls for a certain relaxation in the fight against parasites became louder and more frequent. Three associate members of the All-Union Scientific Research Institute for instance, pointed to the fact that the enforced job-placement of parasites, which they said had "never been a particularly successful method of guaranteeing these persons' re-education", was simply no longer a viable option given the changed employment situation in the country. For this reason, they urged the law-makers to consider partially decriminalising parasitism - or to be more precise, to think about introducing administrative liability for the evasion of socially useful work, and appealed to the law enforcement agencies to be more tolerant of those individuals suspected of doing so [52]. In fact, even as they spoke, the Deputy USSR Procurator General, O. Soroka, was reporting that the militia had recently eased up quite considerably in the enforcement of Article 209 and that there had been a sharp fall in the number of convictions for parasitism during 1987 and the first months of 1988 [53]. Although he gave no data confirming the veracity of this assertion, information released two years later by the State Committee for Statistics, *Goskomstat*, and published in the October 1990 issue of *Vestnik statistiki*, clearly showed that the war on parasites had indeed been dramatically scaled down. In 1988, 221,600 persons were officially warned to terminate their parasitic existence (which was nearly half the number as compared to the previous year [54]), this figure falling to 168,600 during 1989 - 24% less than the 1988 level [see Table 7.1]. Of the 1989 group, 28.6% were aged eighteen to twenty-nine, and one in five had previous convictions. About 120,000 of that group who had received warnings found jobs; 17,000 refused to take a job, and 22,900 were sent to LTPs. Only 1,900 had criminal proceedings initiated against them, which was almost half the number of those prosecuted in 1988. The sharp fall in the number of warnings issued in the Uzbek Republic is particularly striking.

TABLE 7.1

NUMBER OF PERSONS OFFICIALLY WARNED FOR LEADING A PARASITIC WAY OF LIFE IN 1988-1989

	Thousand		Per 100,000 Inhabitants	
	1988	1989	1988	1989
USSR	221.6	168.6	78	59
RSFSR	123.7	100.7	84	68
Ukrainian SSR	23.4	17.8	45	34
Belorussian SSR	3.8	2.9	37	28
Uzbek SSR	25.2	11.7	128	58
Kazakh SSR	15.6	13.1	95	79
Georgian SSR	8.3	4.7	153	86
Azerbaidzhan SSR	3.8	2.9	54	41
Lithuanian SSR	2.7	2.3	74	62
Moldavian SSR	2.2	1.9	51	44
Latvian SSR	0.7	0.5	26	19
Kirgiz SSR	3.6	3.5	85	81
Tadzhik SSR	3.4	2.8	68	52
Armenian SSR	0.9	0.4	27	12
Turkmen SSR	2.4	2.1	69	59
Estonian SSR	1.9	1.1	115	70

Source: Vestnik statistiki, No.10, 1990, p.47.

Long-term structural unemployment and underemployment had existed in this republic - and in the other Central Asian and Transcaucasian republics too - for years, although it was only under *perestroika* that the problem was openly acknowledged. According to a 1987 resolution on Central Asia and the Caucasus there were over five million *nezaniatye* (those not in state employment) throughout this region, one million of whom were Uzbeks [55]. Although these figures can to some extent be explained by the Muslim culture of most of these republics, and the discouragement of rural women from working, much of the problem lay in the distorted development of the region in general, and Uzbekistan in particular. Thus, over 30% of that republic's working age population worked in agriculture, producing a single crop - cotton. (At the same time, investment policy, determined by the centralised ministries in Moscow, concentrated on constructing large enterprises in the cities where infrastructure and public amenities

were poor. Conversely, there were few opportunities for non-agricultural empioyment outside the large towns.) The narrowness of the Uzbek economic base was compounded by the fact that only 8% of the cotton was processed in the republic. The spinning, weaving and sewing of cotton goods was done mainly in the European part of the USSR [56]. The result was an irrational industrial location structure, where urban heavy industry had thousands of unfilled vacancies, while in the countryside hundreds of thousands of people were out of work. Moreover, many of the rural unemployed could not find work simply because they were so unskilled; *Pravda vostoka* said that the majority had "absolutely nothing to offer" [57]. While there were jobs for stone workers, plasterers, welders, secretaries and bookkeepers, no one had the skills either to fill these positions or to train others in them. By the end of the 1980s an estimated 46% of the republic's population was reported to be living below the poverty line, with one of the causes of poverty being identified as "mass unemployment" [58]. The 1987 resolution mentioned above, which should be seen in the context of the planner's obsession with finding "reserves" which could be drawn into social production, mentioned that a significant proportion of the *nezaniatye* were parasites choosing voluntarily to remain outside state employment. But if the Uzbek authorities had decided to prosecute all those not working at the end of the decade, the whole system of the administration of justice would have come to a grinding halt, since this would have meant having to file parasitism charges against some 2.3 million people [59]. Moreover, since most of these people stood very little chance of securing full-time employment, it was probably realised that strict enforcement of the anti-parasite legislation was no longer possible - presumably the chief reason for the steep drop in the number of warnings handed out in 1989.

The actual scale of this apparent contraction in the struggle against parasites in the

Uzbek SSR becomes clearer when we see from Table 7.1 that whereas in 1988 this republic ranked second behind the massive RSFSR in terms of the number of suspected parasites warned, by 1989 it had slid back to fourth place in this regard - behind the Russian, Ukrainian and Kazakh SSRs. One additional point of note here is that of these four republics, only in Kazakhstan does there not appear to have been any significant moderation in militia harassment of parasites over these two years. On the contrary, a new crackdown on parasitic elements decreed by the Kazakh Central Committee's Co-ordinating Council for Combating Crime, Alcoholism and Unearned Income at the beginning of 1987 [60], seems to have continued virtually unabated. Speaking at the conclusion of the 13th Kazakhstan Trade Union Congress on 31 January 1987, G.V. Kolbin, the First Secretary of the Kazakh Communist Party Central Committee, said that the crackdown had "one clear-cut aim" - to completely rid the republic's capital and *oblast'* centres of all parasites by 1 March 1987. For this purpose, 2,500 mobile groups had been set up and given the duties of detaining all individuals found in a state of intoxication, ensuring order in the streets and in public places, and providing assistance to the militia in curbing criminal actions. He informed delegates that already in Alma-Ata alone, 280 parasites, vagrants, alcoholics and drug addicts had been identified, registered and given official warnings and that an even greater number had been sent away for compulsory treatment. In addition, the republic's Council of Ministers had taken steps to identify and hold accountable executives whose children were leading a parasitic way of life; to bar secondary-school graduates from entering higher educational establishments if they had not engaged in socially useful work during the year before taking their entrance examinations; to make drunks work off their fines and make restitution for the damage done to family budgets through compulsory work on public projects such as cleaning streets and railway tracks, unloading freight, *etc.*, on

their days off and after regular working hours; and to confiscate officials' prestigious suburban dachas, "hunting" cottages and all sorts of vacation homes, the construction of which, according to Kolbin, had "become widespread in recent years" and was "nothing other than the consequence of indiscipline and shameless violation of the norms of social justice. Millions of roubles were spent to 'brighten', so to speak, the leisure hours of the command staff. This also gave rise to an intoxication with power, a loss of self-control, and opportunities to expend funds from the state budget for the gratification of various high officials and their immediate entourage of obsequious and depraved people. These illegally constructed private residences are now being confiscated and turned over to be used for the needs of public health and as children's institutions. Thus, the vacation home of the Alma-Ata City Soviet Executive Committee has been turned over for the organisation of a Young Pioneer camp, where up to 300 school-children can vacation per season" [61]

No official explanation was given for the sudden general easing of pressure on parasites. One can speculate that as unemployment spread and the state policy of full employment became increasingly unsustainable, perhaps internal instructions were issued ordering moderation. It may possibly also have been due to an explosion in far more serious types of crime, requiring extra time and effort on the part of the militia. In the first year of the Gorbachev period, crime rates dipped temporarily, probably as a result of the strictly enforced anti-alcohol campaign [62]. From 1987 onwards, however, there was an increase in both the magnitude and seriousness of criminality: in 1988, crime was reported up by 9.5% [63]; in 1989, nearly 2.5 million crimes were registered, a 31.8% increase over 1988 with serious crimes up by 15% [64]. A particular rise was noted in the rate of violent crime, especially in such offences as premeditated murder, aggravated assault, and rape [65]. Greater organisation was

observed in crime commission as more bands of criminals were arrested [66] and an increasing number of offences were committed in groups [67].

The growth in crime and the increasing severity of criminality were possibly unavoidable in a period of such rapid political, economic and social change as that provoked by *perestroika*. Having said this, the Soviet leaders not only failed to anticipate the growth in crime but actually took steps that exacerbated the problem. For example, although senior MVD officials warned that an increase in organised crime would follow the initiation of the anti-alcohol campaign, their advice was ignored because the Politburo leadership decided that the general benefits of this campaign outweighed the criminological consequences, a decision they lived to regret. The outcome was:

a) a fiscal crisis. Economic experts estimated that the ultimate cost to the state for the years 1985-1988 was between fifty and 100 billion roubles in lost revenues [68].

b) a massive increase in illegal *samogon* production dominated by organised criminals, who were able to launder their profits into the burgeoning movement of business co-operatives [69]. In other words, organised crime figures were acquiring the funds to dominate the emerging private sector, just as they already controlled most of the second economy, which was now totally out of control as a result of the shortages caused by *perestroika*. (A study done by the Independent Centre for Socio-economic and Criminological Research in the USSR said that by the close of the 1980s almost twenty million people were working in the black market [70], while in an article for *Voprosy ekonomiki*, the economist Tat'iana Koriagina suggested an even higher level of participation - around thirty million, which amounted to more than 20% of the total number of employed in the USSR [71]. This was in sharp contrast to the situation in the early 1960s, when it was estimated

that less than 10% of the labour force (about eight million people) was in the second economy [72].) In a frenetic effort to stem the tide of the underground economy's growth, the implicit message of the government was that black marketeers were the cause of the food, consumer goods, *etc.*, shortages. In fact, however, the second economy was never anything more than a symptom and reflection of them. The real causes of shortages were the excessive increases in money incomes, which far outstripped the production of goods. When the links created by central planning began to crumble, a vacuum was created and nothing came in to fill it. Indeed, *perestroika*, instead of destroying the roots of social parasitism, created conditions in which the opportunities for deriving unearned income multiplied. Since the Gorbachev regime really did not have a programme for increasing the supply of food and other consumer goods, it went after the "parasitic" speculators and profiteers. But that effort was quixotic, doomed from the start. The militia taking pokes at the second economy could not increase the supply of goods, although their actions may have temporarily deflected popular resentment over shortages and high prices. The thrust of the militia efforts was to re-establish a sense that the state was concerned with justice in the distribution of goods and was fighting the fiercely hated "mafia" who appeared to have so much power. A first step in the government's crackdown on the black market was the creation in 1989 of a new department in the MVD, called the Department to Fight Organised Crime, necessitated, it was said, because the Soviet mafia was broadening the scope of its operations in the economy [73]. Hard-pressed economically by the costs of the anti-alcohol campaign, however, the state lacked the resources to protect itself from organised crime. Whereas the government, strained by its budgetary crisis, looked for ways to reduce its expenditures, the

mafia, enriched by its revenues amassed during the campaign, was poised for growth.

c) a rise in corruption. Law enforcement personnel, in particular, became accessories to organised crime. Like their American counterparts during the Prohibition era, they accepted massive bribes from the *samogon* producers and themselves became procurers of alcohol [74]. Moreover, a well-intentioned state effort to reduce corruption in law enforcement (initiated in the last years of Brezhnev's rule and then continued by his successors) which led to nearly 200,000 people being dismissed from the MVD, inadvertently boosted mafia membership by providing it with ideal new recruits, who readily transferred their knowledge and skills from the state to the criminal sector. The mass dismissals made it increasingly difficult for the remaining staff to perform effectively in a time of rapid societal transition. The most vivid evidence of this situation was the rapid decline in the number of arrests. Between 1986 and 1988, the number of individuals arrested and detained dropped precipitously from 749,000 to 402,000 [75], whereas the crime rate fell by less than 10% in these years when the anti-alcohol campaign seemed to be initially successful. In addition, the certainty of punishment declined significantly. In 1980, no perpetrator was arrested in 9.7% of cases; by 1985, the figure had risen to 17.8%. It escalated rapidly under *perestroika*, reaching 49.4% in 1988 and 63.4% the following year [76]. The decline in militia performance was also evident in other figures. In 1979 every criminal investigator cleared twenty-six crimes, but by 1989 that figure had fallen to 16.8 [77]. Some of this decline could be explained by changes in recording practices, the rise in crime, and the increased workload of militia personnel. But an MVD professor offered an alternative explanation. He suggested that the primary cause was that law enforcement officers had been

overcome by "a wave of apathy and lowered discipline" [78]. If this was indeed the case, then militia morale must have been further dented when as part of an attempt to "humanise" corrections large numbers of individuals were released from penal colonies [79]. In the past, the state, by guaranteeing employment, had forced enterprises to hire ex-offenders. But in the late 1980s, convicts were being released into a society in economic crisis with no jobs available for them and no unemployment benefits or welfare payments to support them legally. Many of them, already susceptible to crime commission and finding that they had no legitimate means of support, jumped at the chance to become part of the organised crime network, one of the few expanding sectors of the economy.

A growing involvement of young people in serious crimes of violence compounded the law enforcement problems being faced by the understaffed and underequipped militia. The compilers of the first official USSR crime statistics (since the 1930s) published in 1990 expressed concern about the noticeable *omolozhenie* in crime commission during the Gorbachev period: the proportion of young people amongst the total number of criminals arrested had been constantly growing since 1985, whilst the number of persons aged over thirty involved in criminal activity had been gradually falling [80]. While some writers suggested that this was the result of a weakening or undermining of social institutions which had traditionally helped hold deviance in check [81] (the authority of the family, for example, had been deteriorating for many years and could no longer be counted on to restrain its own members), others linked it directly to the growing joblessness amongst young people, who had begun to comprise a disproportionate share of the unemployed in the country. In reality, pressures on the job market for young workers had been building up for some time: the number of new workplaces created each year declined from an average of 1,859,000 during 1960-1970,

to just 434,000 in 1985-1986, and actually contracted in 1988 [82]. With *khozraschet* these pressures intensified, as older workers became reluctant to take young people into their brigades, for fear they would be less productive. Factories also cut back on training, since this was now deemed a high-cost item with little immediate payoff. In 1988, that is, before the cutbacks imposed by *khozraschet* had really begun to bite, the number of first-time workers receiving training in industry fell by 365,000. Enterprises simply found it more profitable to poach skilled workers from other enterprises, rather than to train their own [83]. At the same time, young workers became early candidates for redundancy [84]. The effect of both these trends was to deflect the younger workers out of more technically sophisticated enterprises toward those dominated by low-skilled work under poor conditions - an obvious recipe for anger and frustration. As time passed, even these enterprises refused to take them on [85] and the first signs of structural youth unemployment appeared. This was most pronounced in the Asian republics; but in the RSFSR and Ukraine, too, 1.3-1.4% of school-leavers were unable to find any sort of job at all in 1989. In Leningrad, about 33% of all young workers applying for their first jobs could not find work, and it was from this city's procurator's office that extremely alarming figures linking youth unemployment to crime were released at the end of 1989: a quarter of all the crimes in the city were committed by youths without jobs, and they were the ones committing the most serious offences - armed theft, assault, rape and even murder [86].

An unemployment-crime correlation had already been observed in other areas. In early 1988, for example, it was asserted that the unemployed committed 20% of the crime in the Kabardin-Balkar ASSR in the Northern Caucasus region [87]. And when the crime rate rose by 37% in the Turkmen SSR in the first months of 1989, authorities claimed that one explanation was the increase in unemployment: some 200,000

workers, including 50,000 adult males, were not working because of a "lack of jobs in the republic" [88].

From the time of the launch of Khrushchev's anti-parasite campaign up till the mid-1980s, the proportion of persons "neither working nor studying" amongst the total number of criminals being convicted annually had remained fairly constant - approximately 20-25% [89]. After the passing of the laws against unearned income, there was a fall in the number of persons who could be placed within this distinctive category of offender. But as we see from Table 7.2, this was a short-lived phenomenon, their numbers increasing once more through 1988 and especially sharply during 1989. This was perhaps further evidence of the interconnection between unemployment and crime, although some Soviet criminologists would have had us believe that the said increase was more than part consequence of the release of thousands of convicts in 1987 under an amnesty to mark the seventieth anniversary of the Revolution, the "vast majority" of whom subsequently "failed to take jobs, led a parasitic way of life, and relapsed into crime" [90]. Particularly interesting, and consistent with the noted vulnerability of young people to discriminatory hiring and dismissal, was the observation again made by those drawing up the official crime statistics on the subject of how persons within the "neither working nor studying" grouping of criminal offenders had recently become "appreciably younger". At the same time, they also pointed out that this grouping contained "significantly fewer persons engaging in vagrancy, begging or leading other forms of a parasitic way of life" in 1989 than hadbeen the case in 1985. Both of these trends are easily identifiable in the charts which have been reproduced in Table 7.3. A note of caution is in order however. When surveying the two bottom diagrams, one ought to avoid jumping to the conclusion that there had been a dramatic downturn in the number of persons actually leading overtly

parasitic lifestyles. Indeed, according to the *Vestnik statistiki* article mentioned earlier, there had recently only been a "negligible reduction" in the number of suspected parasites [91]. Thus, while the figures given in the diagrams may look rather impressive, they are deceptive. They show only that parasites in 1989 comprised a much smaller percentage of all the non-working criminals, the number of whom had risen sharply because of unemployment therefore tending to make it appear as if parasites were somehow miraculously posing less of a criminal threat to society than before. In reality, matters on this score had changed little. Parasites still continued to constitute a high proportion of those criminals committing such crimes as swindling (42%), robbery (40%) and theft (36%) [92]. Moreover, in the Kazakh and Uzbek Republics, in Rostov and Leningrad, they were reported to have organised themselves into extremely dangerous bandit gangs, committing armed robberies on banks, shops and rent collectors [93]. (This was a new and alarming phenomenon; studies had previously shown that parasites very rarely operated in groups [94].)

TABLE 7.2

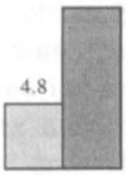
OCCUPATIONS OF PERSONS GUILTY OF COMMITTING A CRIMINAL OFFENCE (1985-1989)

	Year				
	1985	1986	1987	1988	1989
Total Number of Criminals Exposed	1,728,184	1,706,148	1,476,932	1,286,505	1,303,958
Blue Collar Workers	875,216	881,328	769,325	691,705	689,519
Proportion in %	50.6	51.7	52.1	53.8	52.9
Kolkhozniki	99,604	103,203	91,035	75,151	74,756
Proportion in %	5.8	6.0	6.2	5.8	5.7
White Collar Workers	164,980	207,116	195,469	139,041	113,499
Proportion in %	10.7	12.1	13.2	10.8	8.7
Students	143,310	140,758	136,167	133,392	138,562
Proportion in %	8.3	8.3	9.2	10.4	10.6
Neither Working Nor Studying	328,228	246,459	174,496	174,540	208,284
Proportion in %	19.0	14.4	11.8	13.6	16.0

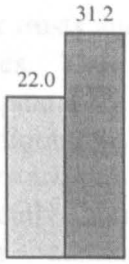
Source: Prestupnost' i pravonarusheniia v SSSR: Statisticheskii sbornik 1989, Moscow, 1990, p.88.

TABLE 7.3

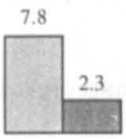
CHARACTERISTICS OF ABLE-BODIED NON-WORKING/STUDYING CRIMINALS IN 1985 AND 1989 (IN %)



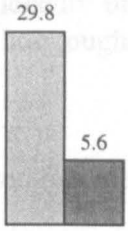
Proportion of Non-Working/ Studying Persons in the Age Range 16-17 (Amongst All Non-Working/Studying Criminals)



Proportion of Non-Working/ Studying Persons in the Age Range 18-24 (Amongst All Non-Working/Studying Criminals)



Proportion of Persons Engaging in Vagrancy or Begging (Amongst All Non-Working Criminals)



Proportion of Persons Leading Other Forms of a Parasitic Way of Life (Amongst All Non-Working Criminals)

Source: Prestupnost' i pravonarusheniia v SSSR: Statisticheskii sborniki 1989, Moscow, 1990, p.84.

Since the subject of rent has come up, it is worth digressing to note that as the housing shortage worsened during *perestroika*, the press turned angrily on all those tenants in arrears. As of 1 January 1988, 150,000 tenants in Moscow were delinquent in rent payments, owing approximately three million roubles: most were "inveterate non-payers, on whole - parasites and alcoholics" [95]. In the RSFSR as a whole, the total amount of outstanding rent was some 14.2 million roubles, 3.7 million roubles of which were the debts of "parasites" [96]. V. Danilov, a *Pravda* staff correspondent, reported

that the Sverdlovsk City Soviet Executive Committee's Housing Administration was owed about 2.4 million roubles, and explained that:

> This amount of money would build more than 400 two-roomed apartments of frame-and-panel construction. What is more, overdue rent payments have quite a negative effect on the work of the city's *raion* housing and housing repair trusts and factory administrations of housing and public services. They lose the ability to obtain building materials and equipment in a timely fashion, with the result that housing conditions suffer and repairs and improvements are delayed. Who are the debtors? According to the figures of the city soviet executive committee's housing and housing-repair production administration, pensioners account for only 0.2%. Apartment tenants with more than one child make up 1.1% of the debtors. But 22% are people who are not burdened with large families and are entirely able-bodied, but hold no steady job anywhere - in other words, parasites. This is the most "stable" segment of the non-paying tenants; they are often totally unresponsive to pressures of any sort, though various forms of pressure are allegedly brought to bear .... It's obviously necessary to make the law tougher where parasitic non-payers are concerned [97].

But, A. Chernenko, a *Sovetskaia Rossiia* journalist, reported that attempts to take firmer action had been blocked in the appeal courts:

> Some of the worst [non-payers], with debts as high as 759 roubles, were sentenced to a year's deprivation of freedom and confiscation of the delinquent sum under Article 94 of the RSFSR Criminal Code. It covers "damage to the state through fraud or abuse of trust". But now the sentences have been set aside. Appeals were initiated by N.S. Trubin and B.P. Namestnikov, both RSFSR Deputy Procurators and L.D. Smirnov, Vice-Chairman of the RSFSR Supreme Court. Their reason? They say the courts failed to show that the defendants were guilty of fraud or abuse of trust. All they did was fail to meet their obligations, and this is not punishable under either criminal or housing law. Even a cursory analysis shows that the defendants in the overwhelming majority of these cases are parasites. A legal scholar of long experience told me that criminal sanctions had been discussed in times past, but it was thought that moral and social pressure from people's organisations would suffice. Yet parasites are the very ones who will not respond to such pressure. Legal scholars must figure out how to put the matter on a better footing [98].

Suggestions in this latter regard tended to focus on two possible courses of action, neither of which, however, were practicable. The first - to distrain the property of malicious non-payers - was really a non-starter since most of these people were insolvent and simply did not possess any personal property that could be seized by the state as a means of covering their debts. The second - to immediately evict non-payers without granting them alternative accommodation - had to be rejected, on the grounds that it would aggravate the far greater evil of vagrancy. Homelessness in the country was high enough already without further adding to the problem. The academic journal *Eko* revealed that in 1987 some six million people "in practice have no permanent housing" [99], while a 1988 estimate speculated that there were at least several hundred thousand *bomzhi* drifting around the major Soviet cities [100].

Official statistics put the number of vagrants at 112,900 in 1989, which represented a 2.1 increase on the previous year; but, the total number of people accused of engaging in vagrancy or begging - 140,000 - was 2,400 less than in 1988 [see Table 7.4]. Almost 93% of the vagrants were of working age, and they were young - about 33% were between the ages of eighteen and thirty. (This was a change from the pattern of the late 1960s and early 1970s when it was the middle-aged who predominated the Soviet vagrant population [101].) Three-quarters of those arrested in 1989 had a trade but 50% of them had been evading socially useful work for more than four months; 9,400 or 6.7% had committed other crimes - a 0.8% increase on the 1988 level; and around 19,000 were female, which was 7.9% less than in 1988 [102]. However, for the purposes of a more complete picture, one must add at this point that there had been a certain growth in the number of female vagrants among the female prison population: in 1970, women without a permanent place of residence comprised 15.7% of the total number of women convicts; by 1989 the figure had risen to 16.1%.

TABLE 7.4

NUMBER OF PERSONS ACCUSED OF VAGRANCY AND BEGGING IN 1988-1989

	Thousand		Per 100,000 Inhabitants	
	1988	1989	1988	1989
USSR	142.4	140.0	50	49
RSFSR	89.0	88.5	61	60
Ukrainian SSR	19.8	18.9	38	37
Belorussian SSR	1.5	1.2	15	12
Uzbek SSR	10.8	10.0	55	50
Kazakh SSR	11.0	10.6	67	64
Georgian SSR	1.6	3.1	29	57
Azerbaidzhan SSR	0.6	0.5	8	7
Lithuanian SSR	1.4	1.2	38	34
Moldavian SSR	1.5	1.0	35	24
Latvian SSR	0.8	0.5	30	20
Kirgiz SSR	1.3	1.1	31	26
Tadzhik SSR	0.6	0.6	12	11
Armenian SSR	0.1	0.4	4	11
Turkmen SSR	1.0	1.3	29	35
Estonian SSR	1.4	1.1	87	67

Source: Vestnik statistiki, No.10, 1990, p.48.

For comparison we can note that amongst all the males serving sentences in corrective-labour institutions, those without a permanent place of residence was only 5.5% in 1970 and 9% in 1989 [103]. But, perhaps of greater importance is the fact that a different enforcement pattern of the parasite legislation had emerged for the two sexes. Whereas all men under sixty, except invalids and pensioners, who resisted warnings that they find employment, were subject to sanctions, women who were married and were not accused by their husbands of neglect of their familial and maternal responsibilities were deemed to have a legitimate means of financial support, thereby exempting them from the provisions of the legislation. A double standard thus emerged: all able-bodied males were required to work, while females could avoid some of the labour compulsion through marriage. Evidence for the different treatment of women was provided by a classified MVD study, which was conducted in all republics between September 1969

and May 1970. It found that women comprised only 17.8% of the 6,235 individuals labelled as parasites. In two of the Baltic republics, Latvia and Lithuania, one-third of the parasite population was female. In certain Muslim areas the female contribution was also high and the highest national level was in Tadzhikistan where 43% of the parasites were female [104]. This is particularly curious as the female population there had an unusually high birth-rate and was confined to the home. In Armenia, where the female birth-rate was considerably lower, parasitism was almost uniquely a male phenomenon as nearly 90% of the parasites were men [105]. The extensive application of this measure of coercion suggests that the criminal law was being used in some of the Asian republics to force unwilling women into the labour force. Furthermore, very different age distribution figures were provided for female and male parasites. While almost 75% of the males were over thirty, only half of the women were in this age bracket [106]. This suggests that the problem of prostitution, an unrecognised form of socialist labour, was being addressed (without legal foundation) through the parasite legislation as prostitution itself was not a criminal offence.

Prostitution, like other social problems such as drug abuse, was very rarely mentioned in the Soviet press before 1986. The official line was that it simply did not exist under socialism. In Marxist literature it was treated as a phenomenon characteristic of capitalist systems where the right to work was not guaranteed and where unemployed were "forced" into prostitution in order to eat:

- "Prostitution is a necessary social institution in bourgeois society just like the police, the regular army, the church and private businesses" [107];
- "The commodity economy and existence of private property give rise to prostitution. With the abolition of both there is no longer a place for trade in the female body" [108].

Repressive laws against prostitution had in fact been passed in Russia as early as the times of Peter I. In his "Articles of War" (*Voinskii artikul*) strict penalties were laid down for adultery (*preliubodeianie*) and frequenting dens of debauchery. Subsequent decrees of 1736 and 1743 increased sanctions but these were soon overshadowed by an especially severe law passed by Catherine II in 1763, which ordered the banishment of all prostitutes to Nerchinsk (they were later exiled to Irkutsk under an 1800 decree of Emperor Pavl'). During the reign of Nicholas I of Russia, however, it was decided that the practice of banishing prostitutes should cease and be replaced by the "regulation" of prostitution: all prostitutes were placed on a register, brothels were set up under the supervision of the police, and prostitutes were compelled to undergo medical examinations and accept treatment if needed [109]. In the early Soviet years emphasis was placed on prevention. For example, on 16 December 1922 an official instruction (*tsirkuliar*) was published in *Izvestiia VTs IK* (No.265), which ordered all *guberniia* executive committees to set up hostels for jobless women; to arrange short-term accommodation for all females arriving from other towns; to combat child homelessness and increase their supervision over *besprizorniki*; and to raise the level of their agitation work on explaining the perniciousness of prostitution and the inadmissibility of selling one's body in the workers-peasants' working republic [110]. The instruction also condemned the Tsarist practice of persecuting prostitutes instead of attacking those who were propagating the problem - the pimps and brothel-keepers. Under Article 171 of the 1922 RSFSR Criminal Code the latter could be imprisoned for a term of not less than three years with or without confiscation of property, the term of incarceration being increased to a maximum of five years in the 1926 version. Later, under a Stalin decree of 7 April 1935, criminal liability was established in all the main republics for compelling minors to engage in prostitution (as well as speculation and begging) - the

penalty for such being set at not less than five years deprivation of freedom. But, the engagement in prostitution itself was not made a crime. Instead, various normative acts kept the problem under tight control. The USSR Council of Ministers, for instance, issued several rulings (in 1956, 1966 and 1969) on strengthening the passport regime in the cities of Moscow, Leningrad, Sevastopol and in the Moscow *oblast'*, which gave the internal affairs agencies the right to deprive prostitutes for their residence permits and to expel them from these places if they had been detained repeatedly, irrespective of whether they were working or not.

We know for sure that prostitutes were exiled under the early anti-parasite laws of the 1960s [see Chapter 3]. When parasitism was criminalised, however, prosecuting them under Article 209 became a legal impossibility (even though prostitution was generally regarded as being a conspicuous form of social parasitism. An investigation conducted in Moscow by the All-Union Scientific Research Institute during 1987-1988, which split prostitutes into three separate categories - the elite (serving foreign tourists, sailors, representatives of Western firms and receiving convertible currency for their services); the middle-rankers (whose clients tended to come from the better-off male sections of Soviet society); and the "street", "station" ones (whose clientele, like themselves, were the real lowlife of society - parasites, vagrants, alcoholics, *etc.*) - found that 38.8%, 43% and 70% of the women within these groupings were not working anywhere and that 2%, 8% and 30% of them had no permanent place of residence [111]. According to another source, more than one in seven prostitutes detained by the militia in 1987 were neither working nor studying, "having turned this activity into their own special kind of trade, the basic source of their antisocial, parasitic existence" [112]). The matter, yet again, boiled down to that of "unearned income". Since prostitution was not a criminal offence, any income obtained from engaging in it, even if it was regarded

as "unearned" in the broadest sense, could not be deemed illegal. Prostitutes were therefore immune from liability. As Major S.A. Adzhiev, operations chief for the 69th Precinct of the Moscow city militia explained to a *Tass* correspondent:

> Most of the local prostitutes aren't ... registered as working anywhere. The matter is forwarded to the appropriate militia precincts ... endless bother ensues - after all, proceedings for parasitism can be instituted only if unearned income is involved. But can the sale of one's own body at a minimal price (a bottle of port) be considered unearned income, especially when the bottle is drunk on the spot? - it's difficult to say [113].

The prostitutes he was referring to were those operating in Komsomol'skaia Square, the so-called "bald spot" (*pleshka*) near the three Moscow railway terminals. Most were old and alcoholic vagrants who had earlier been thrown out of the city but had returned as *bomzhi* after spells in prison. Dealing with them was particularly difficult:

> They have residence permits somewhere. But they live in Moscow and "work" at the *pleshka*. Whereas in the past such women could be brought up on criminal charges for habitual violation of internal passport rules after two months, at the most, now their period of freedom has been lengthened to two years. The contradiction arising, from discrepancies in interdepartmental instructions has led to a situation in which a female vagrant can be brought up on criminal charges for habitual violation of internal passport rules only if she is deprived of the residence permit that she has. That's a lengthy process ... [114].

Tackling the higher class, foreign currency prostitutes or "good time girls" (*putanki*) was equally problematical. Only if they were detained three times in a year could they be deprived of their residence permit. But this was easier said than done according to Lieutenant Colonel E. Chaikovskii, head of a department of the Moscow Criminal Investigation Administration:

> In 1973 ... an interdepartmental order was issued - prostitution cases can be instituted only when the body-seller herself gives a written account of what she has done, not forgetting to specify the price, and the unlucky client also must give a detailed written explanation of his actions. It's absurd. When foreigners

> are involved, the matter is taken to real extremes. Foreign citizens cannot be detained without special cause. The girls impudently say that they're going to the "corner" (or the Kosmos Hotel, the international trade centre) to "marry" an "imported" man. Our officers detain them only for pestering foreigners, but you can't approach them if they are in a taxi or touch them if they're in a bar: that could bring reprimands from officials of the procurator's office. After all, this law violation was not included in the Russian Republic Administrative Code (1984) as being subject to administrative penalty ... [115].

Prostitution was made an administrative offence by a May 1987 decree of the Presidium of the RSFSR Supreme Soviet, which introduced Article 164-2, "Engaging in Prostitution", into the KoAP RSFSR [116]. It stipulated that prostitutes could be warned and fined up to 100 roubles in the first instance and up to 200 roubles if the offence was committed a second time within a year. Critics questioned whether this was an adequate deterrent for the foreign-currency prostitutes: "a 100 rouble fine is laughable for those who can recover such a sum over the space of a night" [117]; "These women cynically consider such fines as a form of minimum income tax" [118]. A 1988 questionnaire survey of militia personnel in the RSFSR, Ukraine, Belorussia and Baltic Republics appeared to confirm the critics' suspicions that the administrative measures by themselves were ineffective: 82% of the respondents believed that administrative liability for prostitution was "clearly not working", 76% of whom suggested that the fines be substantially increased. Others proposed that the legislation be supplemented by other penalties such as corrective labour, administrative arrest, confiscation of property, annulment of residency rights and expulsion from cities [119]. There were even calls in the press for the creation of a modern-day "morals militia" which could perhaps operate along the lines of the special operative militia sub-unit set up in Riga in 1980 [120]. But as evidence linking prostitutes to serious crimes became more available, public opinion hardened and there were increasing demands for

criminalisation [121]. In 1987, for example, 13,526 recorded law violations were said to have been attributable "in one way or another" to prostitution [122]; moreover, "in three cases out of four", prostitutes were guilty of committing such criminal offences as theft, speculation, violation of rules for currency transactions (Article 88 of the RSFSR Criminal Code), the spreading of pornography and narcotics, drawing minors into prostitution, hooliganism, infecting with venereal disease (Article 115 of the RSFSR Criminal Code), *etc.* [123]. (Alarming increases in VD rates were being recorded in some areas of the country. According to information released by the Procuracy of the Turkmen SSR, the number of minors suffering from sexually transmitted diseases jumped by 20% in 1987 [124]; in Latvia the syphilis rate amongst fifteen to seventeen years olds increased 2.5 times, and gonorrhoea - nine times, between 1986 and 1988 [125]. The assistant chief medical officer of the Riga Venereal Disease Clinic claimed that the main "reservoir" for venereal diseases were "persons leading a disorderly way of life" - alcoholics and vagrants who were selling their bodies for as little as "a phial of eau-de-Cologne" [126].)

Many legal experts, however, argued against making prostitution a criminal offence on the grounds that many females were being forced into it because of economic hardship as a result of becoming unemployed:

> the more the State and society are guilty of creating the conditions which provoke deviant behaviour, the fewer the moral grounds for criminalisation and the lower the effectiveness of criminal-legal norms, *i.e.* it is impossible to reintroduce criminal liability for an act which is an organic feature of the way of life being moulded by society itself [127].

What is surprising is that most of the participants in the pro-anti-criminalisation debate seemed to neglect or deliberately overlook the fact that prostitution had already been indirectly criminalised with the passing of the 1987 decree. Since the income of any

prostitute caught evading socially useful work could now technically be deemed illegal and unearned, the door was opened for her prosecution under Article 209 if she was using this income as the principal means of existence. Having said this - either because the militia and courts were slow to realise their new powers or, more likely, because of the scaling down of the struggle against parasitism around this time - only twenty-two prostitutes were prosecuted for parasitism in 1988 [128], even though there were then known to be over 5,000 prostitutes neither working nor studying in the country as a whole [129].

7.3 THE DE-CRIMINALISATION OF PARASITISM

The rise in serious crime, black-marketeering, prostitution, *etc.*, was indicative of the near-total disintegration of the Soviet moral order. By the end of the 1980s, the social fabric of society seemed to be falling apart as formal and social controls collapsed and the socio-economic crisis reached new depths creating conditions which even normally law-abiding citizens found intolerable. Indeed, among the most striking changes for the Soviet population during the *perestroika* period was the precipitous decline in their standard of living. Workers' wages rose, yet because of shortages and inflation their standard of living fell and they could not live on what they earned. The stagnation of real incomes was a long-term phenomenon, dating back at least to the late 1960s [130]. Whereas previously this trend had manifested itself in declining rates of growth of personal income, under *perestroika* living standards fell absolutely, as inflation accelerated and the output of food and consumer goods contracted. Officially, prices rose by between 8.4-10% in 1988, and 10-14% in 1989, depending on the source of the estimate. However, for many items the figures were meaningless, since they were simply unavailable except on the kolkhoz or black markets, whose prices were out of

reach for most families [131]. Poverty, once righteously declared by the Soviets to be one of the chief products of capitalism, now gripped millions of their own people[132]. In a 1991 poll conducted by the National Public Opinion Centre, 64% of respondents said they feared their income might fall below the poverty line, while only 17% believed their income would not fall to this level. It is striking that those who worked for the state were most apprehensive about poverty. While only 14% of those who worked for joint-stock societies and 25% of workers in the co-operatives feared a future in which they would be poor, 69% of those who worked in state enterprises feared a future of poverty. The state, upon which most people relied for their livelihood, thus inspired little confidence in its workers. The evidence from this survey indicated, as well, that workers had no faith in the state's traditional commitment to full employment and the guaranteed income that accompanied a guaranteed job [133].

The population's experience of inflation and a falling standard of living was in conflict with the government's policies of reform. Ultimately, the government's efforts to obtain both economic reform and popular peace by raising both prices and wages, resulted in the worst of all possible worlds - an inevitable, self-perpetuating, downward spiral of the economy as reflected in a zero growth rate, shops lacking 243 out of 276 basic consumer items, static farm output and inflation. The 1.7% rise in industrial output in 1989 was the worst result since 1945, and was more than eaten up by inflation. By 1990 Gorbachev's original reforms lay in tatters. Self-financing and *khozraschet* had so destabilised the economy that the regime was left with little alternative but to abandon *perestroika*, change direction and attempt to transform the Soviet Union into a capitalist market economy. No other alternative was available. For this was not a case where the entrenched conservation of the old system had subverted the reforms, and the situation would return to the *status quo ante*. Quite to the contrary, *perestroika* had

undermined the basis of the old system once and for all, so much so that further attempts at its reform or restructuring became impossible. Gorbachev, after considering two major alternative plans for marketisation of the economy - Nikolai Ryzhkov's five-year transition to a "regulated market economy" [134] (too conservative) and Stanislav Shatalin's so-called "500-Day Plan" setting a four-stage, 500-day period for the transition [135] (too radical) - offered his own programme in October 1990 [136]. It too called for four stages but whereas the Shatalin plan was specific on timing, Gorbachev's was vague. The first stage was devoted to stabilisation, particularly to dealing with the high rates of inflation. During the second stage, price decontrols would begin and privatisation, begun at stage one, would continue. A social safety net, with a set of programmes designed to protect the population, would be introduced. (At the 28th Party Congress, Gorbachev made only fleeting reference to "socialist social justice" which, as we have seen, lay at the heart of *perestroika's* social policy. Instead, he promised that everything possible would be done to shield the people during the "difficult transition" to the market: "the most complicated task of this period [is] to work out and implement a complex of special measures of social protection, especially for needy citizens" [137].) The market would begin to play a major role in consumer and capital goods during stage three and at stage four the marketisation begun earlier would be solidified. His proposal was ambiguous, cautious and only partially committed to the market. For example, on the matter of letting the market determine prices, his plan allowed republics and local organs the right to determine the maximum level of freed prices. But, he was well aware that popular support for a market economy was weak and ambivalent. What the population wanted was an outpouring of goods with low and stable prices. If the market economy could provide this, then they were in favour. Understandably, they wanted the transition to be painless. Soviet workers in

particular, who had been conditioned into regarding a job as an entitlement not an aspiration, wanted job-security assurances. They had been told for decades that the greatest evil of capitalism was unemployment. In the late 1980s and early 1990s they could not support what they and their parents and grandparents had been told for more than half a century was a curse.

A draft employment law published in the spring of 1990 recognised, however, that transition to a market economy would make unemployment a permanent feature of the economy. More radical still was the draft's call for acceptance of the principle of voluntary labour: it basically argued that effective functioning of the labour market would be impossible unless labour demand and supply were unconstrained and acknowledged for the first time that Soviet citizens should have the right to freely choose whether to work or not (provided they had some other legal source of income). Commenting on this particular component of the draft legislation, Valeri F. Kolosov of the Department of Labour Resources and Employment noted:

> Although this contradicts Article 60 of the USSR Constitution, which defines work as a citizen's duty, it is in conformity with the Universal Declaration of Human Rights, and also ILO Convention No.29 of 1 May 1932, which outlaws compulsory work in all its forms. It is evident that a compromise should be accepted in the transition period; unemployment of able-bodied citizens should be permitted, provided they have sources of income defined by the legislation. In international practice, "full employment" means not the employment of every able-bodied person, but a supply of jobs equal to the demand [138].

Implicit in this statement was a veiled admission that the practice of forcing parasites to work had indeed violated human rights agreements, *i.e.* an almost complete about-turn on previous official pronouncements which had vehemently denied that the USSR was guilty of forced-labour practices.

The draft's new treatment of what kinds of work constituted "socially useful"

employment is equally noteworthy. It essentially said that any type of work meeting social needs which did not contradict the Constitution and which was connected with the satisfaction of personal and social requirements should be recognised by law. This substantially broadened the scale of constitutionally recognised employment, to include not only work in the state or co-operative sectors, but also other activities such as work in the household (including child care and looking after elderly or disabled people), on subsidiary smallholdings, *etc.*, that is, forms of "employment" which in the past had not always been deemed "socially useful" by Soviet courts when passing judgements in parasite cases. Alexander Kotliar welcomed this change although he also believed that the draft law was too vague in certain other important areas:

> Today employment policy rejects the notion of compulsory labour, and accepts the principle of free choice of occupation. This is reflected in the draft Law on Employment. The draft Law recognises the right of any citizen to choose freely any occupation which is not banned. It also recognises, as having the status of an occupation, work such as housekeeping, child care, caring for disabled family members, work on a personal smallholding and running an individual business. Voluntary unemployment of those able to work is also allowed, if they have a legal source of income. These changes in employment policy reflect the trend towards the satisfaction of personal interests, which is the only way of raising labour efficiency and making work a source of welfare and individual development. In this way the legal focus on the universal character of labour is shifting from compulsion to a voluntary socio-economic and moral guarantee of employment. This is a positive feature of the new labour law. But some of its contents are not properly formulated. Though the draft Law seems to accept the incompatibility of socialism and unemployment (the state is obliged to take measures preventing unemployment), unemployment itself is recognised as an "exceptional phenomenon" and in the draft this is covered in more detail than are the preventive measures. The draft deals with unemployment registration, conditions for benefit receipt, other types of compensation, maximum allowances, the conditions for cancelling or stopping benefit payments, *etc.* Preventive measures against unemployment are dealt with in the most general way. In that respect, more detailed norms are required to prevent job shortages, such as the creation of a centralised accumulation fund ... [139].

The official trade unions were far more critical of the draft, pinpointing three main issues which in their opinion had not been adequately covered. First, the unions wanted the new Law to enshrine the right to a job for all Soviet citizens through job creation and public works projects. Secondly, the draft had envisioned that unemployment benefits would be paid for out of an Employment Promotion Fund, contributions to which would come mainly from a special enterprise tax (it was suggested that a proportion of enterprise payments to their workers - perhaps 15-16%, of which 4% would go to an insurance reserve - should be used as the main source of finance for the Fund). The unions objected to this on the grounds that it would jeopardise enterprise finances and, therefore, prospects for investment and maintaining employment. Finally, they claimed that the level of proposed unemployment benefits was too low. According to the draft Law, benefits were to be based on a worker's basic wage at his or her last place of employment. Although this would include additional payments for meeting or overfulfilling piece work targets, it would exclude payments for overtime, working in heavy or hazardous conditions, various bonuses, *etc.* Since these supplementary sources of income made up a substantial portion of earnings for most workers, the unions argued that they should be included when calculating benefits [140]. When the new Employment Law was passed by the USSR Supreme Soviet in January 1991, however, it made virtually no concessions to the trade union objections.

The 1991 "Fundamentals of Employment Legislation of the USSR and Union Republics" [141], which supplanted the rather timid 1988 regulations, was a serious document that took great pains to define the problem of unemployment and to establish a framework for ameliorating it. It contained two key changes in the rights of citizens to work. The first was spelled out in Article 5, "State Guarantees of the Right to Work": the state guaranteed free education and training, freedom to choose one's job, free

assistance in finding a job, protection against job discrimination, and the promise of a job for at least three years to specialists graduating from state educational institutions. But no longer was there a universal guarantee of a job. Section IV, "Social Guarantees in the Event of Loss of Work", detailed the benefits for someone who lost a job. But again, just as there was no guarantee of a job at the end of the retraining period, there was no guarantee of one when unemployment benefits ended. (Benefits were to be differentiated according to whether or not recipients agreed to undertake retraining. Persons made redundant owing to termination of the employment contract upon reorganisation or liquidation of their enterprises or due to staff-reduction measures, were to receive their average wage for up to three months while seeking a vacancy, provided that they registered within ten calendar days after dismissal with the State Employment Service. If, upon finding new employment, they underwent retraining, they would preserve their average wage during the training period, with the enterprise deducting the costs from their taxable income. This part of the law was essentially a carry-over of previous regulations. For those unable to find work within the three-month period, and who thus had to register as unemployed, if they entered a retraining scheme and had children or other dependents they would receive a stipend of no less than 50% of their last basic wage. Benefits for the rest of the unemployed were set at 50% of their last basic wage if they had a record of previous employment and 75% of the USSR minimum wage if they were first-time entrants to the labour force. Recipients could be deprived of benefits if they refused two offers of a suitable job, took temporary work while receiving benefits without notifying the State Employment Service, or had been dismissed from their jobs for a breach of labour discipline, or had resigned voluntarily from their previous job without valid reason. In all cases the period of eligibility was strictly limited to twenty-six calendar weeks for those who had lost an

existing job or were trying to resume their labour activity after a long break, and to thirteen calendar weeks for all others.)

The second crucial change made by the new legislation was in the definition of employment and unemployment. Article 2 defined the unemployed as "able-bodied persons of employable age, who are without work and earnings (earned income) for reasons beyond their control, and are registered with the State Employment Service as seeking work and able to work, and to whom this service has not offered a suitable position". "Suitable positions" defined in Article 3, meant jobs that matched people's professional training, took into account their age, length of work and experience in the previous occupation and were accessibly located. Of greatest importance to us, however, was recognition in Article 4 of the VOLUNTARY NATURE OF WORK, in accordance with which employment was henceforth to be based on "the free will of citizens". This, in conjunction with what had already been stipulated in Article 1, namely that, "Administrative coercion to work in any form shall be prohibited .... Voluntary unemployment by citizens shall not be considered an administrative, criminal or any other form of offence", heralded the end of the constitutional duty to work and in consequence, the demise of the anti-parasite laws - although not before some outraged Soviet citizens had time to complain about how "thousands of drunkards, robbers and other criminals, who don't want to work" were going to receive benefits, and to express their anxiety that as unemployment benefits were paid, workers would become fussier about taking a new job and would prefer to remain unemployed [142]. Their fears in this latter regard turned out to be largely groundless; with supply shortages and rapid inflation gripping the economy in early 1991, the real value of the benefits promised to dwindle to insignificance. Quite simply, the dramatic decline in living standards made it impractical for people to afford the luxury of unemployment.

During May and June 1991, that is just before the "Socialist Guarantees in the Event of Loss of Work" section of the new employment legislation was to go into effect (1 July), there was a spate of predictions that unemployment was set to explode [see Table 7.5].

TABLE 7.5

PREDICTIONS OF FUTURE UNEMPLOYMENT FOR THE SOVIET UNION

AMOUNT FORECAST	SOURCE OF FORECAST	DATE OF FORECAST
30 million by start of 1992	Komsomol'skaia Pravda	May 1991
20 million within 1-2 years	International Labour Organisation	June 1991
30% of able-bodied population	Supreme Soviet experts	June 1991
13 million by 1 July 1991	Tass	June 1991
10-12 million by end of 1991	Shokhin, Director of Institute of Employment Problems, USSR Academy of Sciences	June 1991

Sources: (1) Komsomol'skaia pravda, 6 May 1991; (2) Report on the USSR, 21 June 1991, p.26; (3) FBIS-SOV-91-126, 1 July 1991, p.28; (4) FBIS-SOV-91-113, 12 June 1991, pp.38-39; (5) Argumenty i fakty, No.24, June 1991, p.1, 3.

As it turned out, the expected massive job losses never materialised. In Leningrad, where the city authorities had predicted up to 13,000 layoffs a month during the winter of 1991, the actual number was just over 3,000 [143]. The picture was much the same in Moscow. In October 1991, that is four months after the official start of registration of a the unemployed, there were only a mere 5,600 receiving benefits from the Moscow Labour Exchange, the vast majority of whom were female technical specialists over the age of forty-five [144]. Instead of witnessing mass unemployment, the country fell into a steadily worsening labour shortage, which undermined even the limited disciplinary effect on workers within production achieved during the period following the introduction of *khozrashchet*.

The thirty year plus persecution of parasites in the Soviet Union came to an end in the winter of 1991. An RSFSR Supreme Soviet Law, "On the Introduction of Changes and Additions to the Criminal, Criminal Procedure and Administrative Law Codes of

the RSFSR", passed on 5 December 1991 [145], announced simply and, without explanation, that the acts covered by Article 209 of the RSFSR Criminal Code had been decriminalised. In a subsequent commentary on the Law [146], however, it was said that the abrogation of Article 209 had been "dictated" by the provision contained in Article 23 of the "Declaration of the Rights and Freedoms of the Person", published on 5 September 1991 [149], which prohibited forced labour. It seems somewhat ironic that Gorbachev's economic and social policies, intended to bring results by eliminating the waste that threatened the economy and to enhance social justice via a strengthening of the principle of distribution according to labour, started a process which ultimately culminated in the necessity of abandoning the use of the criminal law against parasites, that is, those very individuals who for decades had stood accused of retarding economic progress and of flagrantly violating the principle at the heart of Soviet social justice - "From each according to his abilities, to each according to his work". And while it may be an over-exaggeration to say that this played a major part in the eventual downfall of the Gorbachev government, the abandonment of the struggle against parasitism certainly discredited the regime in the eyes of the public at a time when both its credibility and authority were under severe threat. But most ironic of all was the above-mentioned commentary's admission that the decriminalised acts had NOT actually been "criminal by nature" in the first place. This takes us right back to the late 1950s early 1960s, when the image projected by the original anti-parasite laws was that although certain types of petty criminal would be successfully dealt with, generally the prohibited behaviour was not so much criminal as unacceptable.

7.4 CONCLUSION

The long and persistent struggle against parasites provides some insight into the extent of legal protection of the individual in the former Soviet Union. It may also serve as an illustration of the trends in Soviet legal policy from Khrushchev to Brezhnev (and after the brief tenures of Andropov and Chernenko) to Gorbachev. It illuminates, in particular, the flexible relationship between law and other means of social control that existed in the USSR.

Soviet law had a double function: to both guide and punish. Thus, while laws were enacted for the sole purpose of detecting and punishing violations, law in general was also an instrument of social control and change, channelling behaviour into accepted norms and patterns. As Harold Berman noted, Soviet law had a strong paternalistic strain:

> The subject of law, legal man, is treated less as an independent possessor of rights and duties, who knows what he wants, than as a dependent member of the collective group, a youth, whom the law must not only protect against the consequences of his own ignorance but also must guide and train and discipline .... It is apparent that the Soviet emphasis on the educational role of law presupposes a new conception of man. The Soviet citizen is considered to be a member of a growing, unfinished, still immature society, which is moving toward a new and higher phase of development. As a subject of law, or a litigant in court, he is like a child or youth to be trained, guided, disciplined, protected. The judge plays the part of a parent or guardian; indeed, the whole legal system is parental [148].

This view was echoed by D.I. Kurskii, Lenin's commissar of justice, in 1917: "It does not matter that many points in our decrees will never be carried out; their task is to teach the masses how to take practical steps" [149]. Soviet law, apart from governing the interactions of citizens and the relation of their rights and duties, concerned itself with the development of citizens' moral well-being and their "law-consciousness".

This dualism of purpose of Soviet law - the use of law to punish and to educate -

surfaced quite clearly in the legal policy aimed at eradicating parasitism. In 1957, amid the general desire to reduce the oppressive nature of the Stalinist police and legal apparatuses yet retain some control over antisocial acts, Khrushchev initiated "anti-parasite" laws. These laws, proposed during the period 1957-1959, counterbalanced a more conspicuous process of substituting law for terror. Khrushchev's de-Stalinisation enormously expanded the normative sector of the social regulation process by relying on the law and court system to enforce socially desirable behaviour. Yet there persisted a second sector of party prerogative, of direct party rule by administrative fiat and political action. The party's mobilisation of *druzhiny* patrols, comrades' courts, and anti-parasite action by neighbourhood or workers' "general meetings" expanded this prerogative sector by utilising social pressure at the expense of socialist legality administered by the courts. Indeed, the early parasite decrees in the late 1950s ran counter to the party's simultaneous policy of strengthening socialist legality. In their initial form, party organisational supervision tended to manifest itself in direct involvement behind the scenes of the amorphous "general meetings" which were empowered to banish "parasites" to places of remote exile and compulsory labour. In effect, at this stage, party orientation (*partiinost'*) expressed through a mobilised community (*obshchestvennost'*) merely bypassed legality (*zakonnost'*). Proceedings were neither "trials" nor the actions of a court and, as such, were condemned by many jurists as inconsistent with the concept of "rule of law". However, proponents argued that the parasite laws and their method of enforcement pointed toward the realisation of the utopian Marxist notion of the "withering away" of the institutions of the state. Khrushchev, himself, in his speech at the 13th Komsomol Congress in mid-April 1958 linked the classic doctrine of *otmiranie* of the state to the struggle against parasites:

> We will not take the hooligan into communism with us, but will bid him goodbye here under socialism. How will the hooligan be eliminated? The decisive role in this matter belongs to the

> public. The public, with the Komosomol in the front ranks, must expose parasites, hooligans and drunkards, and must adopt the necessary measures in the social manner for their suppression and reform, without waiting until they have committed some kind of crime .... It is said that under communism the state will wither away. What sort of organs will be left? Social ones, of course. And what should we be doing about it at the present time? We should develop spontaneous activities more broadly [150].

This early espousal by Khrushchev of a practical aspect to the prospective withering away of the state is especially significant because of its timing: he spoke only a few days before the Congress of the Yugoslav League of Communists in Ljubljana on 22-26 April 1958, at which a new party programme - already published months earlier in draft form - was adopted. The Yugoslav party programme had projected its "revisionist" view of the question of withering away of the state into the arena of active political debate by asserting that withering was a "process which is continuous throughout the whole course of the epoch of transition from capitalism to communism ... [and] the socialist state consequently is and must be a state of a special type - a withering state" [151]. In a section of the programme entitled "The Process of the Withering Away of the State", it was argued that the state's

> social role and its organisation should be such that this process may, if possible, develop independently of the subjective will of those who are the specific custodians of its role, but in step with the economic development of socialism and the consolidation of socialist relationships. The organic form in which the contradictions in socialist development can and should be resolved gradually along an evolutionary path is the development of democracy and public self-administration in all areas of public life [152].

None of this is particularly remarkable in the light of hindsight; but it evoked charges of doctrinal heresy in 1958 and sharp rebuttal from Soviet theoreticians precisely because it minimised the necessity for the "dictatorship of the proletariat" and thus undermined

the overriding role of the party [153]. In a typical example of the Soviet counterarguments voiced at the time, A.I. Lepeshkin of the Moscow Institute of State and Law wrote:

> In connection with the theory of the withering away of the socialist state, Kardelj alleges that Yugoslav "practice shows that the functions of the state begin to contract first of all in the fields of the economy, education, culture, and social services", and to a lesser extent the "role of the state as a suppressing instrument of power of the working people" is constricted. This view stands in profound contradiction to the postulates of Marxism-Leninism, as well as with the long years of practical experience of the Soviet state .... The road toward withering away of the state lies not through the gradual contraction of its economic-organisational and cultural-educational functions and strengthening of the function of suppression, as Kardelj claims, but rather through the all-round development of the economic and cultural functions of the state and gradual contraction of the functions of suppression [154].

Whether or not Lepeshkin correctly identified a legitimate doctrinal disagreement between the party and legal theorists of Yugoslavia and the USSR, it is noteworthy that he did reflect the prevailing attitude among Soviet thinkers that the initial area in which the public could be employed as a voluntary, non-professional force in the functioning of the state was in the performance of minor police and parajudicial functions.

However, the original parasite laws were quickly pushed into the background by other significant legal developments in the late 1950s - the codification of new fundamental principles of criminal law and criminal procedure. A trend toward the "juridisation" of law swept Soviet jurisprudence, enhancing the role of established legal institutions and the legal profession. Hereafter, the concern with fringe elements in Soviet society became relegated to the general area of criminal law. The May 1961 RSFSR decree on parasitism gave jurisdiction over parasite cases primarily to the criminal courts, spurning the general meetings of residential units. In practice, it appears that considerable selectivity in enforcement and prosecution existed, even

during a time of increasingly strident public campaigns against parasites. Thus, in the first half of 1961, approximately 96% of all parasites were given warnings and not prosecuted because they heeded the warnings and found proper work [155]. Here we see in the implementation of the legal policy pertaining to parasites the dual desire to punish antisocial behaviour and, by doing so, socialise Soviet citizens to proper norms of behaviour. While under the original laws the only punishment allowed was social and not criminal, the institutionalisation of parasitism as a crime enabled the regime not only to educate the masses but also to apply the full coercive force of the state against undesirable elements.

With the ouster of Khrushchev in 1964, the legal apparatus took steps to bring "popular justice" under control, to bring it into the realm of professional legal institutions. Jurists attacked the utopian notion of public participation in the administration of justice. A campaign was undertaken to professionalise legal administration and increase the legal competence of judicial personnel. "Socialist legality" once again became the watchword in Soviet legal theory (a concept which Brezhnev tended to use to signal his pro-state, anti-deviance orientation in the administration of criminal justice). The director of the USSR Academy of Sciences' Institute of State and Law, V. Chkhikvadze, stated in a 1967 *Pravda* article that "socialist legality" represented the bureaucratic trend in law with its resulting concern with procedural and substantive rights of citizens and with professionalism of the courts [156]. It had been the informal, unprofessional nature of Khrushchev's peer justice institutions that made them so unpopular with the legal establishment. From 1965, an ongoing debate was aired in the Soviet press on the role of public participation in the administration of justice. The lines were clearly drawn between investigators and officials of the Ministry for Safeguarding Public Order (MOOP) in favour of public

participation and judges, advocates, and legal consultants opposed. The turning point came in 1967. A major article in *Sovetskoe gosudarstvo i pravo* that year cited public opinion as representing an illegal interference in criminal cases [157]. Cases were presented in which "the demands of the public" were the sole justification for conviction, a practice that was criticised by the USSR Supreme Court's Criminal Cases Collegium as being contrary to the independence of judges and indirect contradiction to Article 37 of the RSFSR Criminal Code.

In a manner consistent with the trend of "juridisation" of the administration of justice, the jurisdiction of parasite cases was transferred from administrative bodies and collectives to the courts and local governments in September 1965. Simultaneously, *Pravda* published an article, "for purposes of discussion", that reviewed the history of popular justice and called for greater emphasis on the government's (not the public's) role in maintaining law and order. Whereas, Khrushchev's "populism" reflected the influence of the early, utopian Lenin in power, when strong emphasis was placed on social, collective enforcement of laws, Brezhnev's legal policy tended to draw its inspiration from the later, more pragmatic Lenin, the Lenin who spoke of the need for "temporary" restoration of the "machine called the state", and led the way to the re-legalisation of Soviet society with the emphasis on social control from above [158]. New parasite legislation of the 1970s consolidated the trend toward eliminating the spontaneous social element in anti-parasite proceedings and brought implementation of the legislation fully under the jurisdiction of the legal professionals in the courts, the local soviets, and the MVD. One of the consequences of this process of institutionalisation was that direct party involvement receded in favour of the more traditional oversight method of organisational supervision. This is not to say, however, that the party did not cross the "line" between supervision and interference in such

cases. It was well able to do so, especially since the "line" in such cases was considerably more blurred than in more regular criminal cases. The point is that anti-parasite's statutes were now administered by reliable, trained, and predictable legal cadres who were constantly subject to party supervision. Under these circumstances, the "hand" of the party was screened off from observation, except in those instances where proceedings were initiated by the authorities against the likes of dissidents - that is, where the party's involvement was somewhat more "heavy-handed".

It is difficult to explain the existence and utility of the anti-parasite laws in terms of a single aim or function they actually served. They could be applied to serve various purposes and their very nature indicates that they were designed to play a versatile role. For example, they were useful in covering up structural unemployment and the failure of the health system, removing from the streets alcoholics, drug addicts, misfits, petty offenders and other people seen for various reasons as a nuisance or threat. Fundamentally, they were used to enforce a certain degree of conformity on members of society. In any society a balance has to be drawn between allowing suitable variations in behaviour - for the needs of different individuals, and their qualities, vary so much, and yet to stop these actions that if allowed to go unchallenged would in some way harm others. In Soviet society the line was far nearer the side of conformity than that of a Western society, as the goal of the former was supposedly more definite, more distinct. If the society knows, or feels it knows, what it wants to achieve, then any actions which it decides are detrimental to that aim can be prohibited. The ideology of the Soviet Union offered this and was one of the reasons for the altogether more controlled society existing there. The use of the anti-parasite laws was in large part an attempt to mould the attitudes of the population, bringing their attitudes into line with those of the regime, as Berman says, "to lessen the distance between official law and unofficial law-

consciousness" [159].

It has been argued that the anti-parasite laws were meant to secure the highest possible level of the mobilisation of manpower in the face of serious labour shortages: *e.g.*

- "Khrushchev was attempting to instil a socialist work ethic and force all available people power into the planned, controlled socialist sector of the economy at the same time. Ideological-moral ends seemed inseparable from more practical ends of social discipline and mobilisation" [160].
- "Like Anglo-American vagrancy laws, Soviet measures against vagrancy serve two apparent purposes: to send away undesirables and to put all available able-bodied people to work in times of labour shortages" [161].

Yet, many Soviet cities, regions and branches of the economy were experiencing difficulties with absorbing all the surplus labour being mobilised by the traditional pressures. Of course, the anti-parasite statutes played an important role in ensuring that even the most unpleasant, dangerous and degrading jobs were taken and that manpower was shifted to those regions or industries experiencing labour shortages. Clearly, however, the persistent and conspicuous emphasis on the duty to work cannot be fully explained by the needs of the economy. It appears that work in the USSR had another prominent aspect. At work, people could be disciplined, supervised and contained for seven to eight hours a day, five to six days a week. Their movements were known, their deviations were spotted immediately, their social contacts were easier to locate and, above all, they could be constantly reminded of the dominant political dogmas and taboos and of the nature of conformity expected from every citizen. While the anti-parasite laws forced people to seek employment and remain in their jobs, they also offered a supplementary system of control for those who did not want to work or could

not work. The participation of the agencies of local administration in the enforcement of the laws and their broad powers to question, monitor and restrict suspected individuals, assured a comprehensive control system over the lives of all citizens, whether employed or not. The penal measures prescribed tended to be treated as the last resort and not the main objective of the laws. The system of warnings and checks was orientated more towards surveillance and subordination than towards punishment for its own sake.

The laws against parasites seemed to look two ways at once. One edge of the sword was turned against individuals without work due to sheer laziness, alcoholics, drifters, *etc.*, and the other edge against those disrupting the economic order by using their skills or property for the purpose of deriving illegal earnings. Both categories exhibited a "retarded psychological development", in that they had either not understood or misconstrued the nature of the socialist changes within society. Socialist society did not encourage idleness, consumerism, and personal gain orientation, and therefore, parasitism of every kind was dangerous because it directly undermined the moral fabric of the new social order. Parasites were the unfortunate leftovers from the capitalist era when asocial attitudes towards work and feelings of alienation were justified. Lumped together under the general label "*tuneiadtsy*", they were used by successive Soviet leaders as convenient and tangible scapegoats in their attempts to dissipate public feelings of anger and frustration generated by the failing of the economic system. The mass-media was brought into play, continuously presenting exaggerated accounts of the dangerousness, maliciousness and corruption of "parasitic elements" and accusing them of impeding economic and social progress. And the public, looking for a panacea in a time of economic decline and increasing shortages did not seem to object to the idea of the application of punitive measures against those who lived at the expense of the

"honest working people".

It seems quite probable that the anti-parasite laws were originally instituted as a somewhat crude means whereby the regime sought to curb and curtail the growing propensities of the Soviet people to indulge in private-property and capitalistic activities, along with an increasing negligent attitude toward public property. Thus, in May 1961, upon the occasion of the reintroduction of capital punishment for large-scale embezzlers of state property and perpetrators of other crimes, the Procurator General of the USSR commented in *Izvestiia* that "cases of large-scale embezzlement of socialist property by various private operators and parasitic elements have been uncovered lately in several republics" [162]. At the same time, shortcomings in Soviet production and distribution of consumer goods had led to practices condemned by the regime, inasmuch as large numbers of citizens were disobeying the multifarious economic rules and regulations in order to increase their gains in a scarcity economy. For example, it was suggested that "antisocial, parasitic individuals, speculators, and operators of various private enterprises" were part of a development which was brought to a climax by a troublesome meat shortage in the Soviet Union in 1960-61. In the smaller towns of the RSFSR, according to the Chairman of the republic's Council of Ministers, "the supply of the population with meat, milk and butter was altogether interrupted". Therefore, in one observer's opinion, such shortages were "a boon to the so-called speculators, who buy up meat and dairy products from the private household economies of the collective farm peasants and sell them at high prices in the free market. Since the private holdings of various kinds still account for nearly half of the meat and lard output, these private operators have a broad margin" [163]. According to another commentator:

> Under Stalin, party members, like the non-party masses, could not enjoy life to the full because of the terror, and under Khrushchev the longing for personal well-being has become ever stronger. Life has become quieter and it is even possible to think about a bit of luxury; but luxury, which means repletion

> and security for the morrow, requires savings and acquisitions which are possible only when one shows personal initiative in the field of economic activity outside the existing legal system. Thus it is precisely thanks to the more temperate climate of the post-Stalin era that the private-property instincts of the population have been roused to an unusual degree. The phenomenon of economic accumulation on the basis of private capitalistic activity has assumed such a scope in the Soviet Union that it is causing alarm in high places [164].

The introduction of stiffer penalties for parasitism and the shift from the administrative to strictly criminal definition and handling of parasites during Brezhnev's leadership appear to have been influenced in large part by the decline in Soviet economic growth. Brezhnev used the anti-parasite legislation as a component of his major campaigns for the MAINTENANCE of socialist law and order and greater social discipline, employing it as a weapon not only for cleansing society of undesirable criminal influences but also for making better use of available manpower and raising lagging growth rates by deterring idleness, slackness and indiscipline, drunkenness, economic crimes, and pilfering. He linked his drives for social order closely with a system for compulsory allocation of labour, achieved not only via the parasite laws but also through an edict passed on 12 June 1970, according to which all able-bodied males aged between eighteen and sixty (eighteen to fifty-five in the case of females) who had been sentenced to less than three years' deprivation of freedom for some crime, could be given suspended sentences or paroled from confinement with the obligation to work wherever the militia sent them (construction sites, factories, *etc.*), without being isolated from society, and with prospects of having their convictions erased under administrative surveillance of the militia [165]. Thus, while anti-parasite measures (of 1970) brought parasites under criminal law, the work-release measure brought to persons sentenced for all lesser criminal offences, including parasitism, the possibility of being treated as parasites had been under the legislation of 1961 (*i.e.* of being sent to work in exile),

save that this measure appeared to rule out work on collective farms. It was basically another alternative means of drafting deviants and dropouts to help fulfil national economic plans, in places unattractive to free labour.

The Brezhnev regime did not reject the formulation proposed under Khrushchev that prevention should be the main objective in fighting crime. Even so, some basic Stalinist features still remained in Soviet law, including its intrusiveness and its primary role "to discipline, guide, train and educate Soviet citizens to be dedicated members of a collectivised and mobilised social order" [166]. But with economic stagnation and falling living standards their "dedication" to society and respect for its laws increasingly turned into apathy as corruption and moral decay set in. One of Brezhnev's last acts was to order amendments to the parasite laws, which moved them in an even more punitive direction. This was accompanied by yet another campaign against these "alien elements" who were blamed not only for failing to contribute useful labour but also for contributing disproportionately to criminality [167].

Gorbachev, as we have seen, linked the prevalence of crime to Brezhnev's stagnant years, which had provoked disaffection, demoralisation and cynicism among the people and which, in turn, had spawned parasitic, criminal elements with an overtly hostile disrespect for the rules of socialist society. Under his leadership, the criminal law became an important tool of economic policy. Laws adopted in three areas clearly revealed Gorbachev's efforts to invigorate the official economy through curbing waste, controlling corruption and delimiting the second economy. These were the criminal law measures associated with the anti-alcohol campaign, the campaign against unearned income, as well as the sanctions introduced with the legislation on individual labour activity. Drives against previously outlawed activity (*e.g.* embezzlement and bribery, speculation, the production of substandard goods and report-padding [168], and

narcotics production and trafficking) accompanied these new laws. In support of his economic objectives, Gorbachev wielded the issue of "social justice", first as an instrument against official corruption and then against broader targets - lazy and inefficient workers who received the same wages as good workers, and social parasites extracting unearned income outside the official economy. In all three cases, the individuals involved were seen as being rewarded by criteria that were based neither on need (the communist distributive formula) nor on work (the socialist one). To the extent that justice was based on the socialist formula of reward for labour, people who received benefits other than from labour were perpetrators of "injustice".

However, the simultaneous aims of achieving greater economic efficiency and enhancing social justice placed the administration in a dilemma. *Perestroika* aimed to accord a greater role to market mechanisms and encouraged the growth of a private sector. This created inequality in the form of wider income differentials and economic inequalities collided with the strong sense of egalitarianism imbued in the population as part of communist ideology. Meanwhile, rationalisation of industry and the labour force provoked a growth in unemployment, a totally new phenomenon for most Soviet citizens. The working class already understood what shortages meant because shortages had been a daily reality for years; and while the standard of living fell during *perestroika*, it had never really been high anyway. But unemployment was different. It challenged the basic socialist promise of a job for everyone; enshrined in Article 40 of the 1977 Constitution, and prevented the emergence of any consensus on the definition of social justice under *perestroika*. Moreover, unemployment, along with the prospect of greater joblessness, created considerable apprehension about the future. Loss of income was the most basic material fear. But, in the Soviet context, loss of one's job could also mean the loss of access to food, all kinds of consumer goods, and even health

care, because access to these often came through the workplace. The combined loss of all wages and non-wage income stripped citizens of their sense of material security. The combination of unemployment, rising prices and worsening shortages generated by reform and economic dislocation brought serious hardships to many people creating a spiral of discontent: as the economy deteriorated inequalities increased and open discussion of this and other problems through *glasnost'* heightened the sense of injustice, further eroding the regime's already fragile legitimacy. For many Soviet citizens there was not a trace of justice left.

An invisible "social contract" had existed for many years between the Soviet state and its citizens, who exchanged their personal freedom for a high degree of order and the social guarantees of full employment, training, low-cost medical care, and education. But when the state broke its part of the contract by abandoning the policy of full employment (which prevented crimes based on absolute need) and reneging on its long-standing promise to provide order, jobs, and social benefits for all citizens in exchange for unquestioned loyalty, the Soviet people seemed to lose all respect for authority. Commenting on the rising crime rates at the turn of the 1990s, one lawyer wrote:

> Parasites and criminals of all varieties, in all shapes and forms are scurrying out from under the floorboards and our militia have been caught completely unprepared for this assault on their limited resources. These people are like vultures gorging themselves freely on the carcass of a dead beast [169].

This "dead beast" was Marxist-Leninist socialism, which had been unable to solve the fundamental and disturbing social problems at the root of Soviet parasitism: the alienation of the Soviet working class and the disillusionment of Soviet youth in a society incapable of assuring them a life of decency and self-respect. The anti-parasite legislation was an indicator of the Communist Party's persistent quest for a more

comprehensive, more effective system of social control, subservient to one overriding consideration: the goal of successfully maintaining the monopoly of political power and economic privilege of the Soviet ruling elite. Hence, the slide toward less intolerance of parasitism during the last years of Soviet rule was perhaps illustrative of the fact that those behavioural standards imposed from above, and designed to create a society fully committed to the goals and ideals of the political leadership, were already being compromised in a last-ditch attempt to perpetuate its rule. With the abandonment of the constitutional duty to work - the backbone of Soviet labour policy - and the subsequent decriminalisation of parasitism, the state lost one of its primary legitimising functions - that of exercising control over the measure of labour and consumption. The principle "From each according to his abilities, to each according to his work" - like many Soviet workers - became redundant, heralding the collapse of one of the most basic Marxist-Leninist dogmas, of the old order, and the first steps of the painful transition to a non-socialist future.

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CHAPTER 1

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79. See "Usilit' bor'bu s raskhititeliami sotsialisticheskoi sobstvennosti, spekuliantami, khuliganami i inymi prestupnikami, podryvaiushchimi sostialisticheskii pravoporiadok," Sovetskaia iustitsiia, No.13, (1940), p.5.
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CHAPTER 2

1. The chief Russian-language newspapers of each republic carried the texts of the draft laws as follows:
   Estonia - Sovetskaia Estoniia, 3 April 1957, p.1;
   Latvia - Sovetskaia Latviia, 11 April 1957, p.1;
   Azerbaidzhan - Bakinskii rabochii, 17 April 1957, p.2;
   Lithuania - Sovetskaia Litva, 18 April 1957, p.2;
   Kirgiz SSR - Sovetskaia Kirgiziia, 23 April 1957, p.1;
   Uzbek SSR - Pravda vostoka, 26 April 1957, p.1;
   Kazakhstan - Kazakhstanskaia pravda, 5 May 1957, p.1;
   Tadzhik SSR - Kommunist Tadzhikistana, 10 May 1957, p.3;
   Turkmen SSR - Turkmenskaia iskra, 19 May 1957, p.1;
   Armenia - Kommunist (Armenia), 30 July 1957, p.2;
   Georgia - Zaria vostoka, 18 August 1957, p.2;
   RSFSR - Sovetskaia Rossiia, 21 August 1957, p.2;
   Moldavia - Sovetskaia Moldaviia, 23 August 1957, p.1;
   Belorussia - Sovetskaia Belorussiia, 27 August 1957, p.2;
   Ukraine - Pravda Ukrainy, 27 May 1958, p.3.
2. The full title of the draft law in all republics, except one, was identical: "Ob usilenii bor'by s antiobshchestvennymi, paraziticheskimi elementami v _____ SSR".
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5. Pravda, 31 January and 21 February 1949.
6. N.S. Khrushchev, "S chest'iu vypolnit obiazatel'stva, vziat'ye rabotnikami sel'skogo khoziaistva Ukrainy v pis'me tovarishchu Stalinu", Bol'shevik, No.10, (1948), pp.19-20.
7. Pravda, 18 October 1960.
8. Izvestiia, 25 January 1958.
9. "O priobshchenii k trudu tsygan, zanimaiushchikhsia brodiazhnichestvom", Vedomosti Verkhovnogo Soveta SSR (hereafter cited as Ved. SSSR), No.21 (1956), Item 450.
10. A number of articles appeared on the subject of the historical sources of administrative exile (banishment). See, for example, R. Beerman, "Soviet and Russian Anti-Parasite Laws", Soviet Studies, Vol.15, No.4, (1964); F.C. Schroeder, "Gesellschaftsgerichte und Administrativjustiz im Vorrevolutionaren Russland", Ost-Europa Recht, Vol.8, No.4, (1962). The practice of administrative exile - the main punishment inflicted for violation of the early antiparasite legislations - had a number of antecedents in Russian legal history. As early as 1663 a decree was issued calling for the banishment of suspects released from prosecution after two unsuccessful torture sessions, if their villages would not readmit them and if the landowner (in the case of serfs) or village community (in the case of peasants) were not willing to guarantee their future behaviour (Beerman, p.420).

    A second, parallel institution of administrative banishment began with a decree in 1760, which provided for the banishment of peasants for immoral or insolent behaviour, again by order of the landowner or by decision of the village community (Beerman, p.420). In 1765 the decree was extended to "girls and widows of idle and indecent behaviour" (Ibid.). Later amendments extended the

penalty of banishment to merchants and artisans (*meshchane*) who engaged in immoral and indecent behaviour, and to peasants who failed to pay their taxes (Beerman, p.421).

A third historical antecedent was the law of 4 August 1881, "On Measures for the Preservation of State Order and Public Tranquility" (SVOD USTANOVLENY O PREDUPREZHDENII I PRESECHENII PRESTUPLENNII, St. Petersburg, (1890), Article 1, Note 1). Under this decree the provinces or city administrations of provinces declared to be "in a state of reinforced or extraordinary protection" were given the administrative power to banish persons to various localities within the Empire, under police supervision, for a period not exceeding five years (Article 24). By 1901 almost all Russian provinces were under the state of reinforced protection. Stalin was in fact banished under this decree.

To say that there is a degree of historical continuity between pre-revolutionary decrees relating to administrative banishment and Soviet anti-parasite legislation is not to say that the continuity was deliberate. It is problematic as well as doubtful that the proponents of the antiparasite legislation were consciously inspired by the decrees of 1663, 1760 or 1881.

11. Ia.N. Zarobian, Kommunist (Armenia), 1 February 1958, p.3.
12. T. Baltagulov, in speech to Kirgiz Supreme Soviet, Sovetskaia Kirgiziia, 20 January 1959, p.2.
13. I.K., "Propaganda sovetskikh zakonov", Sotsialisticheskaia zakonnost', No.1, (1958), pp.70-71.
14. Kommunist Tadzhikistana, 24 May 1957, p.2.
15. Sovetskaia Estoniia, 14 June 1957, p.3.
16. Kazakhstanskaia pravda, 17 May 1957, p.3.
17. Kazakhstanskaia pravda, 9 May 1957, p.3.
18. Kazakhstanskaia pravda, 11 May 1957, p.3.
19. Sovetskaia Latviia, 20 April 1957, p.2.
20. Sovetskaia Litva, 17 May 1957, p.3.
21. Kazakhstanskaia pravda, 9 May 1957, p.3.
22. Kazakhstanskaia pravda, 18 May 1957, p.3.
23. Turkmenskaia iskra, 23 May 1957, p.2.
24. Kazakhstanskaia pravda, 28 May 1957, p.2.
25. Literaturnaia gazeta, 10 September 1957, p.2.
26. Sovetskaia Rossiia, 30 August 1957, p.2.
27. Turkmenskaia iskra, 23 May 1957, p.2.
28. Sovetskaia Rossiia, 6 September 1957, p.3.
29. Kommunist Tadzhikistana, 25 May 1957, p.3.
30. Pravda vostoka, 24 May 1957, p.2.
31. Sovetskaia Rossiia, 30 August 1957, p.2.
32. Sovetskaia Kirgiziia, 22 May 1957, p.2.
33. Kazakhstanskaia pravda, 17 May 1957, p.3.
34. Komsomol'skaia pravda, 9 September 1957, p.2.
35. Kazakhstanskaia pravda, 11 May 1957, p.3.
36. Pravda vostoka, 30 April 1957, p.2.
37. Turkmenskaia iskra, 28 May 1957, p.3.
38. Ibid.
39. Kazakhstanskaia pravda, 22 May 1957, p.3.
40. Kazakhstanskaia pravda, 17 May 1957, p.3.
41. Sovetskaia Rossiia, 11 September 1957, p.2.
42. Kommunist Tadzhikistana, 24 May 1957, p.2.
43. Sovetskaia Rossiia, 11 September 1957, p.2.

44. Kazakhstanskaia pravda, 18 May 1957, p.3.
45. Kommunist Tadzhikistana, 26 May 1957, p.3.
46. Sovetskaia Rossiia, 30 August 1957, p.2.
47. Sovetskaia Rossiia, 3 September 1957, p.2.
48. Kazakhstanskaia pravda, 15 May 1957, p.3.
49. Kazakhstanskaia pravda, 10 May 1957, p.3.
50. Sovetskaia Rossiia, 3 September 1957, p.2.
51. Kommunist Tadzhikistana, 20 June 1957, p.2.
52. Kazakhstanskaia pravda, 15 May 1957, p.3.
53. Pravda vostoka, 30 April 1957, p.2.
54. Sovetskaia Rossiia, 3 September 1957, p.2.
55. Turkmenskaia iskra, 28 May 1957, p.3.
56. Sovetskaia Litva, 17 May 1957, p.3.
57. Turkmenskaia iskra, 25 May 1957, p.3.
58. Kommunist Tadzhikistana, 11 June 1957, p.3.
59. V. Khe and B. Zasukhin, Sovetskaia Kirgiziia, 22 May 1957, p.3.
60. P. Vazikov, Kommunist Tadhikistana, 13 July 1957, p.2.
61. G.Z. Anashkin, Sovetskaia Rossiia, 12 October 1957, p.2.
62. N.J. Bisenieks, Sovetskaia Latviia, 13 October 1957, p.2.
63. I.D. Perlov, Sovetskaia Rossiia, 19 October 1957, p.2.
64. G. Arenberg, Pravda vostoka, 18 May 1957, p.2.
65. N. Bolshakov, Kommunist Tadzhikistana, 17 May 1957, p.2.
66. See speech of B.S. Sharkov to USSR Supreme Soviet: Pravda, 27 December 1958; Sotsialisticheskaia zakonnost', No.1, 1959, p.183.
67. M. Strogovich, Izvestiia, 23 August 1957, p.2.
68. V. Grebenshchikov, Kazakhstanskaia pravda, 11 May 1957, p.3.
69. A. Kulakhmetov, Kazakhstanskaia pravda, 15 May 1957, p.3.
70. Kommunist (Armenia), 3 August 1957, p.3.
71. Bolshakov, op. cit., p.2.
72. G. Sevlikiants, Kommunist Tadzhikistana, 18 May 1957, p.3.
73. Iu. Kasatkin, Kommunist Tadzhikistana, 25 May 1957, p.3.
74. Anashkin, op.cit., p.2.
75. Bolshakov, op.cit., p.2.
76. Grebenshchikov, op.cit., p.3.
77. Mukin, Sovetskaia Latviia, 13 October 1957, p.3.
78. N. Riabokliach, Kazakhstanskaia pravda, 22 May 1957, p.3.
79. A. Kulakhmetov, Kazakhstanskaia pravda, 15 May 1957, p.3.
80. V. Shishkin, Kazakhstanskaia pravda, 28 May 1957, p.3.
81. Iakikhanov, Kazakhstanskaia pravda, 28 May 1957, p.3.
82. O. Krozhkin, Sovetskaia Rossiia, 3 September 1957, p.2.
83. P. Vazikov, op.cit., p.2.
84. Sovetskaia Rossiia, 27 August 1957, p.2.
85. Anashkin, op.cit., p.2.
86. Arenberg, op.cit., p.2.
87. D. Esemkhanov, Kazakhstanskaia pravda, 18 May 1957, p.3; V. Oigenzikht, Kommunist Tadzhikistana, 24 May 1957, p.2.
88. N. Riabinin, Kazakhstanskaia pravda, 21 May 1957, p.2.
89. J. Naelapea, Sovetskaia Estoniia, 15 June 1957, p.2.
90. Anashkin, op.cit., p.2.
91. Sevlikiants, op.cit., p.3.
92. Kasatkin, op.cit., p.3.
93. V. Liashevskii, Kazakhstanskaia pravda, 15 May 1957, p.3.

94. Cina, 28 April 1957, p.2.
95. S. Grigorian, Kommunist (Armenia), 25 August 1957, p.2.
96. Speech of Bisenieks, op. cit., p.2.
97. Arenberg, op.cit., p.2.
98. Vazikov, op.cit., p.2.
99. Bolshakov, op.cit., p.2.
100. N. Latysheva, Kommunist Tadzhikistana, 23 May 1957, p.3.
101. I. Popov, Kazakhstanskaia pravda, 17 May 1957, p.3.
102. A. Vasil'ev, Sovetskaia Rossiia, 30 August 1957, p.2.
103. I. Ezerkains, Sovetskaia Latviia, 16 April 1957, p.2.
104. Khe and Zasukhin, op.cit., p.3.; A. Vasil'ev, op. cit., p.2.
105. Cina, 28 April 1957, p.2; N. Ryaboklyach, op. cit., p.3.
106. A. Karzanova, Kommunist Tadzhikistana, 28 June 1957, p.2.
107. Text in Sovetskaia Latviia, 28 February 1957. The decree was repealed in October 1957.
108. Speech of Bisenieks, op.cit., p.2.
109. A. Vasil'ev, op. cit., p.2.
110. Turkmenskaia iskra, 25 May 1957, p.2.
111. Bolshakov, op.cit., p.2.; Sevlikiants, op.cit., p.3. The argument against an appeal procedure is stated *inter alia* by M. Mirshakarov, chairman of the Legislative Proposals Commission, in his speech to the Tadzhik Supreme Soviet, Kommunist Tadzhikistana, 23 January 1958.
112. F. Gusev, Sovetskaia Rossiia, 30 August 1957, p.2.
113. Pravda vostoka, 18 May 1957, p.2.
114. Anashkin, op. cit.
115. For texts of laws see: Pravda vostoka, 29 May 1957; Turkmenskaia iskra, 1 June 1957; Sovetskaia Latviia, 15 October 1957; Kommunist Tadzhikistana, 23 January 1958; Kazakhstanskaia pravda, 27 January 1958; Kommunist (Armenia), 4 February 1958; Bakinskii rabochii, 20 June 1958; Sovetskaia Kirgiziia, 20 January 1959.
116. Speech of Mirshakarov, Kommunist Tadzhikistana, 23 January 1958.
117. Case of Pechugin, Sovetskaia Latviia, 15 December 1957, p.4.
118. Bakinskii rabochii, 16 August 1958.
119. Sovetskaia Kirgiziia, 19 February 1959, p.4.
120. Rigas Balss, 16 June 1958.
121. V. Esaar, Sovetskaia Estoniia, 25 April 1957, p.3.
122. A.S. Shliapochnikov, "Sovetskoe zakonodatel'stvo i obshchestvennost' v bor'be s paraziticheskimi elementami", SGP, No.8, (1961), p.65.
123. Ibid.
124. Kazakhstanskaia pravda, 7 October 1961, p.1.
125. "Obsuzhdenie voprosov, sviazannykh s primeneniem Ukaza Prezidiuma Verkhovnogo Soveta RSFSR ot 4 maia 1961", SGP, No.8, (1961), p.133.
126. Ibid., p.65.
127. Pravda vostoka, 29 May 1957, p.3.
128. Speech of Bisenieks, op.cit., p.2.
129. Speech of M.A. Iskenderov, Bakinskii rabochii, 19 June 1958, p.3.
130. Rigas Balss, 15 November 1958.
131. Pravda vostoka, 16 July 1957, p.4.
132. Pravda vostoka, 21 November 1957, p.4.
133. Sovetskaia Moldaviia, 6 October 1957, p.2.
134. Trud, 14 April 1959, p.4.
135. Case of Urasov, Pravda vostoka, 13 July 1957; cases of Dzhakhangirov, Nasyrov

and Usmanov, Ibid., 27 June 1957, p.2; case of Nikulshin, Trud, 14 April 1959; case of Volkov, Turkmenskaia iskra, 17 June 1959, p.3.

136. Kazakhstanskaia pravda, 31 July 1958.
137. Kommunist (Armenia), 27 August 1958, p.3.
138. Pravda vostoka, 16 August 1957, p.4.
139. Sovetskaia Latviia, 15 December 1957, p.4.
140. Sovetskaia Kirgiziia, 9 October 1960, p.4.
141. Zaria vostoka, 5 January 1961, p.3.
142. Turkmenskaia iskra, 6 October 1957, p.4.
143. Izvestiia, 8 May 1958, p.2.
144. Ibid.
145. Case of Vorkhnik, Rigas Balss, 14 June 1958.
146. Case of Tropinskii, Kazakhstanskaia pravda, 31 July 1958.
147. Cina, 28 April 1957, p.2.
148. Case of Makarov, Turkmenskaia iskra, 6 October 1957, p.4.
149. Sovetskaia Kirgiziia, 18 December 1960.
150. Kommunist (Armenia), 14 June 1958.
151. Izvestiia, 8 May 1959, p.2.
152. Trud, 22 November 1958.
153. The phrase was used by Khrushchev to describe them in his speech of 27 January 1959 to the 21st Party Congress (XXI s''ezd KPSS. Stenograficheskii otchet, I, 104).
154. Pravda (editorial), 10 December 1958. A draft model statute was adopted by the CPSU Central Committee and USSR Council of Ministers on 2 March 1959 (Pravda, 10 March 1959).
155. One author claims that 40,500 squads with more than one million members were in "active operation" in the RSFSR by 1 June 1959, (see "V.I. Lenin o roli obshchvestvennosti,"Sovetskaia iustitsiia, No.4, (1960), p.3).
156. Pravda, 27 December 1958; "Rech' deputata A.F. Gorkina," Sotsialisticheskaia zakonnost', No.1, (1959), p.171.
157. Ibid., p.188.
158. V. Gsovskii, Ezhedevnyi informatsionnyi Biulleten', (Munich), No.496, 17 February 1959, p.2.
159. M.V. Barsukov, the head of the Chief Administration of the militia of the USSR Ministry of Internal Affairs complained about the poor public image of the local militia, and even their impatience in the face of the general laxness about the observance of public order (see "Za dal'neishee sovershenstvovanie organizatsii deiatel'nosti sovetskii militsii,"SGP, No.2, (1957), pp.33-43).
160. The years 1959 and 1960 witnessed some ventures into "liberalism" in dealing with criminals: penalties were substantially lightened for many crimes, parole was encouraged, and much faith was put in the power of the "collective" to reform and re-educate the wrong-doer.
161. Shliapochnikov, p.65.

CHAPTER 3

1. "O zadachakh partiinoi propagandy v sovremennykh usloviiakh", Pravda, 10 January 1960, pp.1-2.
2. Pravda, 10 September 1960.
3. Krokodil, No.3 (January), 1960, p.11.
4. I.F. Grishanin, "Novoe postanovlenie Verkhovnogo Suda SSSR ob usilenii

sviazi sudebnykh organov s obshchvestvennost'iu,"SGP, No.6, (1960), p.109.

5. V. Shirvinskii, "Revizionnuiu rabotu ne oslabliat", Sovetskaia iustitsiia, No.8, (1960), p.2.
6. Examples in the Soviet press were legion. Some of the more interesting included: a dealer in art for more than twenty-five years (Literaturnaia gazeta, 4 March 1961); Soviet sailors buying goods in foreign ports and reselling them at a profit back home (Molodezh' Estonii, 15 September 1960); a tractor driver who bought livestock from kolkhoz members and delivered it to state procurement agencies at a profit (Sel'skaia zhizn', 15 February 1961); and a Baku homeowner who rented sleeping quarters to kolkhoz members who came to town to sell their farm produce in the market (Bakinskii rabochii, 2 December 1960).
7. Komsomol'skaia pravda, 11 November 1960.
8. A.G. Pakalov and I.I. Arnautov, Tuneiadtsev k otvetu!, (Makhachkala, 1961), p.20; A.S. Shliapochnikov, Bor'ba s tuneiadtsami-vsenarodnoe delo, (Moscow, 1962, p.14); R.K. Evdokimov, Otvetstvennost' lits, vedushchikh paraziticheskii obraz zhizni, (Minsk, 1963), p.6.
9. Shliapochnikov, p.14.
10. Komsomol'skaia pravda, 17 September 1960.
11. Leningradskaia pravda, 3 September 1960.
12. Pravda, 6 September 1960.
13. Sovetskaia Rossiia, 22 November 1960, p.4.
14. Izvestiia, 21 April 1961, p.4.
15. Pravda, 15 March 1961, p.3.
16. Izvestiia, 29 September 1960.
17. Sovetskaia Latviia, 25 July 1960.
18. Pravda, 31 August 1960, p.3.
19. Komsomol'skaia pravda, 25 August 1960, p.2.
20. Ibid.
21. Literaturnaia gazeta, 27 September 1960, p.2.
22. Komsomol'skaia pravda, 9 September 1960, p.2.
23. Komsomol'skaia pravda, 17 September 1960, p.2.
24. Komsomol'skaia pravda, 28 August 1960, p.2.
25. "Obshchestvennye blaga - tol'ko trudiashchimsia", Sovetskaia iustitsiia, No.14, (1960), p.5.
26. T.N. Dobrovolskaia, "Novaia reglamentatsiia vazhneishikh voprosov organizatsii i deiatel'nosti tovarishcheskikh sudov", SGP, No.11, (1959), p.119.
27. Komsomol'skaia pravda, 11 August 1960, p.2.
28. Izvestiia, 7 May 1961.
29. Izvestiia, 29 June 1961, p.1.
30. Sovetskaia Belorussiia, 23 July 1961, p.4.
31. "Kto ne rabotaet, tot ne est", Kommunist, No.14, (September 1960), pp.13-21.
32. Zaria vostoka, 6 September 1960, p.1.
33. Zaria vostoka, 28 June 1961.
34. By 1961 N.R. Mironov, head of the Department of Administrative Organs, was warning against treating criminals too leniently: "Persuasion and Compulsion in Combatting Anti-Social Acts", Soviet Review, Vol.2, (1961), pp.56-57.
35. Resolution No.5 of the USSR Supreme Court Plenum of 17 September 1960, "O sostoianii sudimosti v pervom polugodii 1960 goda", Biulleten' Verkhovnogo Suda SSSR, No.6, (1960), p.6.
36. Pravda, 28 December 1960.
37. V. Laputin, "Programma KPSS i dalneisheye ukreplenie sotsialisticheskoi zakonnosti i pravoporiadka", SGP, (1961), No.11, p.18.

38. R. Rudenko, Izvestiia, 7 May 1961.
39. For Khrushchev's and Party Programme's formulations at 22nd Congress see XXII s''ezd KPSS, 17-31 oktiabria 1961 goda. Stenograficheskii otchet, (Moscow, 1962), Vol.1, p.212, Vol.3, p.307.
40. Text of decree published in Izvestiia, 7 May 1961.
41. See Ved. SSSR, (1962), No.8, Items 83, 84, 85; No.14, Item 147.
42. "Ob usilenii bor'by s litsami, ukloniaiushchimisia ot obshchestvenno poleznogo truda i vedushchimi antiobshchestvennyi paraziticheskii obraz zhizni", Vedomosti Verkhovnogo Soveta RSFSR (henceforth Ved. RSFSR), No.18 (1961), Item 273. Text also appeared in Sovetskaia Rossiia, 5 May 1961 and Sotsialisticheskaia zakonnost', No.6, (1961), pp.84-85.
43. The dates of adoption and sources of publication of the 1961 antiparasite decree in the other union republics are as follows:
Belorussia, 15 May (Sovetskaia Belorussiia, 16 May);
Uzbekistan, 17 May (Pravda vostoka, 18 May);
Lithuania, 27 May (Sovetskaia Litva, 28 May);
Turkmenia, 1 June (Turkmenskaia iskra, 2 June);
Azerbaidzhan, 3 June (Bakinskii rabochii, 7 June);
Armenia, 8 June (Kommunist (Armenia), 18 June);
Estonia, 8 June (Sovetskaia Estoniia, 11 June);
Ukraine, 12 June (Pravda Ukrainy, 13 June);
Georgia, 14 June (Zaria vostoka, 15 June);
Moldavia, 29 June (Sovetskaia Moldaviia, 3 August);
Kasakhstan, 6 July (Kazakhstanskaia pravda, 7 July);
Tadzhikistan, 29 July (Kommunist Tadzhikistana, 3 August);
Latvia, 18 August (Sovetskaia Latviia, 19 August);
Kirgizia, 23 September (Sovetskaia Kirgiziia, 29 September).
44. "In some republics, krais and oblasts almost all cases of parasites are tried by the people's courts and only an insignificant number are tried by meetings of citizens - a fact which reduces the power of social influence. In the Lithuanian SSR only 10% and in the Tatar ASSR only 2% of such cases have been tried by the public; all the rest went to the people's courts" (G. Anashkin and V. Kolchin, "Ne oslabliat bor'by s antiiobshchestvennymi paraziticheskimi elementami", Sotsialisticheskaia zakonnost', No.7, (1963), p.15.
45. For a fuller examination of textual variations see: A.S. Shliapochnikov, Nekotorye pravovye voprosy usileniia bor'by s paraziticheskimi elementami, Uchenye Zapiski, Vypusk 14, (Moscow, 1962), pp.90-92; I.D. Perlov, Sud i obshchestvennost' v bor'be s tuneiadtsami, (Moscow, 1962), pp.15-19.
46. Perlov, p.32.
47. Pravda, 5 May 1961.
48. A.T. Rubichev, Izvestiia, 11 May 1961.
49. N.P. Stakhanov, Komsomol'skaia pravda, 11 May 1961.
50. N. Prusakov, Trud, 11 May 1961.
51. Trud, 11 June 1961.
52. The first parasite expelled from Moscow under the decree was reported in Sovetskaia Rossiia, 11 May 1961; Novosibirsk also put the new decree into prompt use (Izvestiia, 10 May 1961; Trud, 14 May 1961); Leningrad cases were reported in detail in Leningradskaia pravda, 27 May and 17 June 1961; for other Moscow cases see Moskovskaia pravda, 2 June and 11 June, and Leninskoe znamia, 6 June 1961. A "social court" in Orekhovo-Zuevo near Moscow tried four parasites and set a fifteen-day period of probation in which they were to find jobs (Ibid., 2 June 1961).

53. Izvestiia, 29 June 1961; "V interesakh vsego obshchestva", Partiinaia zhizn', No.10 (May, 1961), pp.34-35.
54. Izvestiia, 21 November 1961.
55. V. Kim, "Bor'ba s tuneiadstvom", Sotsialisticheskaia zakonnost', No.3, (1962), p.46; S. Aver'ianov and A. Borodankov, "Organy prokuratury v bor'be s tuneiadstvom", Sotsialisticheskaia zakonnost', No.10, (1962), p.50.
56. For an in-depth account of its work, see N. Gusarov, "Esli chelovek ostupilsia ...", Vechernaia Moskva, 28 February, 1964.
57. A. Surilov and I. Cheban, Na nashei zemle sorniakam ne rasti!, (Kishinev, 1962), pp.31-32.
58. V. Peshkov, Tuneiadtsam ne mesto v nashei zhizni, (Alma-Ata, 1962), p.39.
59. N. Magarin, Tuneiadtsev - k otvetu, (Odessa, 1961), p.15.
60. Sovetskaia Belorussiia, 23 July 1961.
61. Peshkov, p.38.
62. Surilov and Cheban, p.32.
63. I. Levin and K. Larin, Kto ne rabotaet - tot ne est!, (Perm, 1963), p.16.
64. V. Shandra, Kto ne rabotaet, tot ne est, (Sverdlovsk, 1961), p.39.
65. Peshkov, pp.35-36.
66. S. Vasil'tsov, V trude nashe schast'e, (Belgorod, 1962), p.31.
67. Peshkov, p.37.
68. P.M. Rumiantsev, Tuneiadtsy - vragi nashego obshchestva, (Moscow, 1964), p.33.
69. N. Kurbanov, Obshchestvenno poleznyi trud - osnova preodoleniia perezhitkov proshlogo, (Machachkala, 1968), p.24.
70. Komsomol'skaia pravda, 11 June 1963.
71. Aver'ianov and Borodankov, p.49.
72. Leninskii put', 25 June 1961.
73. Leninskoe znamia, 6 June 1961.
74. Tashkentskaia pravda, 13 June 1961.
75. A.G. Pakalov and I.I. Arnautov, Tuneiadtsev k otvetu!, (Makhachkala, 1961), pp.34-35.
76. Peshkov, p.15.
77. See cases concerning Malinkovskii and Ianichkin (Peshkov, p.15); Tat'iana "T" (Levin and Larin, p.12); Gridneva (Perlov, p.24), Shchipanova (Shandra, p.24); Grudzeva (A.S. Shliapochnikov, Bor'ba s tuneiadtsami-vsenarodnoe delo, (Moscow, 1962), p.35).
78. Shandra, p.23.
79. Perlov, p.11.
80. L. Lipson, "The Future Belongs To ... Parasites", Problems of Communism, Vol.12, No.3, (1963), p.5.
81. "Oblomovshchina" ("inertness", "apathy") is etymologically derived from the title and name of the main character of Goncharov's novel "Oblomov" (1859). It is the story of a young member of the nobility who is so smothered by his indolence and sloth that he is totally incapable of acting.
82. Rabochaia gazeta, 31 January 1958.
83. M.W. Matthews, "Jugendarbeitslosigkeit in der Sowjetunion", Ost-Europa, No.7, (1962), p.480.
84. Pravda, 19 April 1958.
85. V.I. Kim and A.T. Tumarbekov, Kto ne rabotaet - tot ne est, (Alma-Ata, 1963), p.32.
86. Shandra, p.24.
87. Pravda, 12 February 1961.

88. Evdokimov, p.36.
89. Kim and Tumarbekov, p.20.
90. Rumiantsev, p.25.
91. See Komsomol'skaia pravda, 11 August 1960, p.2.
92. Case of Bogdanov reported in G. Gebekov, Velikii printsip sotsializma - "Kto ne rabotaet - tot ne est", (Machachkala, 1961), p.26; case of Oleg "S" reported in Sovetskaia Rossiia, 14 July 1962; Case of Il'iashkevich reported in Magarin, p.23.
93. See cases concerning Maiseva and Nazarova (Shliapochnikov, "Nekotorye pravovye ...", p.112 and p.105).
94. See case of Gruzdeva (Shliapochnikov, "Bor'ba tuneiadtsami ...", p.35).
95. A. Sediulin, Zakonodatel'stvo o religioznykh kul'takh, (Moscow, 1974), pp.26-28.
96. I. Konoplev, Delo kazhdogo, (Simferopol', 1962), p.17.
97. Vasil'tsov, pp.25-26.
98. Evdokimov, p.12.
99. Shliapochnikov, "Bor'ba s tuneiadtsami ...", p.36.
100. See cases concerning Polikashin and Eliseev (Peshkov, p.14); Leshan and Kristya (Surilov and Cheban, pp.47-48).
101. Pravda, 7 April 1961, p.3.
102. See letters by N. Ermakov and A. Khrustoslavenko in Sovetskaia Kuban', 24 March 1961.
103. Kommunist Tadzhikistana, 29 April 1962.
104. Sovetskaia Rossiia, 21 June 1961, p.4.
105. Pravda Ukrainy, 22 August 1961.
106. Izvestiia, 19 September 1962; Pravda, 20 September 1962. This directive was based upon an article in Izvestiia, 6 September 1962.
107. Speech of Mzavanadze at a plenum of the Central Committee of the Georgian Communist Party, Zaria vostoka, 31 October 1962.
108. Iu. Georgiev, "Kak ne nado borot'sia s tuneiadstvom", Sovetskaia iustitsiia, No.6, (1964), p.19.
109. Ibid., p.20.
110. Evdokimov, p.11.
111. Leninskoe znamia, 12 July 1961.
112. Pakalov and Arnautov, p.30.
113. Shliapochnikov, "Bor'ba s tuneiadtsami ...", p.36.
114. Perlov, p.25.
115. Arkhiv USO Ministerstva Iustitsii RSFSR za 1961, p.14.
116. See cases of Actakhov and Chrernov (Shliapochnikov, "Bor'ba s tuneiadtsami ...", p.31); "K" (Perlov, p.25); Mustyatse (Surilov and Cheban, p.42); "Kh.N" (Evdokimov, p.10); etc.
117. Peshkov, p.8.
118. See Pravda, 19 October 1961, pp.1-10.
119. Peshkov, p.9.
120. See Khrushchev's speech on Party Programme, Pravda, 19 October 1961, pp.1-10. It is worth noting that a joint decree of the CPSU Central Committee and USSR Council of Ministers of 25 February 1961, "On Improving the Organization of the Marketing of the Surplus Agricultural Produce of Kolkhozniks and Kolkhozes" (Sobranie Postanovlenii Pravitel'stva SSSR, No.4, (1961), Item 22), had ordered consumer's cooperatives to increase the purchase of produce from collective farms and especially from collective farmers with a view to selling it both in the local, as well as other markets, at prices which had

arisen in them. This combined with the setting up of a broad network of commission centres was seen as one sure way of closing all the "loopholes" for speculators. For more on this see Shliapochnikov, "Bor'ba s tuneiadtsami ...", p.20.

121. G. Nasyrov, "O tekh, kto pooshchryaet tuneiadtsev", Sovety deputatov trudiashchikhsia, No.11, (1962), pp.78-80.
122. Izvestiia, 13 April 1962, p.3.
123. See Kommunist, No.3, (1960), p.4.
124. Kim and Tumarbekov, p.16.
125. Peshkov, p.11.
126. V. Nikiforov and A. Shliapochnikov, Izvestiia, 2 October 1962, p.3.
127. N. Metelskii, Pravda, 1 August 1964, p.4.
128. Ved. RSFSR, No 18, (1963), Item 240, pp.444-445.
129. Ibid., pp.446-447.
130. Citizens of the RSFSR who were not members of kolkhozes could have in their personal possession, per family, no more than: (a) one cow (buffalo) and a calf of up to four months old or one goat with offspring no older than one year; (b) one pig for fattening or three sheep with offspring no older than one year.
131. P.E. Orlovskii, "O prave lichnoi sobstvennosti na zhiloi dom", SGP, No.7, (1961), pp.58-66.
132. Arkhiv USO Ministerstva Iustitsii za 1961, p.15.
133. Peshkov, pp.14-15.
134. Bor'ba s tuneiadtsami, (Moscow, 1965), p.8; L. Urakov, "Usilit' bor'by s parazitichesimi, chastnopredprinimatel'skimi elementami", Sotsialisticheskaia zakonnost', No.5, (1961), p.20.
135. Magarin, pp.16-17.
136. Pakalov and Arnautov, pp.21-22.
137. A. Kholiavchenko, "Praktika primeneniia Ukazov O bezvozmezdnom iz"iatii domov", Sovety deputatov trudiashchikhsia, No.11, (1963), p.90.
138. Surilov and Cheban, pp.49-51.
139. Peshkov, p.15.
140. Text of order published in Sotsialisticheskaia zakonnost', No.3, (1961), p.28.
141. D. Todesas, Izvestiia, 18 July 1961.
142. Izvestiia, 1 March 1961, pp.1-4.
143. "Bezvozmezdnoe iz"iatie domov, dach i drugikh stroenii, vozvedennykh ili priobretennykh grazhdanami na netrudovye dokhody", Ved. RSFSR, (1962), No.30, Item 200, pp.477-478.
144. Kholiavchenko, p.91.
145. Perlov, pp.26-27.
146. Rumiantsev, p.7.
147. A.S. Shliapochnikov, Tuneiadtsev k otvetu, (Moscow, 1964), p.15; Omskaia pravda, 16 August 1963.
148. A. Kholiavchenko, "Bor'ba s tuneiadtsami i khapugami", Sotsialisticheskaia zakonnost', No.9, (1963), p.12.
149. Zh. Akhmetov, Strogo sobliudat' zakonnost', "Zvezda priitysh'ia", 14 June 1963.
150. See "Iz praktiki bezvozmezdnogo iz"iatiia domov, dach i drugikh stroenii, vozvedennykh ili priobretennykh na netrudovye dokhody", Sovetskaia iustitsiia, No.17, (1963), p.7.
151. Pravda, 3 August 1963, p.3.
152. Kholiavchenko, "Praktika primeneniia ...", p.90.
153. Decision of the USSR Supreme Court of 10 January 1942, No.1367 in the

Poliakov case.

154. See case of Rybakhin in S. Saldyev, "Vyiavlenie tuneiadtsev", Sotsialisticheskaia zakonnost', No.8, (1961), p.55.
155. Owners of motor boats were reported to be plundering the timber being floated down the Volga and selling it to persons building their own houses: F. Polozkov, "Bor'ba s tuneiadtsami i stiazhateliami", Sotsialisticheskaia zakonnost', No.3, (1961), p.28.
156. Shliapochnikov, "Bor'ba s tuneiadtsami ...", p.33.
157. Shliapochnikov, "Nekotorye pravovye ...", p.102.
158. Ibid.
159. Peshkov, p.12.
160. Evdokimov, p.39.
161. Shliapochnikov, "Nekotorye pravovye ...", p.96.
162. Shandra, p.28.
163. See case of Shalennaia (Peshkov, p.16).
164. See case of Stasenko in L. Urakov, "Usilit' bor'by s paraziticheskimi, chastnopredprinimatel'skimi elementami", Sotsialisticheskaia zakonnost', No.5, (1961), p.18.
165. Gebekov, pp.28-29.
166. Izvestiia, 26 May 1963.
167. See case of Fedorov in V. Kim, "Bor'ba s tuneiadstvom", Sotsialisticheskaia zakonnost', No.3, (1962), p.46; case of Galikov in Levin and Larin, p.14.
168. Gebekov, p.25.
169. See Nash sovremennik, No.1 and 3, 1960, for discussion on forests and the activities of the so-called *barygi*.
170. Ibid.
171. There was almost unanimous agreement among Soviet writers about the administrative, not penal, character of the antiparasite laws. V.F. Kirichenko, for instance, brought forward four arguments for his assertion that the punishments provided by the Ukaz of 14 May 1961 were measures of administrative and not criminal repression. First, criminal punishment could only be applied to a person guilty of committing a crime. Since the actions enumerated in the Ukaz were not crimes but "antisocial offences", they could not be repressed by criminal punishments. Second, according to Part 2, Article 3 of the Fundamental Principles of Criminal Legislation of the USSR and Union Republics and Article 3 of the RSFSR Criminal Code, criminal punishment could only be prescribed by a sentence of a court. But, under the antiparasite laws punishment could be prescribed by either the ruling of a rayon (city) people's court or by a social sentence rendered by a collective of workers. Third, persons sent into exile did not acquire a criminal record. Finally, the ahead-of-schedule release provision contained in the Ukaz differed substantially from the conditions of conditional early relief from punishment provided by Article 53 of the RSFSR Criminal Code (V.F. Kirichenko, "Pravovye voprosy bor'by s litsami, ukloniaiushchimsia ot obshchestvenno poleznogo truda i vedushchimi antiobshchestvennyi paraziticheskii obraz zhizni", SGP, No.8, (1961), pp.128-129).
172. Editorial, "Kto ne rabotaet, tot ne est", Sovetskaia iustitsiia, No.11, (1961), p.2.
173. "What can a militiaman do if there is no law under which he can severely punish a parasite? The criminal code does not contain such a provision. But is not parasitism a crime? No! An appropriate article must be introduced into our criminal code" (L. Voronkov and Iu. Kuznetsov, Trud, 22 October 1960, p.3).
174. Perlov, pp.12-13.
175. N.P. Farberov and P.S. Romashkin, Teoriia gosudarstva i prava, (Moscow,

1962), p.494.

176. In December 1956 a summary jail sentence of three to fifteen days was authorized in cases of "petty hooliganism", which did not fall under Article 74 of the Criminal Code. Edict published in Sovetskaia Rossiia, 20 December 1956.

177. See Edict of the Presidium of the RSFSR Supreme Soviet of 12 September 1957, "On Responsibility for Petty Speculation", Ved. RSFSR, No.10, (1957), Item 5.

178. "O praktike primeneniia sudami zakonodatel'stv ob usilenii bor'by s litsami, ukloniaiushchimisia ot obshchestvenno poleznogo truda i vedushchimi antiobshchestvennyi paraziticheskii obraz zhizni", Biulleten' Verkhovnogo Suda SSSR (hereafter BVS SSSR), No.5, (1961), pp.8-11.

179. Case of Timofeev reported in V. Bolysov and Ia. Gurvich, "Iz praktiki primeneniia zakonodatel'stva o tuneiadtsakh", Sovetskaia iustitsiia, No.18, (1961), p.10; case of Citizen "S" reported in Perlov, p.28; case of Esmagombetov reported in G. Anashkin and V. Kolchin, "Ne oslabliat' bor'by s antiobshchestvennymi paraziticheskimi elementami", Sotsialisticheskaia zakonnost', No.7, (1963), pp.15-16.

180. Perlov, p.28.

181. See cases of Silin (Shliapochnikov, "Bor'ba s tuneiadtsami ...", pp.46-47; Modenkov and Zobova (P.P. Lukanov, "Praktika bor'by s antiobshchestvennymi elementami", SGP, No.3, (1962), p.134; Citizen "Shch. P" (Evdokimov, p.31); Shirgaeva and Kireeva (Bolysov and Gurvich, p.10); V.I. Madenkov (Iu. Severin, "Usilenie bor'ba s litsami, ukloniaiushchimisia ot obshchestvenno poleznogo truda ...", BVS SSSR, No.5, (1961), p.40).

182. See V. Kim, "Bor'ba s tuneiadstvom", Sotsialisticheskaia zakonnost', No.3, (1962), p.48.

183. See cases of "L, K and T" who were Group II invalids (A. Tsvetkov, "Izvrashcheniia v bor'be s tuneiadstvom neterpimy", Sovetskaia iustitsiia, No.3, (1962), p.19); Cheblyuk, who was a Group III invalid (Severin, p.40). Note: Basic regulations issued in 1928 divided disabled persons into six groups according to the "degree of incapacitation": Group I - Persons completely incapacitated and in need of special daily care; Group II - Persons completely incapacitated but not needing special care; Group III - Persons unable to work regularly, but able to do occasional or easy work providing an income of not more than 50% of their regular previous earnings; Group IV, V and VI - Persons whose disabilities involve a loss of income of 30-50% (Group IV), 15-30% (Group V), or less than 15% (Group VI).

184. See case of Dragunova (mentally retarded) (Bolysov and Gurvich, p.10); K (schizophrenic) (Tsvetkov, p.9).

185. See case of Gugovskii (suffering from TB) (Severin, pp.39-40); Grineva (heart problems) (Bolysov and Gurvich), p.10.

186. See cases of "P, S, S, B and P" (Tsvetkov, p.9).

187. See cases of Rachvalova and Lisich (A. Shliapochnikov, "Praktika bor'by s tuneiadstvom", Sovetskaia iustitsiia, No.16, (1961), pp.8-9).

188. See cases of Arylene (Severin, p.39); Iu (Perlov, p.30).

189. See case of father of "Family R" (Perlov, p.29).

190. Severin, p.41.

191. "O vypolnenii sudebnymi organami postanovleniia Plenuma Verkhonogo Suda SSSR No.6, ot 12 sentiabria 1961 goda 'O praktike primeneniia sudami zakonodatel'stva ob usilenii bor'by s litsami, ukloniaiushchimisia ot obshchestvenno poleznogo truda i vedushchimi antiobshchestvennyi paraziticheskii obraz zhizni'", BVS SSSR, No.3, (1963), pp.10-13.

192. "Ocherednoi Plenum Verkhovnogo Suda RSFSR", Biulleten' Verkhovnogo

Suda RSFSR (hereafter BVS RSFSR), No.2, (1963), p.2.

193. Resolution No.13/2 of the RSFSR Supreme Court plenum of 29 December 1962, "O vypolnenii sudami RSFSR postanovleniia Plenuma Verkhovnogo Suda SSSR ot 12 sentiabria 1961 goda 'O praktike primeneniia sudami zakonodatel'stva ... obraz zhizni'", in BVS RSFSR, No2, (1963), pp.4-6.
194. Resolution No.2 of the USSR Supreme Court plenum of 18 March 1963, "O strogom sobliudenii zakonov pri rassmotrenii sudami ugolovnykh del", BVS SSSR, No.3, (1963), pp.3-9.
195. Perlov, p.29.
196. Shliapochnikov, "Sovetskoe zakonodatel'stvo i obshchestvennost' v bor'be s paraziticheskimi elementami", SGP, No.8, (1961), pp.68-69.
197. Perlov, p.29.
198. Case of Rimma Volevich, Izvestiia, 21 February 1962.
199. Other cases were reported of persons being exiled without having been warned. See cases of "M" (Perlov, p.21); "K" (Kurbanov, p.25).
200. A. Shliapochnikov, "Praktika bor'by s tuneiadstvom", Sovetskaia iustitsiia, No.16, (1961), p.9.
201. Ibid.
202. Anashkin and Kolchin, p.17.
203. L.F. Il'ichev, XXII s''ezd KPSS i voprosy ideologicheskoi raboty, (Moscow, 1962), p.51.
204. Perlov, pp.19-20.
205. Ibid., p.20.
206. Shliapochnikov, "Bor'ba s tuneiadtsami ...", p.41.
207. Evdokimov, p.16.
208. Rumiantsev, p.44.
209. V. Shirvinskii and A. Shliapochnikov, "I ubezhdenie, i prinuzhdenie!", Sovety deputatov trudiashchikhsia, No.10, (1962), p.40.
210. See H.J. Berman, Justice in the USSR. An Interpretation of Soviet Law, (Harvard University Press, 1966), p.85.
211. See Anashkin and Kolchin, p.17.
212. Shliapochnikov, SGP, No.8, (1961), pp.68-69.
213. Ibid., p.65.
214. A. Averianov and A. Borodankov, "Organy prokuratury v bor'be s tuneiadstvom", Sotsialisticheskaia zakonnost', No.10, (1962), p.50.
215. A.S. Shliapochnikov, "Voprosy usileniia gosudarstvenno-pravovogo obshchestvennogo vozdeistviia v bor'be s paraziticheskimi elementami", SGP, No.9, (1963), p.47.
216. Precise total figures of the exiled parasites were rarely made public. One exception was a report by the Kazakh Communist Party official M.S. Solomentsev, that "more than one thousand" had been exiled in that republic (see Kazakhstanskaia pravda, 14 July 1963, p.1).
217. Komsomol'skaia pravda, 17 September 1960.
218. Trud, 23 December 1960. For a report on exiled parasites in Altai Krai see Izvestiia, 3 September 1961.
219. A. Sinichenko, Pravda Ukrainy, 27 November 1962.
220. A. Khodanov, Komsomol'skaia pravda, 29 August 1962.
221. A. Michurin, Ekonomicheskaia gazeta, 25 August 1962.
222. S. Adushkin, "Zakonodatel'stvo o tuneiadtsakh nuzhdaetsia v dopolneniiakh", Sovetskaia iustitsiia, No.21, (1962), pp.12-13.
223. A.S. Shliapochnikov, "Tuneiadtsev k otvetu", (Moscow, 1964), p.28.
224. BVS SSSR, No.3, (1963), p.12.

225. A.S. Shliapochnikov, (1964), p.27.
226. Khodanov, Komosomol'skaya pravda, 29 August 1962.
227. Ibid.
228. Titov, Krokodil, No.2, January 1962.
229. "Ob otvetstvennosti lits, zlostno narushaiushchikh ustanovlennyi rezhim v mestakh poseleniia", Ved. RSFSR, No.18, (1963), Item 320.
230. Sokolovskii, Izvestiia, 30 July 1964.
231. A. Drukh, Komsomolets Tadzhikistana, 31 January 1964.
232. I. Faniakov, Literaturnaia gazeta, 29 August 1964.
233. Klenov, Ekonomicheskaia gazeta, 8 August 1964.
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236. Iuridicheskii spravochnik deputata mestnogo soveta, (Moscow,1962), p.490; Perlov, p.28.
237. Sovetskaia Latviia, 25 July 1961.
238. S. Krivchenko, Sovetskaia Kirgiziia, 13 October 1961.
239. Shliapochnikov, SGP, No.9, (1963), p.45; Perlov, p.28.
240. P.P. Lukanov, "Praktika bor'by s antiobshchestvennymi elementami", SGP, No.3, (1962), p.135.
241. Zaria vostoka, 15 June 1961; Perlov, p.17.
242. Bor'ba s tuneiadtsami, (Moscow, 1965), pp.20-22.
243. V. Kim, "Bor'ba s tuneiadstvom", Sotsialisticheskaia zakonnost', No.3, (1962), p.48.
244. A. Shliapochnikov, "Praktika bor'by s tuneiadstvom", Sovetskaia iustitsiia, No.16, (1961), p.8.
245. Aver'ianov and Borodankov, p.49.
246. Surliov and Cheban, p.65.
247. Rumiantsev, p.12.
248. Ibid.
249. Anashkin and Kolchin, p.15.

CHAPTER 4

1. "O vnesenii izmenenii v Ukaz Prezidiuma Verkhovnogo Soveta RSFSR ot 4 maia 1961 goda 'Ob usilenii bor'by s litsami, ukloniaiushchimisia ot obshchestvenno poleznogo truda i vedushchimi antiobshchestvennyi paraziticheskii obraz zhizni", Ved. RSFSR, No. 38, (1965), Item 932.
2. See I.P. Tsvelodub and A.S. Shliapochnikov, "Sovershenstvovanie pravovogo regulirovaniia bor'by s tuneiadtsami", SGP, No.2, (1970), p.84.
3. For unofficial transcript of hearing see S. Kucherov, The Organs of Soviet Administration of Justice: Their History and Operation, (Leiden, 1970), pp.212-230.
4. A. Amalrik, Involuntary Journey to Siberia, (New York, 1970).
5. E. Etkind, Notes of a Non-Conspirator, (New York, 1978), p.20.
6. Ibid., pp.107-108.
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8. Ibid., pp.207-208.
9. Ibid., pp.206, 208, 283.
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11. Tsvelodub and Shliapochnikov, p.84.
12. A. Ignatov, "Otvetstvennost' za tuneiadstvo nado usilit'", Sotsialisticheskaia

zakonnost', No.12, (1969), p.34.

13. Ibid.
14. Tsvelodub and Shliapochnikov, p.85.
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16. Ibid.
17. Ignatov, p.34.
18. N. Kurbanov, Obshchestvenno poleznyi trud - Osnova preodoleniia perezhitkov proshlogo, (Makhachkala, 1968), pp.27-28.
19. A. Rekunkov and V. Rozenfel'd, "Bor'ba s tuneiadstvom - Vazhnyi faktor preduprezhdeniia prestupnosti", Sotsialisticheskaia zakonnost', No.11, (1969), pp.39-40.
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22. A. Nuzhdina, Pravda, 18 September 1969, p.3.
23. Ignatov, p.34.
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25. I.N. Abramov, Zastavit' tuneiadtsev rabotat', (Moscow, 1960), p.35.
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27. Peshkov, p.9.
28. L.A. Kliuchinskaia, "Kharakter prestuplenii nesovershennoletnikh", in Kommunisticheskoe vospitanie podrastaiushchego pokoleniia i preduprezhdenie pravonarushenii nesovershennoletnikh, (Riga, 1963), p.42.
29. D.O. Khan-Magomedov, "Metody izucheniia effektivnost' ugolovnogo zakonodatel'stva", in A.P. Shliakhov and V.N. Kudriavtsev, Pravovaia Kibernetika, (Moscow, "Nauka", 1973), p.71.
30. V.S. Prokhorov, "Tuneiadtsy," in Kurs sovetskogo ugolovnogo prava. (Chast' obshchaia), Vol.2, (Leningrad, 1970), pp.122-123.
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32. Evdokimov, p.13.
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34. A.S. Shliapochnikov, Tuneiadtsev k otvetu, (Moscow, 1964), p.4.
35. Ibid.
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37. N.F. Kuznetsova, Ugolovnoe pravo i moral', (Moscow, 1967), p.85.
38. Iu. Severov, "O nedostatkakh v sudebnoi praktike po delam o spekuliatsii", SGP, No.8, (1964), p.119.
39. Shliapochnikov, (1964), p.4.
40. Kuznetsova, p.77.
41. G. Kocharov, "Preduprezhdenie umyshlennykh ubiistv", Sotsialisticheskaia zakonnost', No.6, (1961), p.22.
42. A.A. Gertsenzon, "Opyt konkretno-sotsiologicheskogo izucheniia sostava prestupleniia", SGP, No.6, (1968), p.97.
43. V.A. Serebiakova, "Vtorichnoe ispol'zovanie statisticheskikh kartochek na obviniaemogo dlia izucheniia prestupnosti", Voprosy preduprezhdeniia prestupnosti, Vypusk 2, (Moscow, 1965), p.44.
44. Sakharov, p.123.
45. "O merakh po usileniiu bor'by s litsami, ukloniaiushchimisia ot obshchestvenno poleznogo truda i vedushchimi antiobshchestvenny paraziticheskii obraz zhizni", SP SSSR, No.4, (1970), p.26.
46. After imposing the duty upon executive committees of local soviets to ensure the

systematic and quick exposure of parasites and their compulsory placement in work, the resolution, among other recommendations, instructed the Central Statistical Board of the USSR, Gosplan, the USSR Ministry of Internal Affairs and the state committees of the Councils of Ministers of the union republics for the utilization of labour reserves to devise a unified system for the record keeping of able-bodied persons not engaged in socially useful work, and to organize a study of the reasons why they were not working. It also instructed the Councils of Ministers of the union republics to take measures toward the expansion of the network of holding and assignment centres and of homes for the aged and invalids.

47. "O vnesenii izmenenii v Ukaz Prezidiuma Verkhovnogo Soveta RSFSR ot 4 maia 1961 goda 'Ob usilenii bor'by s litsami ... paraziticheskii obraz zhizni'", Ved. RSFSR, No.14, (1970), Item 255, pp.176-177.
48. "O vnesenii dopolnenii i izmenenii v ugolovnyi i ugolovno-protsessual'nyi kodeksy RSFSR", Ved. RSFSR, No.14, (1970), Item 256, pp.177-178.
49. For a description of the atrocious conditions on the penal colony island of Sakhalin see A.A. Plotnikov, "Ob usloviiakh otbyvaniia katorgi na Sakhaline za brodiazhnichestvo v XIX veke", in Organizatsionno - pravovye i upravlencheskie problemy bor'by s pravonarusheniiami sredi lits, vedushchikh antiobshchestvennyi paraziticheskii obraz zhizni. (Sbornik nauchnykh trudov), ed. V.A. Tekut'ev, (Khabarovsk, 1985), pp.150-157.
50. D. Dril', Brodiazhnichestvo, nishchestvo i mery bor'by s nimi, (Saint Petersburg, 1899), p.9.
51. Bol'shaia sovetskaia entsiklopediia, (1927), Vol.1, p.558.
52. Ibid., (1952), Vol.6, p.126.
53. Ibid., (1971), Vol.4, p.43.
54. A.N. Siminenko, "Kharakteristika sostavov prestuplenii s administrativnoi preiuditsiei po UK RSFSR", in Ugolovno-pravovye sredstva bor'by s prestupnost'iu, ed. M.P. Kleimenov, (Omsk, 1983), pp.47-49.
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56. N.I. Markova and N.F. Isakov, Tuneiadtsam - Boi!, (Leningrad, 1974), p.17.
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"If a person is deemed guilty of committing two or more crimes provided for by various articles of a criminal law and he has not been convicted for any of them, the court, having assigned punishment separately for each crime, shall determine a final aggregate punishment by absorbing the less severe punishment in the more severe or by wholly or partially cumulating the assigned punishments within the limits established by the articles of the law providing for the more severe punishment".

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CHAPTER 5

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237. Kurs sovetskogo ugolovnogo prava, ed. A.A. Piontkovskii, (Moscow, 1971), pp.407-408.
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239. "Ob utverzhdenii tipovogo dogovora na vypolnenie kolkhoznikami-otkhodnikami i drugimi grazhdanami rabot po stroitel'stvu ob"ektov v sel'skoi mestnosti."(Postanovlenie Gosudarstvennogo komiteta SSSR po trudu i sotsial'nym voprosam i Sekretariat VTsSPS ot 24 maia 1978g. No. 168/16-23.), Biulleten' Goskomtruda, No.8, (1978), pp.20-27.
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241. Zaria vostoka, 28 December 1979; in the Western Ukraine one estimate was that one in seven members of Komsomol left his native village at the worst possible time - planting and harvesting seasons (Komsomol'skaia pravda, 2 November 1982).
242. Bogoliubova and Rastegaev, p.20.
243. Izvestiia, 30 July 1985.
244. The head of the demography section of the Armenian Republic State Planning Committee's Economics and Planning Institute admitted to an Izvestiya correspondent that these people were leaving because the republic could not employ them; 75% of the 25,000 people taking seasonal jobs in the north, he said, had no regular work at home (Izvestiia, 15 April 1986). The chairman of the Presidium of the Chechen-Ingush ASSR Supreme Soviet spoke of an employment rate of only 80% for able-bodied local men. He said that there had been efforts to send surplus labour to the Far East, where manpower was in short supply, and criticized the USSR State Committee on Labour and Social Questions for poor organization of these matters (Izvestiia, 15 December 1983).
245. *Khoziaistvenny sposob* was legally approved as a method for carrying out agricultural construction. Articles in the press made it clear that the work done under the rubic of *khozsposob* was in fact work done by "hired brigades" - i.e. *shabashniki* (see, for example, Sovetskaia Rossiia, 29 August 1982).
246. Ibid.
247. For a traditional critique, see Zaria vostoka, 22 January 1978; for more balanced commentary see Pravda, 10 March 1985; Izvestiia, 5 April 1985; Pravda, 13 June 1985; Izvestiia, 7 July 1985; Izvestiia, 30 July 1985; Literaturnaia gazeta, No.34, 21 August 1985.
248. Izvestiia, 5 April 1986.
249. Izvestiia, 2 June 1986.
250. SP SSSR. No.23, (1986), Item 134.
251. "Ob utverzhdenii polozheniia o poriadke provedeniia raboty vremennymi stroitel'nymi brigadami." (Postanovlenie Gosudarstvennogo Komiteta SSSR po trudu i sotsial'nym voprosam i Sekretariat VTsSPS ot 19 iiunia 1986 g. No. 222/14-15). Biulleten' Goskomtruda, No.11, (1986), pp.11-17.
252. V. Kravtsov, Pravda, 28 June 1986.
253. See BVS RSFSR, No.1, (1988), pp.13-15; Sotsialisticheskaia zakonnost', No.9, (1988).
254. Kislovskaia, Petrov, Zubov, p.43.
255. BVS RSFSR, No.10, (1974), p.14.
256. G. Laevskii, "Tuneiadstvo i netrudovye dokhody", Sovetskaia militsiia, No.9,

(1986), p.47.

257. I.I. Zubov, "O poniatii netrudovogo dokhoda i nekotorykh problemakh kvalifikatsii antiobshchestvennogo paraziticheskogo obraza zhizni", in Rol' organov vnutrennikh del v preodolenii antiobshchestvennykh proiavlennii, ed. Iu.I. Rimarenko, (Kiev, 1988), p.124.
258. Malein and Gal'perin, p.177; T. Oreshkina and N. Beliaeva, "Usilit' bor'by s paraziticheskim obrazom zhizni", Sovetskaia iustitsiia, No.17, (1987), p.24.
259. Kondrashkov, "Tuneiadstvo ...", (1989), p.72.
260. D.S. Kovalev and L.E. Tuzhikova, "Obsuzhdenie problem kriminologii," Pravovedenie, No.6, (1986), p.107.
261. R.M. Gotlib and L.I. Romanova, "Bor'ba s sotsial'nym parazitizmom i prokurorskii nadzor", SGP, No.8, (1987), p.80; S.E. Dontsov, "Sotsial'naia spravedlivost' i bor'ba s netrudovymi dokhodami", Pravovedenie, No.3, (1987), p.19.
262. Laevskii, p.47.
263. Zubov, p.125.
264. Gerasimova, Petrunev, Fokin, pp.87, 89.

CHAPTER 6

1. Partsei and Trofimov, p.129; Kondrashkov, (1989), p.53.
2. "Leninskaia etika bol'shevizma", Kommunist, No.6, (1983), p.64.
3. Partsei and Trofimov, p.129.
4. Kondrashkov, (1989), pp.53-54.
5. Iu.I. Liapunov, "Sotsial'nyi parazitizim ...", pp.8-9.
6. Kvashis and Romanova, p.87.
7. Pakalov and Arnautov, p.18; Konoplev, p.10; Evdokimov, p.4; Peshkov, p.21.
8. Sovetskoe ugolovnoe pravo. Chast' obshchaia, ed. C.M. Chikhikvadze, (Moscow, 1952), pp.149-151.
9. A. Gertsenzon, "Prakticheskie voprosy organizatsii izucheniia prestupnosti", Sovetskaia iustitsiia, No.1, (1958), pp.6-10.
10. A.A. Piontkovskii, "K voprosu o prichinakh prestupnosti v SSSR i merakh bor'by s nei", SGP, No.3, (1959), pp.89-98; B.S. Utevskii, "K voprosu ob organizatsii metodike izucheniia prestupnosti i prestupnika", SGP, No.11, (1959), pp.59-68; Voprosy metodiki izucheniia i preduprezhdeniia prestuplenii, ed. A.A. Gertsenzon, (Moscow, 1962); A.B. Sakharov, O lichnosti prestupnika i prichinakh prestupnosti v SSSR, (Moscow, 1961).
11. I.I. Karpets, Problema prestupnosti, (Moscow, 1969), p.53.
12. "Kto ne rabotaet, tot ne est", Kommunist, No.14, (1960), pp.13-21.
13. "Kak organizovat' sorevnovanie?",V. I. Lenin, Vol.26, pp.404-415.
14. Pravda, 20 January 1929.
15. Ibid.
16. "For the first time after centuries of working for others, of forced labour for the exploiter, it has become possible to WORK FOR ONESELF .... Of course, this greatest change in human history from working under compulsion to working for oneself cannot take place without friction, difficulties, conflicts and violence against the inveterate parasites and their hangers-on. No worker has any illusions on that score. The workers and poor peasants, hardened by dire want and by many long years of slave labour for the exploiters, by their countless insults and acts of violence, realize that it will take time to BREAK the resistance of those exploiters" (Ibid.).
17. Ibid.
18. Plenum Tsentral'nogo Komiteta KPSS, 10-18 ianvaria 1961. Stenograficheskii

otchet, (Moscow, 1961), p.600.

19. Ibid.
20. Pravda, 20 January 1929.
21. Plenum TsK, (10-18 ianvaria 1961), p.600.
22. Ibid., pp.4-5.
23. XXII s"ezd KPSS, III, (Moscow, 1961), p.316.
24. Ibid., p.319.
25. Review of letters to the editor, "Kto ne rabotaet, tot ne est", Kommunist, No.3, (1961), p.109.
26. L.F. Il'ichev, "Ocherednye zadachi ideologicheskoi raboty partii", in Plenum Tsentral'nogo Komiteta KPSS, 18-21 iiunia 1963 goda, (Moscow, 1964), p.22.
27. S. Mezentsev, F. Petrenko, and G. Shitarev, "Partiia i stroitel'stvo kommunizma", Kommunist, No.18, (1961), p.22.
28. Karpets, p.52.
29. Kommunist, No.3, (1961), p.110.
30. Konoplev, pp.12-13.
31. Kommunist, No.14, (1960), p.15.
32. Rumiantsev, p.6.
33. Kommunist, No.3, (1961), p.111.
34. V. Zadokhin, Pust' u nikh pod nogami gorit zemlia!, (Tambov, 1961), p.17.
35. Shandra, p.45.
36. Peshkov, p.33.
37. Ibid., p.32.
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39. Ia. Kersnovskii, Izvestiia, 11 July 1961.
40. Literaturnaia gazeta, 27 September 1960. In April 1962, V.I. Tikunov, the RSFSR Minister of Internal Affairs, observed that "in a number of cities and settlements of Lipetsk *oblast*, everyday services to the population are badly organized. Antisocial elements did not wait long to take advantage of this. They started doing construction work; making furniture, felt boots and clothing; repairing musical instruments and radios; making barrels; offering photographic services; and engaging in other types of private enterprise".

    He noted that "the parasitic elements do not live in a vacuum", that if "some person who does not work anywhere or who has a temporary, easy and low-paid job suddenly starts building a house, acquires a private farm and buys cars, expensive furniture, rugs and other costly things, this must alarm all those who have contact with him". He requested citizens to "look and find out where he gets his money"; however, in practice the opposite often happened, with people looking indifferently "at manifestations of parasitism and money-grubbing, in keeping with the principle: this is none of my business" (Izvestiia, 13 April 1962).
41. Kommunist, No.14, (1960), p.18.
42. I. Kalmanovich, Literaturnaia gazeta, 24 July 1968; Shirvindt, "K istorii voprosa ob izuchenii prestupnosti", SGP, No.5, (1964), pp.11-20.
43. V. Mel'nikova, "Burzhuaznaia kriminologiia o vliIanii ekonomicheskogo progressa na prestupnost' molodezhi", SGP, No.5, (1967), pp.142-145.
44. A.A. Piontkovskii, "Puty ukrepleniia sotsialisticheskogo pravoporiadka", SGP, No.1, (1967), p.37.
45. For a short summary see William Petersen, "The Evolution of Soviet Family Policy", Problems of Communism, No.5, (1956), pp.29-35.
46. Antonian, Borodin, Samovichev, p.9.
47. Ved. SSSR, No.27, (1968), Item 241.

48. Antonian, Borodin, Samovichev, p.9.
49. Dzhafarov and Riabinin, pp.37-38.
50. Mogilevskii and Sorits, p.22.
51. Dzhafarov and Riabinin, pp.36-37.
52. Gotlib, Romanova, Iatskov, p.85.
53. V.I. Grachev, "Obsobennosti lichnosti brodiag", in Problemy izucheniia lichnosti pravonarushitelia, ed. A.P. Zakaliuk, (Moscow, 1984), pp.112-113. He reported that 44.9% of the male vagrants and 43.2% of the female vagrants studied by him had been raised in incomplete families or without parents.
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56. M.A. Lapshin, "Ekonomicheskie faktory sotsial'noi profilaktiki pravonarushenii sredi tuneiadtsev", in "Organizatsionno-pravovye ...",ed.Tekut'ev, (Khabarovsk, 1985), p.68.
57. Partsei and Trofimov, p.129.
58. Study in Primorskii Krai by Gotlib, Romanova, Iatskov, p.67.
59. G.M. Min'kovskii, "Nekotorye prichiny prestupnosti nesovershennoletnikh v SSSR i mery ee preduprezhdeniia", SGP, No.5, (1966), pp.84-93.
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63. E.B. Mel'nikova, Prestupnost' nesovershennoletnikh v kapitalisticheskikh stranakh, (Moscow, 1967), p.145.
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65. Ibid., p.89.
66. Ibid., p.90.
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68. S.A. Chernyshev, "Sotsial'no-ekonomicheskie usloviia sushchestvovaniia lits, vedushchikh asotsial'nyi obraz zhizni", in "Organizatsionno-pravovye ...", ed.Tekut'ev, (Khabarovsk, 1985), pp.78-79.
69. Gotlib, Romanova, Iatskov, p.23.
70. S.A. Chernyshev, p.76.
71. Gotlib, Romanova, Iatskov, p.21.
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74. A.B. Sakharov, "Opyt izucheniia vliianiia sotsial'nykh uslovii na territorial'noe razlichie prestupnosti", Sotsiologicheskie issledovaniia, No.1, (1977); V.M. Kogan, "Soderzhanie truda i antiobshchestvennoe povedenie", ibid., No.2, (1983).
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90. Ved. SSSR, No.25, 1983, Item 382.
91. See Gorbachev's Political Report of the CPSU Central Committee to the 27th Party Congress, Pravda, 25 February 1986, pp.2-10.
92. For typical shortcomings in their work see "Vesti bor'bu bez kanikul", Krasnoe znamia, 29 October 1986.
93. Dzhafarov and Riabinin, p.80; Gotlib, Romanova, Iatskov, p.254.
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95. Materialy Plenuma Tsentral'nogo Komiteta KPSS, 23 aprelia 1985 goda, (Moscow, 1985), p.17.
96. See decree of CPSU Central Committee of May 1987, Pravda, 2 June 1987; section 10 of the regulations on material liability of workers of 1976, Ved. SSSR, No.29, (1976), Item 427; No.33, (1983), Item 507; BVS RSFSR, No.4, (1986), p.3; see also section 8 of the decree of the Plenum of the RSFSR Supreme Court of 24 December 1985, BVS RSFSR, No.3, (1986), p.8.
97. SP SSSR, No.22, (1986), Item 364; Ved. RSFSR, No.23, (1986), Item 638; BVS SSSR, No.3, (1988), p.10; Also, an attempt at petty theft could deliver a ground for dismissal, Khoziaistvo i pravo, No.8, (1987), p.83.
98. Ved. SSSR, No.23, (1981), Item 782; No.49, (1982), Item 933; Ved. RSFSR, No.21, (1985), Item 738. The deprivation of premiums on disciplinary grounds was possible under rules of 1977 and this had been repeated in rules of 1985, Biulleten' Goskokomtruda, No.10, (1980); No.9, (1985), p.14. See, however, also Biulleten' Goskomtruda, No.11, (1987), p.19.
99. Article 34 RSFSR Housing Code of 1983; Article 30 of the Rules on Waiting Lists, SP RSFSR, No.14, (1984), Item 121. Amendments to the USSR Principles of Housing Legislation, introduced in 1986, Ved. SSSR, No.17, (1986), Item 278 rendered special housing privileges for good workers.

100. See A.S. Pashkov and V.G. Rotan', Sotsial'naia politika i trudovoe pravo, (Moscow, 1986), pp.86-87.
101. R.Z. Livshits, "Razvitie pravovogo regulirovaniia truda: Praktika i teoriia", SGP, No.4, (1987), p.16.
102. Izvestiia, 27 July 1987.
103. Malein and Gal'perin, p.99.
104. Dzhafarov and Riabinin, p.66.
105. Ekonomicheskaia gazeta, No.15, April 1986.
106. BVS SSSR, No.5, 1986, p.5.
107. Izvestiia, 26 November 1986.
108. See V.A. Bykov, Ekonomika i organizatsia promyshlennovo proizvodstva, No.9, (1985), pp.95-128. He identified eleven broad factors which had influenced the growth of alcoholism: "(1) The leisure interests of unskilled, poorly educated workers - especially the vast army of maintenance workers - are limited to drinking, 'shooting the breeze' and playing cards and dominoes. (2) With the five-day workweek, available, leisure-time has increased for most workers to about 100 days off per year; students have even more. And many workers' shifts end at 4 p.m. (3) The traditional Russian three-generation family, with its close supervision of all members, especially the young, has disintegrated. (4) The high wages paid for unskilled labour paralyze workers' desire for vocational growth and further education. (5) Wives are so overburdened with housekeeping and childcare that husbands rarely spend leisure-time in their company. As a result, spouses' interests begin to diverge, and the men seek diversions outside the family and out from under their wives' control. (6) The population of some areas of the country is disproportionately male (the Far North, construction sites, etc.) or female ('textile towns', etc.) - one result is more opportunities for heavy drinking. (7) Influenced by the poorly organized work flow and the penchant for a clean record of achievements on paper, work supervisors tolerate employee misbehaviour. Bosses often close their eyes to absenteeism because they know they can draw upon the errant workers later for rush work and overtime. Having misbehaved yesterday, the workers will willingly work overtime tomorrow and thereby cover up gross supply problems and blunders made by the administration itself. (8) For several decades, job performance was emphasized to the detriment and even exclusion of moral criteria in appraising the individual, and public opinion in turn came to reflect this undue tolerance of immorality. Such excessive rationalism inevitably allowed certain negative behaviour traits to take root. (9) Upbringing work failed to deal adequately with the acuteness and complexity of the processes that occurred in public awareness in the late 1950s and early 1960s, when the party redoubled its struggle for strict adherence to socialist legality, state and party norms and the principles of collective leadership. Failure of upbringing have taken new forms now: the school and family are not dealing well enough with the contradictory influences that bombard young people hourly. (10) Urbanization is a major trend, bringing with it high stress and the need to relax, overcome one's sense of anonymity and "be somebody" in a small group. By virtue of many of the factors listed above, most such groups form by chance rather than through work-related interests, and their members rapidly turn into drinking buddies. (11) The personal responsibility of each member of the rural population for production performance has been reduced. The often unwarranted practices of supplanting rural workers with city residents and supervising their every step have altered many rural residents' work attitudes. The enormous advantage of a planned economy, which saved the rural population from starvation in the years of the worst harvests, has also

created loopholes for idlers confident that society will always take care of them without even asking what they have contributed to the common effort. And where rural labour was badly organized, an irresponsible attitude developed, vast stretches of 'free' time appeared and an opportunity for heavy drinking opened up.

"These eleven factors did not, of themselves, necessarily lead to alcohol abuse: they only lowered society's 'resistance' to it, so to speak. For alcohol's pathogenic potential to be realized, other, specific, factors had to come into play. We would emphasize three: (1) The planned increased in the production and sale of alcohol (trade in alcoholic beverages in the USSR rose 680% between 1940 and 1980), which led to an increase in its consumption; (2) Tolerance of harmful traditions; (3) Ignorance about the properties of alcohol itself".

109. Annually, in the industrial and construction sectors alone, over 800,000 workers were being dismissed for alcohol-related absence without good reason and other violations of labour discipline (Gotlib, Romanova, Iatskov, p.15). It was further calculated that on average, over the course of a year throughout the country as a whole, a person suffering from alcoholism had eighteen days absence from work without valid reason; those at the second stage of alcoholism had 27.1 days absence, and those at the third stage - 32.4 days (G.N. Skoptsov, Trezvost' vozvesti v zakon zhizni, (Tashkent, 1985), p.9).
110. According to the information published by the All-Union Central Trade Union Council and the Central Statistical Board of the USSR in 1984, a quarter of the total number of persons killed or injured in the workplace had been intoxicated at the time of their accident. Drunk drivers had caused 60,000 traffic accidents, in which approximately 75,000 people had been killed or injured.
111. Every year around one million civil suits were being brought to the courts seeking dissolution of the marriage on the grounds of the drunkenness of one of the spouses (S.I. Gusev, "Praktika primeneniia sudami zakonodatel'stva o bor'be s p'ianstvom", SGP, No.4, (1986), pp.56-57).
112. N. Kuznetsova, S. Oztroumov, and Z. Iakovleva, "Neobkhodimo statisticheskoe izucheniia prichin prestupnosti", Sotsialisticheskaia zakonnost', No.1, (1975), p.32.
113. See SGP, No.3, (1985), p.14.
114. A.B. Sakharov, O lichnosti prestupnika i prichinakh prestupnosti v SSSR, (Moscow, 1961), p.235.
115. Ibid., p.231.
116. Ibid., p.232.
117. G.V. Antonov-Romanovskii, P'ianstvo pod zapretom zakona, (Moscow, 1985), p.16.
118. Gotlib, Romanova, Iatskov, pp.13, 74, 88.
119. Anashkin, Pravda, 16 April 1982.
120. Izvestiia, 23 June 1965.
121. Izvestiia, 21 August 1965.
122. Sovetskaia Rossiia, 26 March 1964; see also I. Lukomskii, Lechenie khronicheskogo alkogolizma, (Moscow, 1960), p.37.
123. Ia.L. Gurevich and L.G. Kessel'man, Metody ob"ektivnoi otsenki i kriterii stepeni sotsial'no-trudovoi dekompensatsii i reabilitatsii bol'nykh alkogolizmom, (Khar'kov, 1979), p.14.
124. M. Orlov, "Puti usileniia bor'by s brodiazhnichestvom", Sotsialisticheskaia zakonnost', No.3, (1970), p.42.
125. Bubentsov, p.11; Kondrashkov, (1989), p.56.
126. A. Lebedev, Ogonyok, No.8, (1987), pp.12-13.

127. See Shliapochnikov, "Nekotorye pravovye ...", (1962), p.110; Kurbanov, (1968), p.33; Bubentsov, (1972), p.11; S. Sal'nov and V. Pavlinov, "Bor'ba s tuneiadstvom vo Vladimirskoi oblasti", Sotsialisticheskaia zakonnost', No.12, (1973), p.30; Partsei and Trofimov, , p.130; Kondrashkov, "Tuneiadstvo: puti iskoreneniia", (Moscow, 1986), p.39; V. Fokin, N. Donkovtsev, V. Tunik, "Bol'she vnimaniia profilaktike tuneiadstva", Sovetskaia iustitsiia, No.23, (1987), p.23.

128. While before 1956 the minimum sentence for hooliganism convictions had been one year's deprivation of freedom, the new regulations established that those convicted of petty hooliganism would be punishable by detention from three to fifteen days. See Edict of the Presidium of the RSFSR Supreme Soviet of 19 December 1956, "On Responsibility for Petty Hooliganism", Sovetskaia Rossiia, 20 December 1956, p.1.

129. The measures included new laws against *samogonstvo* (homebrewing); against public drinking (restaurants were to serve no more than 100 grams of vodka per person and most bars were closed); and against the sale of alcoholic beverages to minors or to the general public before 10 a.m. For details see "Ob usilenii bor'by s p'ianstvom i o vedenii poriadka v torgovle krepkimi spirtymi napitkami", Postanovlenie TsK KPSS i Soveta Ministrov ot 15 dekabriia 1958, Spravochnik partiinogo rabotnika, No.2, (Moscow, 1959), p.404.

130. Ved. RSFSR, No.47, (1969), Item 1361. Up to then, drunkenness was an aggravating circumstance only if crime was committed using means constituting a public menace.

131. Ved. RSFSR, No.15, (1967), Item 333.

132. Alkogolizm - put' k prestupleniiu, ed. A.A. Gertsenzon, (Moscow, 1966), pp.53-55.

133. Pravda and Izvestiia, 13 June 1972.

134. See Paragraph 14 of Supreme Court Resolution No.14 (28 June 1973), BVS SSSR, No.4, (1973).

135. Sal'nov and Pavlinov, p.30.

136. V. Korchiagin, "Praktika primeneniia sudami mer meditsinskogo kharakhtera k alkogolikam i narkomanam", Sotsialisticheskaia zakonnost', No.11, (1973), pp.63-64.

137. Delo No.1 - 209, 1972, goda, reported in Krakhmal'nik and Samorokov, p.151.

138. Korchiagin, pp.63-64.

139. Delo No.1 - 220, 1972, goda, reported in Krakhmal'nik and Samorokov, p.151.

140. L.I. Romanova, "Kriminologicheskie aspekty sotsial'nogo parazitizma", in "Organizatsionno-pravovye ...", ed. Tekut'ev, (Khabarovsk, 1985), p.34.

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CHAPTER 7

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130. L. Zubova and D. Lavitsev, "Sotsial'nye orientiry v oblasti raspredeleniia dokhodov naseleniia", Sotsialisticheskii trud, No.3, (1989), pp.47-48.
131. A.V. Kormilkin, "O bednosti-ne v poslednii raz", Eko, No.7, (1990), pp.56-57.
132. Estimates of the number of people affected varied, this due in part to the fact that the poverty line kept shifting because of rapid increases in both nominal income and inflation, and because of the absence of consensus on what amount of income constituted the "poverty line". In 1988 the USSR Committee on Labour and Social Questions and *Goskomstat* proposed different definitions of the poverty level. The former said that 105 roubles a month was the minimum acceptable level, and the latter said it was seventy-five roubles. The figure finally chosen, for no obvious methodological reason, was 78 roubles a month [Moscow News, No.17, 1991, p.10.]. Under this definition, forty-one million people, or 14.5% of the population, lived in poverty [Pravitel'stvennyi vestnik, No.17, August 1989, p.12.]. One suspects that the figure of seventy-eight roubles was chosen because, at the higher figure of 105 roubles, ninety million people or about one-third of the population would have been categorised as living in poverty [Ibid., p.12.].

133. From FBIS-Sov-88-229, 27 November 1991, p.28.
134. FBIS-Sov-90-102, 25 May 1990.
135. For an English translation of the 500-Day Plan, see "Transition to a Market Economy", FBIS, SPRS-UEA-90, 034, 28 September 1990.
136. The full text of Gorbachev's plan can be found in Izvestiia, 27 October 1990.
137. See Gorbachev's Political Report of the CPSU Central Committee to 28th Party Congress in Pravda, 3 July 1990, pp.2-4.
138. V.F. Kolosov, "A New Employment Policy in the USSR", ILO/USSR Conference, 1990, p.13.
139. Kotliar, pp.10-13.
140. See Ekonomika i zhizn', No.15, (1990), p.13; Trud, 12, 19 April, 15 June, 25 September, 7 December.
141. Ved. SSSR, No.5, (1991), Item 11; Sovetskaia Rossiia, 25 January 1991.
142. Komsomol'skaia pravda, 5 February 1991.
143. Leningradskii rabochii, 5 April 1991.
144. I. Zaslavskii, "O pol'ze rynka truda", Voprosy ekonomiki, No.9, 1991, p.35.
145. See M.S. Paleev and S.A. Pashin, "Novyi zakon i kommentarii", Sotsialisticheskaia zakonnost', No.2, (1992), p.17.
146. Ibid.
147. For Russian version passed by the RSFSR Supreme Soviet on 22 November 1991, see "Deklaratsiia prav i svobod cheloveka i grazhdanina", in Zakony i Postanovleniia Rossiiskoi Federatsii, Vol.7, (Moscow, 1992), pp.169-178.
148. Harold J. Berman, Justice in the USSR, (Cambridge, Mass., Harvard University Press, 1966), pp.283-84.
149. D.I. Kurskii, cited in Eugene Kamenka, "The Soviet View of Law", in The Soviet Political System, ed. Richard Cornell, (Englewood Cliffs, N.J., Prentice-Hall, 1970), p.315.
150. N.S. Khrushchev, Stroitel'stvo kommunizma v SSSR i razvitie sel'skogo khoziaistva, Vol.3, (Moscow, 1962), pp.172-173.
151. Programma Soiuza Kommunistov Iugoslavii, (Belgrade, 1959), p.133.
152. Ibid., pp.134-135. (See also a special chapter of the Yugoslav Programme on "public self-administration", Ibid., pp.192-204).
153. An important conference was held in the Social Sciences Department of the USSR Academy of Sciences in Moscow on 23-26 June 1958, devoted specifically to "theoretical problems of the building of communism in the USSR" (Pravda, 27 June 1958). One outgrowth of the conference was the volume Voprosy stroitel'stva kommunizma v SSSR (Moscow, 1959), which reproduces the remarks of twenty-six leading scholars including P.S. Romashkin, I.V. Pavlov, V.V. Nikolaev, and M.S. Strogovich. It is interesting that Pavlov cites the early version of the antiparasite law as one example of how "the public will play an ever greater role in the application of legal standards, whereas the part occupied by state compulsion, both administrative and judicial, will become ever smaller" (Ibid, pp.271-272).
154. A.I. Lepeshkin, "Kritika reformistskikh i revizionistskikh 'teorii' v oblasti gosudarstva i prava", SGP, No.9, (1958), p.13.
155. Shliapochnikov, "Bor'ba s tuneiadtsami....", pp.41, 46.
156. Pravda, 10 January 1968.
157. M.G. Anashkin, "Rol' pravosoznaniia i obshchestvennogo mneniia pri naznachenii nakazaniia", SGP, No.1, (1967), pp.42-48.
158. Lenin used the phrase the "machine called the state" in his lecture on "The State" at Sverdlov University in Moscow in 1919. See V.I. Lenin, "The State", in John N. Hazard (ed.), Soviet Legal Philosophy, (Cambridge, Mass., 1951),

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