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The 1977 Soviet Constitution: A Historical Comparison

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**THE 1977 SOVIET CONSTITUTION:
A HISTORICAL COMPARISON**

*Igor I. Kavass**
and
*Gary I. Christian***

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I. INTRODUCTION

On October 7, 1977, the Supreme Soviet of the USSR unanimously adopted the 1977 Constitution (Basic Law) of the Union of the Soviet Socialist Republics. The adoption of the 1977 Soviet Constitution was the culmination of efforts to revise the 1936 Stalin Constitution which had been initiated by Nikita Krushchev almost twenty years earlier. The 1977 document is the fourth constitution in the Soviet Union's history, and in large measure is a continuation of the policies articulated in the 1936 Constitution. In announcing the existence of a draft of the 1977 Constitution in May 1977, Leonid Brezhnev¹ addressed the Plenary Session of the Communist Party of the Soviet Union (CPSU) Central Committee concerning the principle of continuity which was so important to the new document:

In working on the draft, we stood firmly on the ground of continuity. The draft retains and develops the characteristic features of a Constitution of a socialist type as outlined by V.I. Lenin.

V.I. Lenin and the Bolshevik Party proceeded from the premise that the Constitution is not only a legal act but also a highly important political document. The Party regarded the Constitution as a confirmation of the gains of the Revolution and, at the same time, as a proclamation of the principal tasks and goals of socialist construction.

Such was our first 1918 RSFSR Constitution, which registered the gains of October and defined the class essence of the Soviet state of the dictatorship of the proletariat.

And such was the 1924 USSR Constitution, which defined the principles of the formation of a federal socialist state.

The 1936 Constitution gave legislative consolidation to the victory of socialist social relations in the USSR and brought the entire system of bodies of power and administration, as well as the electoral procedure, into line with this concept. The constitutional framework for the development of society that was worked out at that time has stood the test of time.

The new draft retains many fundamental provisions of the Constitution now in force, since they continue to correspond to the essence of our system and to the nature of our development.

Thus, the draft of the new Constitution, on the one hand, generalizes the entire constitutional experience of Soviet history and, on the

1. Brezhnev is General Secretary of the Central Committee of the Communist Party of the Soviet Union (CPSU), Chairman of the Presidium of the USSR Supreme Soviet, and was Chairman of the Constitutional Commission.

other hand, enriches this experience with new content corresponding to the demands of the present era.²

Throughout the Soviet Union's history, its four constitutions have been a reflection of the political climate of the particular period. The documents thus viewed provide a historical and political benchmark against which life and thought in the U.S.S.R. may be fairly accurately gauged. When Brezhnev addressed the USSR Supreme Soviet on October 4, 1977, to recommend the inevitable adoption of the 1977 Constitution, he again stressed the historical perspective in which the document must be viewed. He stated: "We will adopt the new Constitution on the eve of the 60th anniversary of the Great October Socialist Revolution. This is not merely a coincidence The new Constitution, it might be said, is the concentrated result of the entire 60-year development of the Soviet state. It is striking evidence of the fact that the ideas proclaimed by [the] October [Revolution] and Lenin's behests are being successfully implemented."³

2. 29 CURRENT DIG. SOVIET PRESS (No. 23), 6-7 (July 6, 1977).

3. 29 CURRENT DIG. SOVIET PRESS (No. 39), 1 (October 26, 1977).

There is no doubt that Soviet scholars are taking the new 1977 Constitution seriously. For the past two years practically every issue of the prestigious *Sovetskoye Gosudarstvo i Pravo* (Soviet State and Law), the official journal of the Institute of State and Law in the Academy of Sciences of the USSR, has included articles on different aspects of the Constitution.

Perhaps the seminal article on the subject is the one written collectively by the Section of Constitutional (State) Law of the Institute on the "Dialectic of Soviet State Development and the USSR Constitution" (1978, No. 3, pp. 3-13). Adopting the traditional Marxist methodology this article examines the function of the new Constitution in the transitional process of the Soviet Union from a socialist condition to a complete communist order where the state and the society will merge into one indistinguishable whole (whatever this merger may mean within the Soviet ideology, scholars in the Soviet Union take it seriously). Other articles in the series include, for example, the "USSR Constitution and Questions of Labor Law" by S.A. Ivanov and R.Z. Livshitz (1978, No. 3, pp. 14-24), the "Constitutional Foundations of the Soviet Legislative System" by S.V. Polenina (1978, No. 5, pp. 12-20), the "USSR Constitution in the Soviet Law-Making System" by S.L. Zivs (1978, No. 6, pp. 11-17), the "Constitutional Bases of Planning" by A.F. Nozdrachev (1978, No. 6, pp. 18-26), Yu.K. Tolstoi's "USSR Constitution and Property Law" (1978, No. 7, pp. 13-20), R.O. Khalvina's "Constitutional Principles of Economic Management" (1978, No. 8, pp. 3-11), the "Development of Economic Law in the Light of the USSR Constitution" by V.V. Laptev (1978, No. 9, pp. 21-29), the "New Soviet Constitution and the Science of Soviet Management" by G.V. Barabashev and K.F. Sheremet (1979, No. 2, pp. 3-11), and N.A. Bobrova's "On the Constitutional Guarantees of Individual Rights, Freedoms, and Obligations" (1979, No. 3, pp. 3-9). These articles contain

This article will attempt to analyze the new Basic Law of the U.S.S.R. in light of this historical and political context in which it was obviously intended. The authors, however, will attempt to separate out the legitimate from the rhetorical, and will point up the aspects of the new Constitution which have been included principally for their propaganda value.

The conclusions of Western commentators who have written on the new Constitution up to this point appear to fall into three broad categories. Some of them have concluded that the historical continuity of the 1977 Constitution is so pervasive as to render the new Constitution almost purely cosmetic.⁴ One author has stated that it is the "generally held view" that the 1977 Constitution is a document "of macroscopic size and microscopic change."⁵ A second body of thought concerning the utility of Soviet constitutions in general would exalt their propaganda value to such an extent as to negate the need for any detailed legal analysis.⁶ It must be

the usual array of platitudes, typically found in Soviet legal writing. However, there are also interesting glimpses of speculative thought resulting from the authors' attempts to analyze the interaction between the new Constitution and modern Soviet law which, like its counterparts elsewhere in the world, tries to cope with the increasingly more complex problems and needs of a technological society. The Soviet Union is not a state of workers and peasants any more. A new segment of the society is emerging with what in the Western world might be classified as middle-class ambitions and tastes. The clear impression emerging from the series of articles in the *Sovetskoye Gosudarstvo i Pravo* is that all of the writers in that series are at pains to reconcile this new development with the traditional bases of communist ideology.

4. See, e.g., Hazard, *A Constitution for "Developed Socialism,"* in D. BARRY, G. GINSBURGS, P. MAGGS, 2 *SOVIET LAW AFTER STALIN*, 1, n.7 (1978) [hereinafter cited as Hazard].

5. Shtromas, *The Legal Position of Soviet Nationalities and Their Territorial Units According to the 1977 Constitution of the U.S.S.R.*, 37 *RUSSIAN REV.* 265 (1978) [hereinafter cited as Shtromas]. See also Thalheim, *Die Wirtschaft in der neuen Verfassung der UdSSR*, 28 *OSTEUROPA* 18 (1978).

6. Hazard, *supra* note 4, at 3 n.5.

"Other Western commentators have reached similar conclusions. At least to one of them the new Constitution is more evolutionary than revolutionary as, for the most part, it confirms extant political and legal institutions . . ." and it ". . . is a substantive continuation of its 1936 antecedent." Ramundo, "The Brezhnev Constitution: A New Approach to Constitutionalism?" 13 *J. INT'L L. & ECON.* 41, 44-45 (1978) [hereinafter cited as Ramundo]. Other opinions are even less flattering. Patrick O'Brien, writing for *Survey*, the prestigious British magazine on communist affairs, reports: "When asked his opinion of the new Soviet Constitution, Russian emigre and former leading campaigner for human rights in the USSR, Professor Alexander Voronel, ironically remarked: 'Well, it is better than

acknowledged that both of these views have considerable merit. The aspect of historical continuity is perhaps the most outstanding feature of the new Constitution. Furthermore, the document is clearly reflective of what the Communist Party *wishes* the world to see, as well as what the actual state of affairs in the Soviet Union is. Neither view, however, acknowledges that the new Constitution makes any substantive revision to the state of the law or the state of affairs in the Soviet Union, and in that sense, neither view is entirely accurate.

The third view, that the 1977 Constitution does alter substantively the state of the law in the Soviet Union, appears to be more widely held among Soviet legal theorists than among Western theorists.⁷ Although several Western authors have concluded

the old Stalin's one because it is at least more honest.' O'Brien, "Constitutional Totalitarianism," 23 SURVEY 70, 70 (1978).

7. For the past two years practically every issue of the prestigious *Sovetskoye Gosudarstvo i Pravo* (Soviet State and Law), the official journal of the Institute of State and Law in the Academy of Sciences of the USSR, has included articles analyzing the new Constitution. Perhaps the seminal article by Soviet scholars on the subject is the one written collectively by the Section of Constitutional (State) Law of the Institute, entitled "Dialectic of Soviet State Development and the USSR Constitution." (1978, No. 3, pp. 3-13). Adopting traditional Marxist methodology, the article examines the function of the new Constitution in the transitional process of the Soviet Union from a socialist state to a complete communist order where the state and the society will merge into one indistinguishable whole.

Other articles which have appeared in *Sovetskoye Gosudarstvo i Pravo* include the following: "USSR Constitution and Questions of Labor Law" by S. A. Ivanov and R. Z. Livshitz (1978, No. 3, pp. 14-24), "Constitutional Foundations of the Soviet Legislative System" by S. V. Polenina (1978, No. 5, pp. 12-20), "USSR Constitution in the Soviet Law-Making System" by S. L. Zivs (1978, No. 6, pp. 11-17), "Constitutional Bases of Planning" by A. F. Nozdrachev (1978, No. 6, pp. 18-26), Yu. K. Tolstoi's "USSR Constitution and Property Law" (1978, No. 7, pp. 13-20), R. O. Khalvina's "Constitution Principles of Economic Management" (1978, No. 8, pp. 3-11), "Development of Economic Law in the Light of the USSR Constitution" by V. V. Laptev (1978, No. 9, pp. 21-29), "New Soviet Constitution and the Science of Soviet Management" by G. V. Barabashev and K. F. Sheremet (1979, No. 2, pp. 3-11), and N. A. Bobrova's "On the Constitutional Guarantees of Individual Rights, Freedoms, and Obligations" (1979, No. 3, pp. 3-9).

Though most of these articles contain the usual array of platitudes which are typical of Soviet legal writing, a few interesting glimpses of speculative thought about some relative legal juxtapositions emerging from the harmonization of the new Constitution with modern Soviet law also emerge. The Soviet Union is not a state of workers and peasants anymore. A new segment of the society is emerging with what in the Western World might be classified as middle-class ambitions and tastes. The clear impression emerging from the series of articles in the *Sovetskoye Gosudarstvo i Pravo* is that all of the writers in that series have

that the new Constitution does alter substantively the status quo in the Soviet Union,⁸ the existing writings have not fully highlighted the true substantive effect of the linguistic and structural changes in the text of the Constitution. The authors herein hope to demonstrate that the 1977 Constitution does indeed contain a number of substantive changes from the 1936 Stalin Constitution, which are designed to accord contemporary significance to the Soviet legal, economic, and political systems. Moreover, this article will attempt to explore those changes in a systematic manner.

In order to fully comprehend the extent and nature of the changes wrought by the 1977 Soviet Constitution, the distinction in purpose between Soviet constitutional law and corresponding Western concepts must be fully understood. Soviet constitutionalism is as much a framework for future action as it is a reflection of the status quo. This very basic difference in constitutional purpose is reflected in each of the Soviet constitutions and is thus intertwined in the concept of historical continuity. To demonstrate the relationship between Soviet constitutional theory and constitutional development, this article will first provide a brief constitutional history of the Soviet Union, emphasizing both practical effects and ideological development. The article will then review comparatively the 1977 and 1936 constitutions, and will provide the reader in an appendix a comparative cross-reference to the two constitutions.

difficulty reconciling this new development with the traditional bases of communist ideology.

8. Boris Meissner, one of the leading West German experts on Soviet law, wrote in his article entitled *Partei, Staat und Nation in der neuen Verfassung der UdSSR*, 28 OSTEUROPA 3 (1978), that the new constitution not only reflects the various changes in the Soviet Union since Stalin's death but also includes a blueprint of future development for the Soviet society. The new constitution contains therefore *programmatic expressions* in the same manner as the 1918 and 1923 constitutions which Stalin deliberately excluded from the 1936 constitution. Meissner also points out that the new constitution extends beyond the Stalin constitution in emphasizing that it is the "basic law" of the society and not just a description of the state structure. Thus it attempts to give a more detailed picture of the political interrelationship between the society and the state. *Id.* 4.

See also Osakwe, "The Theories and Realities of Modern Soviet Constitutional Law: An Analysis of the 1977 USSR Constitution," 127 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1350 (1979). Actually Osakwe suggests that the real constitution of the USSR rests in the current Program of the Communist Party of the Soviet Union which was adopted by the 22nd Congress of the CPSU on October 31, 1961 and which foreshadowed the shape and content of the 1977 Constitution. *Id.*, 1435.

II. CONSTITUTIONAL HISTORY

A. *Constitutional Beginnings: The 1918 Constitution*

1. Historical Background

On March 8, 1917, (February 23, 1917 "old style")⁹ bread riots and strikes took place in Petrograd.¹⁰ The riots became the impetus for a general strike and ultimately for the February Revolution.

As a result of military defeats and internal problems, the power and authority of the Czarist regime had gradually deteriorated during 1916 and early 1917. The weakening of the central government, together with the serious food shortages in Petrograd, occasioned the riots and demonstrations which occurred in Russia's capital. By February 26, 1917 (February 13, 1917, "old style"), troops were mutinying in some parts of the city, and those still loyal to the Czar were dispersed to prevent further demonstrations in Petrograd.¹¹ The casualties resulting from clashes between the troops and the demonstrators further incited the masses.

In addition, the Czar attempted to dissolve the State Duma.¹² Although unsuccessful in that effort, the Czar was able to prorogue the February session of the Duma to April 1917. The Duma formed a Duma Provisional Committee within a few days after the riots of February 23. In the meantime, on February 15 (February 12, "old style"), the Union of Petrograd Workers' Cooperatives together with the Duma Social-Democrat Party Group (Mensheviks) had called a meeting at its headquarters in Petrograd in order to establish a council of workers' deputies (a "Soviet") on the pattern of the St. Petersburg Soviet of the 1905 Revolution. A Provisional Executive Committee of the Petrograd Soviet Workers

9. Under the "old style" (Julian) calendar which was used in Russia prior to February 1, 1918, the date was actually February 23, 1917. The Julian calendar was 13 days behind the "new style" (Western or Gregorian) calendar. For simplicity, all textual references to pre-February, 1918 dates will be to the Western "new style" calendar, with "old style" dates following parenthetically.

10. M. FAINSOD, *HOW RUSSIA IS RULED* 61 (1963) [hereinafter cited as FAINSOD].

11. The February Revolution, as it is called in official Soviet history texts, actually took place in March, 1917 under the "new style" calendar. See G. KATKOV, *RUSSIA 1917: THE FEBRUARY REVOLUTION* 247-71 (1967) [hereinafter cited as KATKOV].

12. The Duma was the lower legislative chamber of the Russian legislative body, introduced by the Constitution of 1906. The Fourth Duma was scheduled to meet in February, 1917. Its powers were predominantly advisory, but it became increasingly outspoken in its opposition to the Czar during the revolution.

was established on February 27 (February 14, "old style"). Within a few days after the Soviet became operational through the gathering of an ever larger number of delegates, the committee became the Central Executive Committee.¹³ The committee began to assume governmental responsibility on February 28 (February 15, "old style").

Czar Nicholas II abdicated in favor of his brother Michael on March 2 (February 17, "old style"), who in his turn abdicated in favor of a Provisional Government on March 3. The formation of the Provisional Government, headed by Prince G.E. Lvov,¹⁴ was the result of a compromise between the members of the state Duma and the Petrograd Soviet of Workers' and Soldiers' Deputies.¹⁵ The Soviet had been formed on March 12 (February 26, "old style") by a group of left-wing Duma deputies, members of the labor groups of the War Industries Committee, and trade union representatives.¹⁶ Although the Soviet apparently had the support of the majority of the populace, its sole representative under the compromise establishing the new Provisional Government was Alexander Federovich Kerensky, who became Minister of Justice.¹⁷

It should be noted that the revolution occurred without any significant Bolshevik influence. Most of the Bolshevik leaders were in exile in February and March, 1917. The Bolshevik leaders had not expected a revolution so quickly. Lenin had given a lecture in Zurich in January in which he stated that "the revolution might well come when those of [our] generation [are] no longer among the living."¹⁸

Despite the fact that the Bolsheviks were not a factor in the early stages, they quickly became a major influence in the progress and development of the revolution. On March 16, 1917, (March 3, 1917, "old style") Lenin wrote a letter while in exile in Zurich, Switzerland, stating that ". . . our main task is to guard against getting entangled in foolish attempts at 'unity' with the social patriots . . . and to continue the work of *our own* party in a consistently *internationalist* spirit. Our immediate task . . . is to prepare the

13. For an excellent analysis of this period in Russian history, see KATKOV, *supra* note 11, at 247-71.

14. FAINSOD, *supra* note 10, at 61.

15. KATKOV, *supra* note 11, at 291-95. See also E. CARR, I THE BOLSHEVIK REVOLUTION: 1917-1923 70-79 (1951) [hereinafter cited as CARR].

16. FAINSOD, *supra* note 10, at 62.

17. R. GRIPP, PATTERNS OF SOVIET POLITICS 36 (1967) [hereinafter cited as GRIPP].

18. KATKOV, *supra* note 11, at xxvii.

seizure of power by the *Soviets of Workers' Deputies*. Only this power can give bread, peace, and freedom."¹⁹ A month later Lenin returned to Russia and began pursuing what he considered to be his "immediate task" without delay. Throughout April and May, 1917, Bolsheviks who had been exiled from Russia were "flocking back in large numbers."²⁰

By May 18, (May 5, "old style") Prince Lvov was forced to announce a new cabinet which included three members of the Soviet.²¹ The May, 1917, reorganization of the Provisional Government was the result of an agreement by the Soviet to continue to support the government provided that the government would adopt the Soviets' foreign and domestic policies.²² Throughout the summer months, the Bolshevik party grew at an unprecedented pace. Merle Fainsod, in his classic work, *How Russia is Ruled*, credits the growth of the party during this period to the man who was later to become the director of drafting the 1918 Constitution: Lenin's lieutenant, Ya. M. Sverdlov.²³ By the summer, Lenin was no longer calling for a seizure of power by the soviets. His "immediate task" had become the pursuit of power to the "proletariat," *i.e.*, the Bolsheviks.²⁴

On July 21, 1917, (July 8, 1917, "old style") Alexander Kerensky replaced Prince Lvov as Premier.²⁵ Throughout the next few months, Kerensky's government deteriorated progressively, primarily as a result of an uneasy coalition of Kerensky's moderate socialists and the Bolsheviks against a common foe, General Kornilov, the Commander in Chief of the Russian Army. The so-called "Kornilov affair"²⁶ was a poor attempt at a military coup from the right. The plot failed "without a blow being struck," but resulted in an alliance among moderates and leftists. When Kornilov's attempt to take over the government failed, Lenin and the Bolsheviks regained some measure of credibility.²⁷ The Petrograd Soviet of Workers' and Soldiers' Deputies set up a new Executive

19. FAINSDOD, *supra* note 10, at 63.

20. CARR, *supra* note 15, at 88.

21. *Id.* 87-88.

22. GRIPP, *supra* note 17, at 38.

23. FAINSDOD, *supra* note 10, at 69.

24. GRIPP, *supra* note 17, at 38, n.13. *But see* FAINSDOD, *supra* note 10 at 70.

25. FAINSDOD, *supra* note 10, at 74.

26. *See* KATKOV, *supra* note 11, at 175, 386. *See also* CARR, *supra* note 15, at 92.

27. CARR, *supra* note 15, at 74-75.

Committee in which Bolsheviks held a majority of seats.²⁸ The stage was then set; the Central Committee of the Bolshevik Party was pressured by Lenin into leading the October Revolution. On November 8, 1917, (October 26, 1917, "old style") Lenin came out of hiding to appear before the Second All-Russian Congress of Soviets and "quickly assumed the reins of leadership with nine fateful words, 'We shall now proceed to construct the socialist order.'"²⁹

Prior to the fall of the Kerensky government, Kerensky had attempted to appease the populace by calling for elections to a Constituent Assembly to meet in January. The Bolsheviks had received a substantial minority of the seats at the Assembly.³⁰ After the October Revolution, the question of what the Assembly would do was overshadowed by that of whether it would meet at all. As late as the day before it was scheduled to meet on January 18, 1918, (January 5, 1918, "old style") significant doubts remained that it would meet.³¹ The Bolsheviks constantly reminded the people that the Assembly elections had been invalidated by the Revolution, and when the Assembly met on January 18, the Bolsheviks walked out when their policies were not adopted.³² The Assembly was dissolved when the Bolsheviks refused to allow the members to reconvene on January 19 (January 6, "old style").³³

On January 23, (January 10, "old style") the Third Congress of Soviets, which was controlled by the Bolsheviks and the Left Social Revolutionaries, endorsed the dissolution of the Assembly.³⁴ On January 28, 1918, (January 15, 1918, "old style") the Third Congress initiated action to draft a Constitution for the Russian Soviet Socialist Republic.³⁵ The Congress of Soviets declared that the Republic was "a federation of Soviet Republics founded on the principles of a free union of the peoples of Russia."³⁶ The presiding officer of the Congress was Lenin's lieutenant, Sverdlov, who proclaimed the Congress as "the sole sovereign organ which represents

28. GRIPP, *supra* note 17, at 43.

29. TROTSKY, SOCHINENIYA, III, part 2, at 324, as cited in FAINSOD, *supra* note 10, at 84.

30. GRIPP, *supra* note 17, at 50.

31. N.Y. Times, Jan. 19, 1918, at 6, col. 1-2. *See also id.* col. 3.

32. N.Y. Times, Jan. 21, 1918, at 6, col. 4.

33. *Id.* *See also* CARR, *supra* note 15, at 119-21.

34. N.Y. Times, Jan. 26, 1918, at 8, col. 4. *See also* N.Y. Times, Jan. 31, 1918, at 1, col. 7.

35. FAINSOD, *supra* note 9, at 352.

36. *Id.* *See also* New York Times, Jan. 31, 1918, at 1, col. 7.

truly the interests of the workers and peasants."³⁷ On April 1, 1918, Sverdlov was named to head a fifteen-member committee to prepare a draft Constitution. The committee was not entirely composed of Bolsheviks, and indeed, significant conflicts arose regarding the nature of the constitution.³⁸ Nevertheless, the Constitution which was approved on July 10, 1918, by the Fifth All-Russia Congress of Soviets³⁹ reflected basic Bolshevik policy.

2. Analysis of the 1918 Constitution

The Constitution (Fundamental Law) of the Russian Socialist Federative Soviet Republic of 1918 clearly, and indeed forcefully, reflected the revolutionary premise upon which the document had been drafted. The period following the October Revolution became known as the "triumphant forward march of the Soviet authority,"⁴⁰ and was characterized by a growth of local soviets whose enormity was exceeded only by its disorganization. By the end of 1917, Russia had become the motherland of the executive committees of 30 provincial soviets, 121 city soviets, 286 county soviets, and 6088 township soviets. In addition, over 7500 district and regional soviets had been created during the period.⁴¹ Lenin referred to the government during this period as "jelly-like," and the Constitution of 1918 was drafted to fulfill the country's need for a unifying, strong central government.⁴² Sverdlov stated that it was "imperative" that the Constitution "draw a precise boundary between the respective spheres of action of the central and local authorities."⁴³

37. L. WOLF-PHILLIPS, *CONSTITUTIONS OF MODERN STATES* 167 (1968) 166 [hereinafter cited as WOLF-PHILLIPS].

38. See FAINSOD, *supra* note 10, at 353.

39. See CARR, *supra* note 15, at 125. It is noteworthy that during this period, very little accurate information was reaching the Western world. Three days after the adoption of the Bolshevik-authored 1918 Constitution, the *New York Times* published a story entitled "Bolshevist Power Rapidly Waning." *N.Y. Times*, July 13, 1918, at 3, col. 5. On the same day the *London Times* ran a story entitled "Distracted Russia," in which the author wrote: "Though the news from Russia is 'fragmentary' and though the situation there changes continually, . . . [the] latest reports all tend to show that the influence of the Bolsheviks decreases steadily." *The Times (London)*, July 13, 1918, at 7, col. 6. See also FAINSOD, *supra* note 10, at 354.

40. CARR, *supra* note 15, at 125-27.

41. Z. ZILE, *IDEAS AND FORCES IN SOVIET LEGAL HISTORY* 12 (2d ed. 1970) (quoting 1 *SOROK LET SOVETSKOGO PRAVA 1917-1957 (FORTY YEARS OF SOVIET LAW 1917-1957)* 135-37) (1958) [Hereinafter cited as ZILE].

42. *Id.* 13.

43. *Id.*

The Bolshevik program calling for a strong, central government was grounded more in partisan politics than in nationalistic fervor. The other leftist groups represented⁴⁴ in the Fifth All-Russia Congress of Soviets, primarily the left S-R's, supported a weakening of state authority, a dispersal of power and initiative through local authorities, and the overall concept of federalism. The Bolshevik doctrine of the state, which was grounded in Marxist concepts of the dictatorship of the proletariat, was preconditioned upon the transitional existence and continued vitality of a strong, central government.⁴⁵ The Bolsheviks thus began to stress the concept of "democratic centralism," which remains at the heart of Soviet dogma today. The Bolsheviks began to speak of "dangerous decentralizing tendencies," and insisted upon the establishment of a "revolutionary legality on the principles of democratic centralism."⁴⁶

The doctrinal necessity of a strong, central government through the concept of democratic centralism may be the single most important reason for the Bolshevik push for the 1918 Constitution. Kosytsin's official history reported that the constitution was required to "affirm a single and central foundation of revolutionary legality" in order to prevent the emergence of "separatism." Sverdlov reflected this new change in the attitude of the Bolsheviks when at the Fifth All-Russian Congress of Soviets he said: "I consider it superfluous to dwell on explaining the need for the constitution . . . to prove the need for organization and consistency in the construction of the Soviet government . . ." ⁴⁷ This change in attitude is especially interesting because no previous writings of Lenin or other Bolsheviks ever referred to the need for a constitution. In light of this fact, it is understandable that the drafters of the 1918 Constitution emphasized the temporary nature of the document.

On the question of whether the 1918 Constitution would create a strong centralized authority or would preserve the autonomy of local soviets, the drafting committee had been irreconcilably divided. Under the leadership of Sverdlov and with the assistance of Stalin, the Bolshevik policy of subordinating local soviets to a

44. Other leftist groups in the Congress included the Mensheviks, the Left Social-Revolutionaries (S-R's), and several Maximalists.

45. See CARR, *supra* note 15, at 126-28.

46. A. KOSITSYN, 1 ISTORIYA SOVETSKOGO GOSUDARSTVA I PRAVA (1 HISTORY OF SOVIET STATE AND LAW) 300 (1968).

47. *Id.* 303.

strong central government prevailed.⁴⁸ Thus, article 9 of the 1918 Constitution exalts the "might All-Russian Soviet authority," and recognizes the dictatorship of the Proletariat as the backbone of the Republic:

The basic object of the constitution of the Russian Socialist Federative Soviet Republic, which has been adapted to the present period of transition, consists in the establishment of the dictatorship of the urban and rural proletariat and the poorest peasantry, in the form of the might All-Russian Soviet authority, with the aim of securing complete suppression of the bourgeoisie, the abolition of the exploitation of man by man, and the establishment of socialism, under which there shall be neither class division nor state authority.⁴⁹

The Constitution of 1918 consisted of six sections: I. Declaration of the Rights of Toiling and Exploited People; II. General Statutes of the RSFSR; III. Construction of Soviet Authority; IV. Active and Passive Right of Suffrage; V. Budget Law; and VI. Coat of Arms and Flag of RSFSR.⁵⁰ The sections of the RSFSR Constitution basically fell into either of two categories: the first, the declaration of rights, reserved to the working classes freedom of speech, of assembly, of access to education, from religious propaganda, from racial or ethnic discrimination, and ensured separation of church and state.⁵¹ The 1918 Constitution, like the successive constitutions of the USSR, made the exercise of individual rights dependent upon the performance of specific social duties. It further conditioned its enumerated rights by limiting them to the "toilers." It was the 1918 Constitution which first set forth the phrase which Stalin later used as a hallmark in the 1936 Constitution: "He who does not work shall not eat."⁵²

The second category of sections in the RSFSR Constitution elaborated the form of the new governmental structure. Under the Constitution, supreme authority was vested in the All-Russian Congress of Soviets.⁵³ The Congress was gerrymandered in such a fashion that the urban workers were able to "neutralize" the rural

48. See CARR, *supra* note 15, at 130-32.

49. CONST. (FUNDAMENTAL LAW) OF THE RUSSIAN SOCIALIST FEDERATIVE REPUBLIC OF 1918, art. 9, [hereinafter cited as 1918 CONST.] reprinted in ZILE, *supra* note 41, at 13-14.

50. WOLF-PHILLIPS, *supra* note 37, at 166.

51. FAINSOD, *supra* note 10, at 353-54.

52. *Id.* 354.

53. *Id.*; CARR, *supra* note 15, at 132 (citing art. 12 of 1918 CONST).

peasant majority.⁵⁴ Between sessions of the Congress, power was vested in a Central Executive Committee chosen by the members of the All-Russian Congress.⁵⁵

A number of important concerns were noticeably absent from the 1918 Constitution, not the least of which was the fact that the Bolshevik Party was never mentioned in the document.⁵⁶ Merle Fainsod's history of the period comments that "the 1918 Constitution resembled a play with its most important character missing"⁵⁷ Fainsod goes on to state, however, that notwithstanding the oversight, the Party was significantly strengthened by the adoption of the Constitution. "While other socialist parties still maintained a precarious existence during this period, the Bolshevik monopoly of legality was rapidly being consolidated, and its control of the formal machinery of government was already far advanced."⁵⁸

On November 8, 1917, (October 26, 1917, "old style") the Second All-Russian Congress of Soviets had rendered its "Decree on Land" which had summarily seized all property owned by anyone other than "rank and file peasants and Cossack servicemen." Paragraph 1 of that Decree consisted of a single sentence: "Landlords' ownership of land is abolished forthwith without any compensation."⁵⁹ That Decree was followed by the "Decree on the Socialization of Land" of February 9, 1918, in which the All-Russian Central Executive Committee extended the seizure of property to all citizens. Paragraph 1 stated that "[a]ny ownership of land, subsoil, waters, forests and natural resources within the boundaries of the Russia Federative Soviet Republic is abolished forever."⁶⁰ Paragraph 2 decreed that the land was to be "turned over to the use of the whole toiling population [emphasis added]."⁶¹ Thus, the rank and file peasantry became included within the seizure of property, and the state on behalf of the proletariat became the sole property owner.

54. CARR, *supra* note 15, at 143; FAINSDOD, *supra* note 10, at 354.

55. FAINSDOD, *supra* note 10 at 354.

56. *Id.* 355.

57. *Id.*

58. *Id.*

59. DECREE OF THE 2D ALL-RUSSIAN CONGRESS OF SOVIETS ON LAND para. 1, (November 8, 1917) as cited in ZILE, *supra* note 41, at 14.

60. DECREE OF THE ALL-RUSSIAN CENTRAL EXECUTIVE COMMITTEE ON SOCIALIZATION OF LAND para. 1, (February 9, 1918), as cited in ZILE, *supra* note 41, at 15.

61. *Id.* para. 2.

The Constitution of July 10, 1918, set forth an even broader statement of socialization. Article 23 applied not only to property rights, but to any rights which were "detrimental to the socialist revolution."

Guided by the interests of the working class as a whole, the Russian Socialist Federative Soviet Republic deprives the individuals and individual groups of any rights which they may use to the detriment of the socialist revolution.⁶²

The provision in the 1918 Constitution setting forth voting rights for soviets is also noteworthy in analyzing Soviet constitutional development. The provision reads as follows:

Article 64. The right to vote and to be elected to the soviets is enjoyed by all citizens of the Russian Socialist Federative Soviet Republic without regard to sex, creed, or nationality, and without any residential qualifications; provided that on the day of the election they have reached the age of eighteen and belong to one of the following categories:

(a) all those who earn their living by productive and socially-useful work, as well as persons engaged in domestic occupations which enable the former to pursue productive work; namely, workers and employees of all kinds and categories in industry, trade, agriculture, etc., and peasants and Cossack-farmers who do not employ others for profit;

(b) soldiers in the Soviet army and navy;

(c) citizens of the categories enumerated in paragraphs (a) and (b) who are to some extent incapacitated for work.

Note 1: The local soviets may, with the approval of the central authorities, lower the age limit fixed by this article.

Note 2: In addition to Russian citizens, persons mentioned in Article 20 [*i.e.*, foreigners working in Russia, provided that they belong to the working class or to that segment of peasantry which does not employ hired labor] . . . also enjoy the right to vote and to be elected.⁶³

This article is particularly interesting in light of the fact that the 1977 Constitution reinstitutes a provision of this article which had been altered by the 1936 Constitution. The Stalin Constitution raised the age for election as a deputy to a soviet from 18 to 23.⁶⁴

62. 1918 CONST., art. 23, reprinted in ZILE *supra* note 49, at 14.

63. *Id.* art. 64.

64. CONSTITUTION (BASIC LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS OF 1936, art. 135 [hereinafter cited as 1936 CONST.]. The 1936 Constitution is included in the Appendix to this article.

The 1977 Constitution returns the age limit to 18 for all soviets except for the Supreme Soviet of the U.S.S.R., for which the minimum age requirement is 21.⁶⁵ This article of the 1918 Constitution is also noteworthy from the standpoint of its limitation of suffrage only to workers. Although this limitation has been nominally removed from both the 1936 and 1977 Constitutions, both of these documents condition all rights guaranteed thereunder upon performance of requisite duties to the state.⁶⁶ The interaction of rights and duties under the new Constitution will be discussed in greater detail below.

B. *The Formation of the Union: The 1924 Constitution*

1. Historical Background

Although the 1918 Constitution was intended to provide Russia with a centralized, powerful national government, it was not designed to cope with some of the difficulties surrounding soviet nationality policy which soon followed. Indeed, when the 1918 Constitution had been presented to the Fifth All-Russian Congress of Soviets for adoption, its drafters had described it as "not a finished product,"⁶⁷ and in the context of soviet federalism, the description quickly proved to be accurate. The Constitution of 1918 provided that regions "with distinctive customs and national characteristics" could unite to form autonomous regional unions which could enter the RSFSR "on a federal basis."⁶⁸ The existence of such a policy did little to quell the so-called "Great Russian Chauvinism" which denegated the peoples in the outlying regions, and may actually have promoted the view.

Lenin and the Party attempted to adopt a middle ground between the Great Russian Chauvinism and the nationalistic fervor among the non-Russian peoples. The Tenth Party Congress of Soviets adopted the following resolution:

The task of the Party is to assist the toiling masses of the non-Great Russian peoples in catching up with Central Russia . . . and to help them:

65. CONSTITUTION (BASIC LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS OF 1977, art. 96 [hereinafter cited as 1977 CONST.]. The provisions of the 1977 Constitution are included in the Appendix to this article.

66. See "Availability to Citizens: The Interaction of Rights and Duties." ch. III.A.2 *infra*.

67. J. BUNYAN, INTERVENTION, CIVIL WAR, AND COMMUNISM IN RUSSIA: APRIL-DECEMBER 1918, at 502, 504 (1936) cited in FAINSD, *supra* note 10, at 355.

68. FAINSD, *supra* note 10, at 361 (citing arts. 11-12 of 1918 CONST.).

- a. To develop and consolidate their own Soviet state system in forms consistent with these people's national way of life;
- b. To develop and consolidate their own courts, administrative agencies, economic bodies, and government organs, using the native tongue and staffed by local people familiar with the customs and psychological characteristics of the local population;
- c. To set up a press, schools, theaters, community centers, and cultural and educational institutions generally, using the native tongue;
- d. To organize and develop a comprehensive system of instruction and schools (with first attention to the Kirghiz, Bashkir, Turkmen, Uzbeks, Tadjijs, Azerbaidjanians, Tatars, and Daghestanians), for the purpose both of general education and vocational and technical training, and conducted in the native tongue, in order more speedily to train indigenous personnel as skilled workers and as Soviet and Party staff members in all spheres of administration, and above all in the sphere of education.⁶⁹

Thus, during the period following the adoption of the Constitution of 1918, a number of regions were incorporated into the RSFSR as autonomous regions, while others, such as the Ukraine, Belorussia, and the Transcaucasus were regarded as independent soviet socialist republics (SSR's).⁷⁰ The RSFSR dealt with such independent SSR's through bilateral treaties providing for military and economic alliance between the republics.⁷¹

At the Ninth All-Russian Congress of Soviets in 1921, delegates from a number of the independent SSR's⁷² were allowed to participate, and on December 30, 1922, the First Congress of Soviets of the Union of Soviet Socialist Republics was convened.⁷³ During the month of December, 1922, the Congresses of Soviets of the RSFSR, Ukraine and White Russia (Belorussia), and the republics of the Transcaucasian Federation (Azerbaidjan, Armenia, and Georgia) had all agreed to a "Compact Concerning the Formation of the

69. *VKP(b) v. Rezolyutsiyakh*, I, 456-57, cited in *id.* 362.

70. *Id.* 364.

71. The RSFSR concluded a military and economic alliance treaty with the Ukraine SSR on Dec. 28, 1920. For the text of the treaty, see W. BATSELL, *SOVIET RULE IN RUSSIA* 217 (1929). Treaties later were concluded with Belorussia and the Transcaucasus which were patterned closely after the RSFSR-Ukrainian agreement. *Id.* 364 n.38.

72. The SSR's represented were Azerbaidjan, Georgia, Armenia, the Ukraine, and Belorussia.

73. FAINSOD, *supra* note 10, at 365; WOLF-PHILLIPS, *supra* note 36, at 167. This was the first congress of the entire Union of Soviet Socialist Republics.

USSR."⁷⁴ The position of the Party was clearly reinforced by the creation of the Union; over 90 percent of the delegates to the First Congress were party members.⁷⁵

One of the first acts of the Congress when it convened on December 30, 1922, was to choose a new Central Executive Committee.⁷⁶ On January 10, 1923, the Central Executive Committee of the newly-formed Union formed a Constitutional Committee to draft a Constitution which would reflect "the unity of the republics, their acknowledged equality of rights, and a plenary guarantee of their interests in the Union organs."⁷⁷

The drafting commission was quickly embroiled in the power struggle between the Great Russians and the advocates of local autonomy, chiefly from the Ukrainian Party. Joseph Stalin and the Politburo endeavored to find some agreeable alternative, and ultimately prevailed upon the committee to guarantee the equality of the partners to the union and at the same time vest supreme authority in the Union, with residual authority to the individual republics.⁷⁸ Four days before the committee completed work on the draft on June 16, 1923, Stalin had blasted the Ukrainians for their nationalistic fervor: "I perceive from the insistence of several Ukrainian comrades their desire to define the Union as something between a confederation and federation, with the preponderant weight on the side of confederation . . . We are constructing, not a confederation, but a federal republic, one union state, uniting military and foreign affairs, foreign trade, and other matters."⁷⁹

The Constitution of the Union of Soviet Socialist Republics of 1924 was approved by the Central Committee on July 6, 1923. It was ultimately ratified by the second All-Union Congress of Soviets on January 31, 1924—ten days after the death of V.I. Lenin.⁸⁰

74. WOLF-PHILLIPS, *supra* note 37, at 167.

75. FAINSOD, *supra* note 10, at 365.

76. *Id.*; WOLF-PHILLIPS, *supra* note 37, at 167.

77. WOLF-PHILLIPS, *supra* note 37, at 167.

78. CARR, *supra* note 15, at 400.

79. "Chetvertoe Soveshchanie TsK RKP (6) s Otvetstvennymi Rabotnikami Natsional'nykh Respublik i Oblastei, Zaklyuchitel'noe Slovo" (Fourth Conference of the Central Committee RCP(b) with officials of the National Republics and Oblasts, Concluding Remarks), SOCHENENIYA, V, 335-36, cited in FAINSOD, *supra* note 10, at 366.

80. WOLF-PHILLIPS, *supra* note 37, at 167.

2. Analysis of the 1924 Constitution

The Soviet legal historian, Andrei Vyshinsky,⁸¹ described the USSR Constitution of 1924 in terms of the struggle which had surrounded its creation, stating that it had been "drafted in the midst of an irreconcilable conflict with opponents of the unification of the Soviet republics—the imperial chauvinists and the bourgeois nationalists."⁸² The Constitution clearly reflected that struggle; it was composed of two parts: the first was a declaration concerning the formation of the USSR and the second was a Compact concerning the formation of the Union.

The Declaration was simple and direct:

The Russian Socialist Federative Soviet Republic (RSFSR), the Ukrainian Socialist Soviet Republic (Ukr. SSR), the Belorussian Socialist Soviet Republic (BSSR), and the Transcaucasian Socialist Federative Soviet Republic (TrSFSR): the Soviet Socialist Republic of Azerbaidzhan, the Soviet Socialist Republic of Armenia) unite themselves in one united state—The Union of Soviet Socialist Republics⁸³

The Compact contained eleven sections, the first of which was entitled "Matters concerning the supreme organs of Union authority." As indicated above, Stalin and the Politburo had ensured that the Constitution would reflect Party policy concerning the supremacy of the union organs. Article 8 stated:

Article 8. The supreme organ of power of the Union of Soviet Socialist Republics is the Congress of Soviets and, between the sessions of the Congress of Soviets—the Central Executive Committee of the Union of Soviet Socialist Republics which is composed of the Union Soviet and the Soviet of Nationalities.⁸⁴

The authority of the Supreme Soviet and the Central Committee is vested in the Presidium when the two organs were between sessions:

Article 29. Between the sessions of the Central Executive Committee of the Union of Soviet Socialist Republics, the Presidium of the Central Executive Committee of the Union of Soviet Socialist

81. Vyshinsky was also Stalin's chief prosecutor during the Stalin purges and Stalin's chief legal theoretician.

82. WOLF-PHILLIPS, *supra* note 37, at 167 n.2.

83. CONSTITUTION (FUNDAMENTAL LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS OF 1924 [hereinafter cited as 1924 CONST.], *reprinted in* ZILE, *supra* note 41, at 72.

84. *Id.* art. 8.

Republics is the supreme organ of legislative, executive, and administrative power of the Union of Soviet Socialist Republics.⁸⁵

The Central Executive Committee of the Congress of Soviets was composed of two chambers, the Council of the Union, selected on the basis of population, and the Council of Nationalities, composed of five delegates from each union and autonomous republic and one delegate from each autonomous region.⁸⁶ The presidium included representatives from both chambers as well. All actions which were taken in the name of the Central Executive Committee were required to be approved by both chambers.⁸⁷

An innovation from the 1918 Constitution was the creation under the USSR Constitution of 1924 of a Supreme Court and a Procurator. Article 43, which created the Supreme Court, provided the following:

Article 43. In order to maintain revolutionary legality within the territory of the Union of Soviet Socialist Republics, a Supreme Court attached to the Central Executive Committee of the Union of Soviet Socialist Republics is hereby established, competent:

(a) to give the supreme courts of the union republics guiding interpretations on questions of union law;

(b) to examine and protest to the Central Executive Committee of the Union of Soviet Socialist Republics, at the proposal of the Procurator of the Supreme Court of the Union of Soviet Socialist Republics, decrees, decisions, and judgments of the supreme courts of the union republics on the grounds either of conflict with union law or of encroachment upon the interests of other union republics;

(c) to give opinions, at the request of the Central Executive Committee of the Union of Soviet Socialist Republics, as to the constitutionality of decrees of the union republics;

(d) to settle judicial disputes between the union republics;

(e) to examine cases charging high union officials with official crimes.⁸⁸

The Constitution left significant gaps in the Court's authority, and made no provision authorizing the Court with jurisdiction to decide the question of constitutionality of union legislation. In fact, the provision which created the Office of the Procurator rendered the Court entirely subordinate to the Central Executive Committee through the Procurator's authority to protest the Court's actions. Article 46 provided:

85. *Id.* art. 29.

86. FAINSOD, *supra* note 10, at 367.

87. *Id.*

88. 1924 CONST. art. 43.

Article 46. The Procurator of the Supreme Court of the Union of Soviet Socialist Republics and his assistant shall be appointed by the Presidium of the Central Executive Committee of the Union of Soviet Socialist Republics. The Procurator of the Supreme Court of the Union of Soviet Socialist Republics is charged with the [following] duties: to give opinions on all questions within the jurisdiction of the Supreme Court of the Union of Soviet Socialist Republics, to prosecute at its sessions, and in cases of disagreement with the decisions rendered by the plenary session of the Supreme Court of the Union of Soviet Socialist Republics, to protest them to the Presidium of the Central Executive Committee of the Union of Soviet Socialist Republics.⁸⁹

The language of article 46 left no doubt that the Central Executive Committee, and not the Supreme Court, was vested with supreme judicial authority in the Soviet Union.

Although the role of the Party was again concealed under the 1924 Constitution, its position was clearly strengthened by the document. By clothing their strength in organs of the people which were accorded constitutional legitimacy, the Party chiefs had granted to themselves almost universal discretion to act in a manner which was legally unassailable. The continued low-key role which the Party was accorded under the 1936 Constitution would serve as cogent evidence that the drafters of each of the constitutions had made a deliberate, conscious determination that the role of the Party was better left disguised within other organs of "state authority."⁹⁰

C. *Stalin Legitimized: The 1936 Constitution*

On February 1, 1935, the plenum of the Central Committee of the Communist Party directed Vyacheslav Mikhailovich Molotov⁹¹ to present to the Seventh All-Union Congress of Soviets suggested amendments to the 1924 Constitution.⁹² On February 6, 1935, the directive was formally enacted, calling for changes in the document toward:

- (a) Further democratization of the elective system—in the sense of substituting equal elections for elections not fully equal; direct

89. *Id.* art. 46.

90. Concerning the role of the CPSU under the 1936 and 1977 constitutions see ch. III. C. *infra*.

91. Molotov was Chairman of the Council of People's Commissars, a member of the Politburo, and one of Stalin's legal theorists.

92. FAINSD, *supra* note 10, at 370.

elections for elections having multiple stages; and secret elections for elections which were open; and (b) making more precise the social-economic bases of the Constitution—in the sense of bringing the Constitution into conformity with the present correlation of class forces in the USSR (the creation of new socialist industry, the liquidation of the kulaks, the confirmation of socialist property as the basis of Soviet society, etc.).⁹³

The proposal for amending the Constitution was approved by the Seventh All-Union Congress, and thereafter, the decision was made by the Central Executive Committee that a constitutional commission would be created to draft an entirely new document.⁹⁴ The drafting commission of 31 economists, historians, and political scientists, not surprisingly, was to be chaired by Stalin.⁹⁵

A variety of rationales have been proffered to explain the decision to draft an entirely new document rather than merely amending the existing constitution. Vyshinsky explained the decision in terms of the triumphant change of circumstances which had taken place from 1924 to 1936.

The complete triumph of the socialist system in all branches of the national economy, the fundamental realization of socialism, the liquidation of the exploiter classes, the annihilation of man's exploitation by man, the brilliant results in the creation of a united multinational state, the vast cultural conquests, the attraction of the broadest popular masses into the building of the state, the strengthening of revolutionary legality . . . the new Constitution should reflect all the changes which had occurred in the life of the USSR since 1924.⁹⁶

The decision to draft a new Constitution has been analyzed in less grandiose (and perhaps more realistic) terms by other historians. Merle Fainsod wrote:

The Soviet Constitution of 1936 and the large-scale discussion which attended its adoption were designed to persuade the Western democracies that the Soviet Union was a true democracy or that it was at least moving in a democratic direction and that it enjoyed the full support of the Soviet peoples. In the larger context of Soviet foreign policy, one of the major objectives of the 1936 essay in Soviet constitution-making appears to have been the desire to forge a com-

93. Hazard, *supra* note 4, at 6.

94. *Id.*; FAINSOD, *supra* note 10, at 371.

95. A. STRONG, THE NEW SOVIET CONSTITUTION 47 (1937) [hereinafter cited as STRONG].

96. WOLF-PHILLIPS, *supra* note 37, at 167-68. See also *id.* 45-46.

mon bond with the Western powers in resisting Nazi, Fascist, and Japanese aggression.⁹⁷

John Hazard in a recent essay has justified the adoption of the new Constitution on the basis of both the change of circumstances which had transpired prior to 1936, as well as the changes in policy which could be foreseen after the adoption of the document.

The reason was given that the changes, necessary because of the achievement of "socialism," required more than amendment; they required a structure that could serve as a symbol of a new stage in social development. This position is understandable, for even non-Marxists have thought it desirable from time to time to sense a new beginning. How else can one explain the five republics of France? Europeans seem not to sense the desirability of state stability; indeed, they indicate from time to time that their urge to revolt has not been satiated. They demand a new symbol to mark a new stage. Soviet leaders may have been in the same emotional tradition, intensified in its effect upon them by what they have learned from Marx as to law as reflective of the economic base.⁹⁸

Other authors have analyzed the decision in terms of the mentality of the Constitution's creator. George Ginsburgs stated that "[b]y 1936, Stalin had made his mind up about most of the issues left unresolved in 1924. He assumed total power in the state, but he also made sure that the new Soviet Constitution contained a lavish and explicit statement on the rights and duties of Soviet citizens."⁹⁹

On June 1, 1936, Stalin appeared before a plenum of the Central Executive Committee to present a draft of the new Constitution. The plenum ordered the convocation of an Extraordinary All-Union Congress of Soviets to ratify the document, and on June 12, 1936, the draft was published for nationwide public discussion of its provisions.¹⁰⁰ The nationwide airing of the Constitution continued for five months,¹⁰¹ and on November 25, 1936, Stalin appeared before the Extraordinary Eighth All-Union Congress to request approval of the Constitution.¹⁰² The so-called Stalin Constitution

97. FAINSOD, *supra* note 10, at 372.

98. Hazard, *supra* note 4, at 6.

99. GINSBURGS, Rights and Duties of Citizens, 15 PROBLEMS OF COMMUNISM 22-24 (1965), *cited in* WOLF-PHILLIPS, *supra* note 37, at 168.

100. FAINSOD, *supra* note 10, at 371.

101. STRONG, *supra* note 94, at 47.

102. J. Stalin, "On the Draft Constitution of the USSR" (Report Delivered at the Extraordinary Eighth Congress of Soviets of the USSR, (November 25, 1936)), *reprinted in* ZILE, *supra* note 41, at 238-46 [hereinafter cited as Stalin].

of 1936 was unanimously approved on December 5, 1936.¹⁰³ The Stalin Constitution remained in effect for the next 41 years.

D. *Historical Background of the 1977 Constitution*

The drafting of each of the first three Soviet constitutions offered clear precedent for the proposition that the revision of Soviet constitutional law ought to take place with the advent of significant social and economic change. Against that background, it is perhaps surprising that the Stalin Constitution retained validity for as long a period as it did. Indeed, efforts to revise the Stalin Constitution were initiated more than twenty years before the actual adoption of a new Constitution in 1977. Perhaps the best explanation for the durability of the document lay in the nature of constitutional law in the Soviet Union. Although the legal and ideological role of the Constitution may have been altered and expanded to some extent with the adoption of the 1977 Constitution, the very fact that the admittedly anachronistic 1936 Constitution was retained for so long indicates the rather limited utility of constitutional law in the Soviet Union.

The majority of Soviet legal scholars¹⁰⁴ regard the constitution only as a fundamental law on the structure and powers of the state. The view that the constitution is a fundamental law of the society has only emerged since the middle 1960's, when such scholars as F. I. Kalinychev, V. F. Kotak and N. P. Farberov began to suggest a wider social role for the constitution (though none of them went so far as to say that its primary purpose might be the protection of the individual against the might of the state). Considerable conflict arose about whether "constitutional law" rather than "state law" was the appropriate nomenclature for this area of law.¹⁰⁵ The dispute goes deeper than mere nomenclature, however. The supporters of the term "constitutional law" would like to see the constitution as a normative instrument in its own right with positive uses in the expression of "socialist reality."¹⁰⁶

The efforts to revise the 1936 Constitution were first intimated in a speech by Nikita Krushchev to the 20th Communist Party

103. N. Y. Times, Dec. 6, 1936, at 1, col. 2. See also *id.*, 19, col.2.

104. E.g., Y. N. Umansky, I. J. Farber, and V. A. Rzhnevsky.

105. S. I. Rusinov and V. A. Rianzhin have entitled their recent book *Soviet Constitutional Law*, supporting the use of the term rather than Soviet "state law."

106. See S. RUSINOV & V. RIANZHIN, SOVETSKOE KONSTITUTZIONOE PRAVO (SOVIET CONSTITUTIONAL LAW) 8-9 (1975) [hereinafter cited as SOVIET CONSTITUTIONAL LAW].

Congress (CPSU) in 1956.¹⁰⁷ In Krushchev's report to the Central Committee, he stressed the need for "strengthening social justice," and stated that the "party, state and trade union organizations must vigilantly stand guard over Soviet law observance, unmask and bring into the open anyone who violates socialist law and order and the rights of Soviet citizens, and sternly call a halt to the slightest manifestations of lawlessness and arbitrariness."¹⁰⁸

Ten days later, Krushchev made his now-famous "secret speech" in which he exposed the atrocities and lawlessness of the Stalin regime.¹⁰⁹ The emphasis which Krushchev placed upon observance of socialist law and his subsequent efforts at "destalinization" were integrally related to the struggle for power transpiring at that time between Krushchev and Stalin's lieutenants, Molotov, Kaganovich, and Bulganin.¹¹⁰

When Krushchev's power base grew stronger, he became more vocal in his support of a new constitution which would place him among the ideological fathers of the Soviet Union. Undoubtedly, his quest was for a document to which his name would be ascribed as had Stalin's to the 1936 Constitution. *Pravda* carried the text of Krushchev's remarks to the 21st Party Congress on January 28, 1959, in which he stated:

In today's conditions, with our country entering a new and very important period of its development, the need has arisen for introducing certain amendments and additions to the Constitution of the USSR. More than 20 years have passed since its adoption, years crowded with events of world-historic significance. Socialism has emerged from the framework of one country and turned into a mighty world system. Important changes have taken place in the political and economic life of the Soviet Union. The building of Communist society has become an immediate political task of the party and the people. All these tremendous changes in domestic life and the international situation should be reflected and legislatively affirmed in the Constitution of the Soviet Union, the basic law of our state.¹¹¹

107. For a detailed and exceptionally well-documented account of Khrushchev's plans for constitutional reform, see Ginsburgs, "A Khrushchev Constitution for the Soviet Union: Projects and Prospects," 1936 *OSTEUROPA RECHT* 191.

108. "Report of the Central Committee of the CPSU to the 20th Party Congress," *Pravda* (Moscow), Feb. 14, 1956, reprinted in Gillison, *Krushchev, Brezhnev, and Constitutional Reform*, 21 *PROBLEMS OF COMMUNISM* 69, 71 (1972).

109. For text of Krushchev's "Secret Speech," see ZILE, *supra* note 41, at 303-12.

110. Gillison, *Krushchev, Brezhnev, and Constitutional Reform*, 21 *PROBLEMS OF COMMUNISM* 69, 71 (1972) [hereinafter cited as Gillison].

111. On Control Figures for Development of the USSR National Economy in

As a result of Krushchev's position regarding the necessity for constitutional revision,¹¹² the 21st Congress drafted the following resolution:

Certain amendments and additions should be introduced in the Constitution of the USSR. Since the Constitution was adopted, important changes have occurred in the political and economic life of the Soviet Union, and the international situation has also changed. All these changes should be reflected and registered by legislation in the Constitution of the Union of Soviet Socialist Republics.¹¹³

Following the 21st Congress, the pursuit of amending the 1936 Constitution by Krushchev was superceded by his desire to restructure the Party Program. The Program which was adopted in October, 1961 at the 22nd CPSU Congress offered substantial deviations from the principles contained in the Stalin Constitution. Under the new Program, the dictatorship of the proletariat had outlived its usefulness:

The dictatorship of the proletariat, born of the socialist revolution, played an epoch-making role by ensuring the victory of socialism in the U.S.S.R. In the course of socialist construction, however, it underwent changes. After the exploiting classes had been abolished, the function of suppressing their resistance ceased to exist. The chief functions of the socialist state—organization of the economy, culture and education—developed in full measure. The socialist state entered a new period of its development. The state began to grow over into a nationwide organization of the working people of socialist society. Proletarian democracy was growing more and more into a socialist democracy of the people as a whole.¹¹⁴

The working class is the only class in history that does not aim to perpetuate its power. Having brought about the complete and final victory of socialism—the first phase of communism—and the transition of society to the full-scale construction of communism, the dictatorship of the proletariat has fulfilled its historic mission and has ceased to be indispensable in the U.S.S.R. from the point of

1959-65, *Pravda*, Jan. 28, 1959, *reprinted in id.* 71.

112. The recommendations concerning constitutional revision had been raised by Krushchev alone at the 21st CPSU Congress, although a second spokesman, Voroshilov, also spoke at the Congress regarding a need for change in the collective farm structure, state structure, expansion of trade union activity, and expansion of authority of republics. See Hazard, *supra* note 4, at 8.

113. *Pravda*, Feb. 7, 1959, *reprinted in* Gillison, *supra* note 110, at 71.

114. Program of the Communist Party of the Soviet Union (1961), *reprinted in* ZILE, *supra* note 41, at 349-50.

view of the tasks of internal development. The state, which arose as a state of the dictatorship of the proletariat, has, in the new, contemporary stage, become a state of the entire people, an organ expressing the interests and will of the people as a whole.¹¹⁴

The advent of the "state of the entire people" offered sound evidence of the inevitability of change to the Stalin Constitution. Although the matter of amending the Constitution was clearly overshadowed by a preoccupation with obtaining ratification of the Program of the 22nd CPSU Congress, Krushchev did make passing reference to constitutional revision in his speech to the Central Committee at the Congress: "The new Constitution of the USSR, which we are beginning to draft, must express the new characteristics in the life of Soviet society during the period of the full-scale construction of communism."¹¹⁵ With that passing comment, Krushchev made known the fact that the resolution of the 21st Congress calling for amendment to the Stalin Constitution¹¹⁶ had somehow been transformed into the legal basis for drafting an entirely new document.

If Krushchev's passing reference to the drafting of a new constitution raised questions about the legal authority for such action, those questions were soon answered. On April 25, 1962, Krushchev addressed a session of the Supreme Soviet and stated that "all conditions now exist for undertaking to work out the draft of the Soviet Constitution."¹¹⁷ The following day, the Supreme Soviet authorized the creation of a Constitutional Commission including 96 Soviet dignitaries and chaired by Krushchev.¹¹⁸ In his address to the Soviet, Krushchev called it "premature to prescribe in detail" what the new constitution should contain.¹¹⁹ Nevertheless, he was able to describe the purposes for the document to be ". . . to reflect the new stage in the development of Soviet society and the Soviet state, to raise socialist democracy to a still higher level, to create still stronger guarantees of the democratic rights and freedoms of the working people and guarantees of the strict observance of socialist legality, and to prepare the conditions for the transition to communist public self-government."¹²⁰

The inconsistency of Krushchev's comments in October 1961

115. See Gillison, *supra* note 110, at 72 n.8.

116. See text accompanying note 113 *supra*.

117. Gillison, *supra* note 110, at 72.

118. FAINSOD, *supra* note 7, at 380.

119. *Id.*

120. *Id.* 381.

(when the draft had apparently already been initiated) and in April 1962 (when the time was now right for "undertaking" the work) may be explained in either of two ways. It may be, as Jerome M. Gillison has stated, that Krushchev's remarks to the CPSU Congress in 1961 were merely "testing the water" for the new draft.¹²¹ It is also possible that work had indeed already begun by the time of his October 1961 address, and Krushchev's later comments were merely designed to legitimize whatever work had been done up to that point. It is beyond question that the resolution of the 21st CPSU Congress had not envisaged an entirely new constitution.

Very little concrete results were reported from the work of the Constitutional Committee. It met on June 15, 1962, and at that initial meeting nine subcommittees were established.¹²² For the next two years, accounts of the work of the Commission were vague.¹²³ The most substantive report of the Commission's actions came on July 17, 1964, when *Pravda* and *Izvestia* both published identical reports of a meeting at which Krushchev had reported to the Commission on the status of the drafting.¹²⁴ The removal of Krushchev as First Secretary of the CPSU on October 15, 1964, obviously resulted in a significant obstacle to a quick completion of the draft, and more importantly, resulted in a significant shift in the nature of the document. The deposed Krushchev was replaced by Leonid I. Brezhnev as Chairman of the Constitutional Commission by the Supreme Soviet two months later on December 11, 1964.¹²⁵

Work on the draft slowed dramatically thereafter, with only passing references by Brezhnev or the press over the course of the next few years to the work of the Commission.¹²⁶ Brezhnev was responsible for altering a number of policies of the Krushchev years in the latter half of the 1960's,¹²⁷ and a variety of factors indicated

121. Gillison, *supra* note 108, at 72.

122. *Id.* 74; FAINSOD, *supra* note 9, at 381.

123. See Gillison, *supra* note 108, at 74.

124. 15 CURRENT DIG. SOVIET PRESS (No. 28) 37 (July 10, 1963), reprinted in *id.* n.16.

125. As will be demonstrated *infra*, however, Krushchev's influence is apparent in many aspects of the new Constitution. See also Hazard, *supra* note 4, at 8. The appointment of Leonid Brezhnev as the Chairman of the Constitutional Convention was made by an edict of the Supreme Soviet of the USSR on December 11, 1964 (reported in *Pravda* on December 12, 1964).

126. R. SHARLET, THE NEW SOVIET CONSTITUTION OF 1977: ANALYSIS AND TEXT 4 (1978) [hereinafter cited as SHARLET]. See also Gillison, *supra* note 110, at 75.

127. Gillison, *supra* note 108, at 76.

that the pursuit of a new constitution may have been among Brezhnev's policy reversals. On July 10, 1967, the USSR Council of Ministers adopted a new statute regarding the ministerial structure of the USSR, which was explicitly based upon the 1936 Constitution.¹²⁸ Article 6 began: "[i]n accordance with the USSR Constitution, a USSR ministry shall be all-union or union republic and shall be formed by the USSR Supreme Soviet. An all-union ministry shall direct the branch entrusted to it throughout the entire territory of the USSR directly or through agencies created by it."¹²⁹

The parallel language in the Stalin Constitution read as follows:

Article 74. Ministries of the USSR shall be either all-union or union republic.

Article 75. All-union ministries shall direct the branches of state administration entrusted to them throughout the territory of the USSR either directly or through agencies designated by them.¹³⁰

In addition to the adoption of the statutory language so closely following the 1936 Constitution, Jerome Gillison recounts the fact that a two-volume compilation of Brezhnev speeches which was published in 1970¹³¹ omitted a June 1966 speech which Brezhnev had given to the Supreme Soviet in which he had made reference to the need for constitutional reform.¹³² From December 1966 when the Constitutional Commission was reappointed, until Brezhnev addressed the 25th Congress of the CPSU in March 1976 to announce the preparation of the draft,¹³³ the only references to work on the Constitution were unofficial.¹³⁴

128. General Statute on USSR Ministries, (confirmed by decree of the USSR Council of Ministers, July 10, 1967) reprinted in W. BUTLER, *THE SOVIET LEGAL SYSTEM: LEGISLATION AND DOCUMENTATION* 81-92 (1978) [hereinafter cited as BUTLER].

129. *Id.* art. 6.

130. 1936 CONST. arts. 74 & 75; 1977 CONST. art. 135.

131. Gillison, *supra* note 108, at 76 n.30.

132. *Id.* 77.

133. See Hazard, *The Future of Soviet Law*, 8 SYDNEY L. REV. 590 (1979).

134. See SHARLET, *supra* note 126, at 5-6; Hazard, *supra* note 4, at 17. It should be noted that the "unofficial" sources which did mention that work on the new Constitution was ongoing included Rusinov and Rianzhin's work on SOVIET CONSTITUTIONAL LAW, *supra* note 106 at 8-9.

The drafting of the new Constitution was not all that secret to the ruling elite of the Soviet Union. Brezhnev made his intention to introduce a new constitution very clear to selected groups of the party and government cadres in 1972 and 1976. See Brezhnev's speech on the 50th Anniversary of the USSR at the combined meeting of the Central Committee of the Communist Party of the USSR, the

After Brezhnev announced the completion of the draft in May, the draft was submitted for public discussion.¹³⁵ According to figures which Brezhnev included in his Report on the New Constitution on October 4, 1977, more than 80 percent of the population took part in the public discussion.¹³⁶ According to Brezhnev, about 400,000 proposals for amendment to the Constitution were offered, and amendments were subsequently made in 111 of the 173 articles as a result.¹³⁷ The Constitution was approved on October 7, 1977, on the 60th anniversary of the October Revolution. The balance of this article will analyze the substance of the 1977 Constitution, comparing the final text not only with its primary predecessor, the Stalin Constitution of 1936, but also with the two earlier constitutions as well as the draft which Brezhnev presented in May 1977.

III. COMPARATIVE ANALYSIS OF THE 1977 CONSTITUTION

A. *The Constitution and Human Rights*

The clauses [in the new Soviet Constitution] on the rights, freedoms and duties of Soviet citizens have been attacked with especial vehemence. This has, of course, its own logic: indeed, it is precisely the idea of "concern" for human rights that prominent leaders of the capitalist world have lately chosen as the main thrust of their ideological crusade against the socialist countries. The critics of the Soviet Constitution, however, have found themselves in an unenviable position. They cannot escape the fact that the Soviet Draft Constitution defines the social, economic and political rights and freedoms of citizens and the specific guarantees of these rights more widely, clearly and fully than has ever been done anywhere else before.¹³⁸

Supreme Soviet of the USSR, and the Supreme Soviet of the RSFSR on December 21, 1972, as well as his report on the tasks of the party in the areas of internal and external politics at the 25th Congress of the Communist Party of the USSR on February 24, 1976 (the respective texts appear on pp. 18-21 of the *Konstitutsiya Obshchenarodnogo Gosudarstva* (the Constitution of the All-Peoples State), a compendium of documents on the new Constitution published in Moscow by Izdatelstvo Politicheskoi Literatury (Publishing House of Political Literature) in late 1978).

135. For documents which describe the events between April 27, 1977, when the membership of the Constitutional Committee was considerably expanded, and the official publication of the draft text of the new Constitution on June 4, 1977, see KONSTITUTZIYA OBSHCHENARODNOGO GOSUDARSTVA (the Constitution of the All-Peoples State), (1978).

136. 29 CURRENT DIG. SOVIET PRESS (No. 39) 11 (October 26, 1977).

137. *Id.* 1-2.

138. Supplement, SOVIET UNION ILLUS. MONTHLY (No. 12), 9 (1977). Brezh-

With these remarks Leonid Brezhnev described to the Supreme Soviet and the world the Soviet position on the civil rights accorded to its citizens under the 1977 Constitution (Basic Law) of the Union of Soviet Socialist Republics.¹³⁹ Although the rights of Soviet citizens are indeed more specifically set forth under the new Constitution, the limitations upon those rights are also more fully articulated. This portion of the article will analyze the changes which the new Soviet Constitution has brought about with respect to the rights, and the limitations thereupon, of the individual in the USSR.¹⁴⁰

1. Ideological Framework: State Supremacy

An objective analysis of the effect of the 1977 Constitution requires an understanding of both the ideological and historical underpinnings upon which the specific Constitutional revisions, as well as Communist society in general, are based. The enactment of the new Soviet Constitution has clearly done nothing to limit the concept of state supremacy, and may well have strengthened the doctrine from a political, if not from a legal, perspective. By Western standards, such subservience of individual rights to the interests of the state would be unconscionable. By communist standards, however, such a relationship between individual and state interests is entirely proper. Nevertheless, the provisions of the new Constitution granting superseding rights to the state have come under serious attack from Western commentators. *The World Marxist Review* commented upon the criticisms regarding the "state interest" which had been levied upon the 1977 Constitution, stating the following:

In guaranteeing broad political rights—freedom of speech, the press, assembly, street processions and demonstrations, and the right to associate in public organizations—the Constitution of the USSR points out that these rights and freedoms are granted in accordance with the interests of the people and the aims of strengthening the socialist system.

What is there here to criticize? It is natural that the Constitution of a socialist society should have the aim of protecting the socialist

nev's remarks and an English translation of the new Constitution were published as a supplement to SOVIET UNION ILLUSTRATED MONTHLY, No. 12, a Soviet propaganda magazine which is widely distributed internationally [hereinafter cited as Brezhnev's remarks].

139. Entered into force, October 7, 1977.

140. *Id.*

system and this aim is fully in accordance with the interests of the whole Soviet people, as was once again affirmed by the unanimous approval of the Constitution. How can it be asserted that socialism is wrong in defending the system of public ownership, the political system of the whole people and its peaceful foreign policy from attacks by individuals? No, this is not only a right, but a duty of the socialist state.¹⁴¹

141. 21 WORLD MARXIST REVIEW: PROBLEMS OF PEACE AND SOCIALISM 10-11 (Feb., 1978). *The World Marxist Review* is an international monthly journal representing the communist and Workers Parties of more than 20 nations.

Leonid Brezhnev similarly addressed western criticisms of the "state interest" restriction in his address to the Supreme Soviet. Although his statement was more grandiose and political than substantive, it remains noteworthy:

Propagandists and ideologists of capitalism . . . have concentrated their attacks on the constitutional provisions which say that the exercise by citizens of their rights and freedoms must not injure the interests of society and the state, or the rights of other citizens and that the exercise of one's rights and freedoms is inseparable from the performance of one's duties and obligations.

According to the Draft Constitution, the rights of citizens may not be used to the detriment of socialist society and the state, and that means, says the Austrian newspaper *Salzburger Volksblatt*, that "Soviet citizens have no rights at all." That is logic for you.

The Italian *Corriere della Sera* does not like the fact that the Draft speaks of the duty of Soviet citizens to observe the USSR Constitution and Soviet laws, and the rules of socialist behavior in everyday life. "All these restrictions," this mouthpiece of the Italian monopolies declares, "in effect nullify civil rights, at any rate as we understand them." It follows that the exercise of civil rights in the USSR must consist in violations of the law!

Speaking in general, it seems that from the standpoint of our class adversaries Soviet citizens should evidently be granted the one and only "right" to fight against the Soviet state, the socialist system, so as to gladden the hearts of the imperialists. However, we must disappoint such "critics" of our Constitution: the Soviet people will never comply with their wishes.

Our "critics" pretend to be unaware of the fact that the clauses in the Draft Constitution which evoke their dissatisfaction fully conform to fundamental international documents. Let us remind them of this fact: the UN Universal Declaration of Human Rights clearly states that "everyone has duties to the community in which alone the free and full development of his personality is possible," and that the exercise of rights and freedoms by citizens requires "due recognition and respect for the rights and freedoms of others and meeting the just requirements of morality, public order and the general welfare in a democratic society."

This is the principle of life in a democratic society recognized throughout the world. It is that principle and no other that is contained in the provisions of the new Constitution of the USSR, which have aroused the hypocritical indignation of our "critics." SOVIET UNION ILLUS. MONTHLY, Brezhnev's Remarks *supra* note 138, at 9-10.

2. Availability to Citizens: The Interaction of Rights and Duties

After the October Revolution, the Declaration of the Rights of the Toiling and Exploited People of 1918 was drafted and was proclaimed by Soviet writers as "the beginning of a new, glorious epoch in the history of civil rights."¹⁴² The Declaration of 1918 was incorporated into the RSFSR Constitution of 1918, but referred to "toilers" only. It was to be the sole statement of civil rights of Soviet citizens (if indeed it was such a statement) until Stalin incorporated a separate chapter on civil rights into the 1936 Constitution of the Union of Soviet Socialist Republics.¹⁴³ The Declaration in reality was nothing more than a political program concerning the abolition of exploitation and made no specific mention of civil rights whatsoever.¹⁴⁴ The 1924 All-Union Constitution contained no reference to civil rights at all. It was argued that a bill of rights was unnecessary because such rights were already protected in the local constitutions of the RSFSR and other Union Republics.¹⁴⁵

Under articles 122 and 123 of the 1936 Constitution, equal rights were insured for all citizens, regardless of sex¹⁴⁶ or nationality and race.¹⁴⁷ Thus, whatever rights were available to any Soviet citizens were nominally available to all. The rights which were enumerated in the 1936 Constitution included the right to labor, the right to leisure, the right to financial security in old age or illness, the right to education, the right to freedom of speech, of the press, of assembly and meetings and of demonstration, the right to organize, the right to freedom of religious worship, the right to the inviolability of the person, and to the inviolability of the home.¹⁴⁸ A substantive

142. F. FELDBRUGGE, *ENCYCLOPEDIA OF SOVIET LAW* 118 (1973). The Declaration was proclaimed on January 12, 1918, after the victory of the October Revolution.

143. *Id.* 119. G. Brunner writes in *The Encyclopedia of Soviet Law* that the insertion of the separate chapter on civil rights in the 1936 Constitution was designed "to camouflage the true nature of the Soviet system and to deceive the outside world." *Id.*

144. *Id.* 118-19.

145. E. JOHNSON, *AN INTRODUCTION TO THE SOVIET LEGAL SYSTEM* 96-97 (1969) [hereinafter cited as JOHNSON].

146. Article 122 states that "[w]omen in the USSR shall be granted equal rights with men in all domains of economic, state, cultural, and socio-political life"

147. Article 123 states that "[t]he equality of rights of citizens of the USSR, irrespective of their nationality and race, in all domains of economic, state, cultural, and socio-political life shall be unalterable law."

148. For a more extensive analysis of these rights, see ch. III.A.3 *infra*.

limitation did exist, however, upon the availability of rights to Soviet citizens under the 1936 Constitution (although it does appear that the limitation applied without regard for sex or racial background). Although the limitation contained in the 1918 Constitution concerning the availability of rights (solely to "toilers") was not explicitly retained in the Stalin Constitution,¹⁴⁹ the message remained clear.

In article 125 of the Stalin Constitution, setting forth the right of freedom of expression (to be discussed below), the enumerated rights were provided "in conformity with the interests of the working people, and in order to strengthen the socialist system."¹⁵⁰ Although that language could be read merely as a preamble to the substantive law, in practice, it was read as a substantive limitation upon the availability of rights. All those who were considered "workers" were granted the rights; all others were considered "enemies of the state." One Soviet author has justified the language as follows:

The fact that in our country rights are given only in the interests of the workers and that there is no freedom for their enemies, demonstrates the socialist content of these rights and freedoms and is regarded by Soviet people not as an erosion or a limitation of democracy, . . . but on the contrary, as a protection of genuine socialist democracy¹⁵¹

The decision of what is in the interest of the working people is ordinarily made by the Central Committee of the Party, the Presidium, or perhaps by the Soviet judiciary. It must be noted again, however,¹⁵² that the independence of the Soviet judiciary remains a matter of question,¹⁵³ and the partisan nature of the Central Committee and the Presidium is beyond question.

Very little distinction between the 1936 and 1977 Constitutions can be discerned regarding the availability of rights. Article 39 of

149. The rights to which article 130 of the 1936 Constitution refers were nominally granted to all "citizens."

150. 1936 CONST. art. 125.

151. N. UMANSKII, *SOVETSKOE GOSUDARSTVENNOE PRAVO* 145 (1970), cited in BARRY, BUTLER, GINSBURGS, *CONTEMPORARY SOVIET LAW* 57-58 (1974). It should be noted that the Stalinist concept of "enemies of the state" has been eliminated from the 1977 Constitution.

152. See ch. III H *infra*.

153. Although article 155 of the 1977 Constitution states that "[j]udges and people's assessors are independent and subject to the law," the limits of influence of the Communist Party upon the judiciary remains a matter of question. See SHARLET, *supra* note 126, at 20.

the 1977 Constitution grants the rights enumerated in Chapter 7 to all citizens of the USSR,¹⁵⁴ in accord with the earlier provisions of the Stalin Constitution (articles 118-131).¹⁵⁵ The substantive rights enumerated in the 1936 Constitution have been reiterated and expanded in the 1977 Constitution.¹⁵⁶ As stated earlier,¹⁵⁷ the supremacy of the state may well be increased under the 1977 Constitution, however. Individual rights under the new Constitution appear clearly subordinated to the duties of citizens and are limited still further by the ideological context in which they are set forth. For example, the term "freedom of speech" cannot have as broad a meaning in the Soviet Union as it does in a Western society, because of the express limitations which are placed upon the exercise of the right, and because the exercise of the right must accord with broader precepts and goals of communism.

The provisions of the Stalin Constitution which conditioned rights upon the "obligation" of citizens to observe the law and to "safeguard and strengthen social, socialist ownership as the sacred and inviolable basis of the Soviet system"¹⁵⁸ were placed at the end of Chapter 10 which enumerated citizens' rights. Under the 1977 Constitution, the first article in Chapter 7, entitled "Basic Rights, Freedoms, and Duties of Citizens of the USSR" includes the following provision:

Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the state, or infringe the rights of other citizens.¹⁵⁹

Although the positioning of such a provision cannot be construed as having legal significance, the political importance of the placement is indeed significant.

In order that no doubt could remain regarding the interrelationship of rights¹⁶⁰ and duties under the 1977 Constitution, the drafters reiterated in considerably greater detail the duties of citizens at the end of the section as well, in articles 59-69 of the new Constitution. Article 59 of the 1977 Constitution makes very specific the interaction which was already apparent under the 1936 Constitution, stating that "[t]he realization of rights and free-

154. 1977 CONST. art. 39.

155. See 1977 CONST. arts. 34-69.

156. See ch. III A 3 *infra*.

157. See ch. III A 1 *supra*.

158. 1936 CONST. arts. 130-33.

159. 1977 CONST. art. 39, para.2.

160. See ch. III A 3 *infra*.

doms shall be inseparable from the execution by a citizen of his duties."¹⁶¹ Valery Chalidze has written that this provision should be viewed as merely a propaganda device rather than as a substantive limitation upon a citizen's rights:

This reservation has disturbed critics, but speaking in general it means absolutely nothing new for practice and has perhaps an indoctrinational significance, but not a legal one. I, of course, cannot deny that some illiterate bureaucrat will, in practice, use this reservation so as to arbitrarily limit the rights of someone on the basis that he did not fulfill some obligation. However, the laws containing rules on the limitation of rights in punishment for being remiss in fulfilling obligations are sufficiently well known, and the given article cannot be interpreted as license for the arbitrary deprivation of any rights for the non-fulfillment of any obligation whatsoever. I think this is nothing more than a not wholly successful attempt to philosophically justify the existence, in a legal system, of laws granting punishments for slighting obligations.¹⁶²

It is the opinion of the authors here that this provision of article 59 clearly has such an "indoctrinational significance," and that such significance, although not particularly innovative, must not be underestimated. Mr. Chalidze's purpose in underemphasizing this provision may be to demonstrate to Soviet legal scholars that an arbitrary deprivation of rights with this provision as its basis will be viewed as unconscionable by the Western world, and will thus be politically unwise for the Soviet Union. Whatever his purpose, however, it is short-sighted to assume that the article "cannot be interpreted as license" for such a deprivation. Indeed, it clearly *can* be so interpreted. It is interesting that in their prosecution of dissidents, Soviet authorities have not relied upon the constitutional requirements of the performance of duties by citizens, but upon the specific provisions of the Criminal Codes and other laws. Either the authorities considered the constitution not to be "normative" or they did not believe the use of its provisions to be appropriate. That fact notwithstanding, however, any arbitrary deprivation of rights by the Soviet Union will likely be viola-

161. 1977 CONST. art. 59. It must be noted that a considerable volume of reliable evidence now exists to show that rights granted under the Stalin Constitution have either been disregarded or subordinated by Soviet authorities (e.g., in the trials of such dissidents as Solzhenitsyn, Sakharov, Orlov and Zinovyev).

162. Chalidze, *Human Rights in the New Soviet Constitution* in D. BARRY, G. GINSBURGS, P. MAGGS, II SOVIET LAW AFTER STALIN 67, 72 (1978) [hereinafter cited as Chalidze].

tive of the United Nations Covenant on Civil and Political Rights and the Helsinki Accords, to which the USSR is a party.¹⁶³ It would appear equally unwise from a political standpoint for the Soviet Union to be forced to admit that its new Constitution does not comport with its international obligations.

The 1936 Constitution contained specific provisions creating obligations on the part of citizens to observe the Constitution and execute the laws,¹⁶⁴ to safeguard and strengthen social, socialist ownership,¹⁶⁵ to defend the fatherland as a "sacred duty,"¹⁶⁶ and to serve in the military.¹⁶⁷ All of the substantive duties enumerated in the 1936 Constitution and described above are reiterated in the 1977 Constitution.¹⁶⁸ In addition, other duties regarding the concern for raising children,¹⁶⁹ the protection of nature,¹⁷⁰ the preservation of historical monuments,¹⁷¹ and the furtherance of international cooperation¹⁷² are also imposed. It would appear that the assertion of any or all of an individual's constitutional rights will always be conditioned upon these constitutional duties.

3. Substantive Rights of Citizens

As indicated above, neither the 1918 nor the 1924 Constitution contained a provision specifically listing the rights and duties of citizens. Stalin's Chapter X on the Basic Rights and Duties of Citizens was considered one of the primary innovations of the 1936 Constitution.¹⁷³ It should not be surprising that the first of the rights which is enumerated under both the 1936 and 1977 constitutions is the citizen's right to labor.¹⁷⁴ The right to work was included in the 1936 Constitution after Stalin had abolished unemployment by legislation in 1931.¹⁷⁵ In fact, the first six articles in the 1936 Constitution related to social and economic, rather than civil, rights. Article 119 granted to citizens the right to leisure;

163. See Hazard, *supra* note 4, at 20-21.

164. 1936 CONST. art. 130.

165. *Id.* art. 131.

166. *Id.* art. 133.

167. *Id.* art. 132.

168. 1977 CONST. arts. 59-65.

169. *Id.* art. 66.

170. *Id.* art. 67.

171. *Id.* art. 68.

172. *Id.* art. 69.

173. See STRONG, *supra* note 95, at 167.

174. 1936 CONST. art. 118; 1977 CONST. art. 40.

175. See STRONG, *supra* note 94, at 166-67.

article 120 accorded citizens the right to financial security in old age.¹⁷⁶ Article 121 granted to citizens the right to education, and articles 122 and 123 set forth the equal rights provisions, "in all domains of economic, state, cultural, and socio-political life."¹⁷⁷ The inclusion of these economic rights provisions was apparently designed primarily as a propaganda tool, and was extremely effective in that regard during the depression years.¹⁷⁸

The 1977 Constitution similarly articulates economic before civil rights. Although the articles regarding these rights have remained in virtually the same substantive order, each of the rights has been more specifically defined.¹⁷⁹ For example, the right to labor now sets forth language amounting to a minimum wage requirement, and nominally insures the citizen the right to choose a vocation.¹⁸⁰ The article providing citizens of the USSR with the right to rest and leisure now includes a 41-hour work week provision.¹⁸¹ This inclusion spurred considerable criticism when the draft of the 1977 Constitution was submitted for public consideration.¹⁸² The Program of the Communist Party had called for achievement of a 35-hour work week by 1971, and even further reduction by 1981.¹⁸³ The final text of the Constitution nevertheless included the provision, with only minor revision.¹⁸⁴ The work week provision expressly does not apply to collective farms (*kolkhozes*), whose hours are to be regulated by the *kolkhozes* themselves.

The right of citizens to "financial security . . . in the event of illness"¹⁸⁵ under the 1936 Constitution has become the basis for a specific provision on the right to health protection under the new Constitution.¹⁸⁶ The new provision insures the right to health protection through free, qualified health care, improvement of work safety, environmental protection, and preventive research.¹⁸⁷ The

176. 1936 CONST. art. 119, 120.

177. *Id.* arts. 121-23.

178. See JOHNSON, *supra* note 142, at 97.

179. 1977 CONST. arts. 40-47.

180. *Id.* art. 40.

181. *Id.* art. 41.

182. Luryi, *The New Constitution of the USSR From Draft to Law: An Analysis of the Changes Adopted*, in D. BARRY, G. GINSBURGS, P. MAGGS, II SOVIET LAW AFTER STALIN 35, 50 (1978) [hereinafter cited as Luryi].

183. *Id.* 51 n.32.

184. The 41-hour work week provision now states that a work week has been established "not exceeding" 41 hours.

185. 1936 CONST. art. 120.

186. 1977 CONST. art. 42.

187. *Id.*

citizens' rights to housing,¹⁸⁸ to enjoy cultural benefits,¹⁸⁹ to freedom of scientific, technical, and artistic work,¹⁹⁰ and to take part in management and public affairs,¹⁹¹ have all been accorded new, separate provisions which did not exist under the 1936 Constitution.¹⁹² The right to education has been strengthened to include universal, compulsory ten-year secondary education;¹⁹³ under the Stalin Constitution, an 8-year program was compulsory.¹⁹⁴

Under article 125 of the 1936 Constitution, citizens are guaranteed freedom of speech, freedom of the press, freedom of assembly, and freedom of demonstration,¹⁹⁵ subject, of course, to the "state interest" and "performance of duties" limitations described above. Under the 1977 Constitution the rights of freedom of expression are expanded and reiterated. In addition to the statement of the freedom of speech, of the press, of assembly and meetings, and of demonstrations included in article 50, article 49 now allows a citizen to criticize his work conditions, and prohibits the persecution of any individual for such criticism.¹⁹⁶ Article 50 offers a substantive deviation from its corresponding 1936 provision by referring to the freedoms listed therein as "political freedoms" and not civil rights. Valerie Chalidze points out the fact that this may prove to be an exceedingly important deviation:

This is more important than may appear at first glance since if a right is recognized as civil in Soviet legislation, then a citizen may claim its judicial defense in a civil judicial proceeding, inasmuch as there is no special mandate for the administrative defense of such a right. In legal literature, there has long been apparent a tendency toward considering freedom of speech and the other rights analyzed here as political. Now this tendency has triumphed in the text of the constitution. Paradoxical though it may be, the presence of guarantee of a right in the constitution does not at all assure the judicial protection of these rights.¹⁹⁷

188. 1977 CONST. art. 44.

189. *Id.* art. 46.

190. *Id.* art. 47.

191. *Id.* art. 48.

192. *See* 1977 CONST. arts. 44-48.

193. 1977 CONST. art. 45.

194. 1936 CONST. art. 121.

195. *Id.* art. 125.

196. 1977 CONST. arts. 49 & 50. *See* Ramundo, *The Brezhnev Constitution: A New Approach to Constitutionalism?*, 13 J. INT'L L. & ECON. 41, 61-65 (1978) [hereinafter cited as Ramundo].

197. Chalidze, *supra* note 159, at 76-77. Otto Luchterhandt further suggests that characterization of such rights as "political" is intended as an opportunity

The Constitution of 1936 at article 124 granted to citizens the "freedom of religious worship."¹⁹⁸ That language was substituted for the term "freedom of religious and antireligious propaganda" which had been originally contained in the Declaration which was included in the RSFSR Constitution of 1918,¹⁹⁹ and was altered to "freedom of religious worship" in the revised RSFSR Constitution of 1927.²⁰⁰ Under the 1977 Constitution at article 52, the citizen is now *guaranteed* "[f]reedom of conscience, that is, the right to confess any religion or not to confess such, to perform religious cults, or to carry on atheistic propaganda"²⁰¹ Whether or not the new language implies an increased substantive religious freedom remains a matter of question. In light of the apparent mistreatment of Soviet Jews in the two years since the adoption of the new Constitution, it may be speculated that only the language itself has undergone change. It is noteworthy, however, that the language adopted in article 52 was changed from the original draft of the 1977 Constitution. Under the adopted version the freedom is "guaranteed," whereas under the original draft it was merely "recognized."²⁰²

B. *Status of Nationalities Under the Constitution*

Soviet policy concerning the rights and privileges of nationalities is one area in which continuity is particularly apparent, and in at least one respect, the continuity was not to be expected. Article 123 of the 1936 Constitution regarding the equality of citizens "irrespective of their nationality and race"²⁰³ has been reiterated in a broader context in article 34 of the 1977 Constitution, which states:

Citizens of the USSR are equal before the law, without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion type and nature of occupation, domicile, or other status.

to voice rank-and-file criticism. See Lauchterhandt, *Die Grundrechte in der neuen sowjetischen Unionverfassung* (Fundamental Rights in the New Soviet Constitution) 28 *OSTEUROPA* 28, 36 (1978).

198. 1936 CONST. art. 124.

199. JOHNSON, *supra* note 145, at 99.

200. STRONG, *supra* note 95, at 167.

201. 1977 CONST. art. 52.

202. *Draft Constitution (Basic Law) of the Union of Soviet Socialist Republics* art. 52, reprinted in BUTLER, *supra* note 126, at 33, 42 [hereinafter cited as *Draft Constitution*].

203. 1936 CONST. art. 123, para. 1.

The equal rights of citizens in the USSR are guaranteed in all fields of economic, political, social, and cultural life.²⁰⁴

Article 36 of the new Constitution deals more specifically with the matter of equal rights for different nationalities, and emphasizes a "drawing together of all the nations and nationalities of the USSR by educating citizens in the spirit of Soviet patriotism and social internationalities" ²⁰⁵ This "drawing together" of nationalities does not represent a significant shift of Soviet policy or attitude, but is nonetheless new language for which no comparable language existed in the 1936 Constitution.

The rights of union republics have not been altered significantly, although the Constitution of 1977 has instituted several of the limitations upon union republics which have long been known to exist in practice. Indeed, at least one of the rights of union republics which was enumerated in the 1936 Constitution might well have been expected to be altered. It has long been acknowledged that the sovereignty of union republics which was protected under Chapter II of the 1936 Constitution has been more illusory than realistic. Nevertheless, the provisions in the new Constitution regarding the federal "multinational" nature of the Union of Soviet Socialist Republic²⁰⁶ and protecting the "free self-determination of nations" offer cogent evidence of the fact that the Party and its drafters are not yet prepared to abandon the Stalin policies, however illusory.²⁰⁷

Most notable among the provisions which have been reiterated is article 72 of the 1977 Constitution which states that "[e]ach Union Republic shall retain the right freely to secede from the USSR."²⁰⁸ The language parallels almost exactly article 17 of the Stalin Constitution.²⁰⁹ One commentator who was formerly a member of several legal research institutes which participated in the drafting of the new Constitution has stated that it was "widely expected" that the right of free secession would be abolished.²¹⁰ In

204. 1977 CONST. art. 34.

205. *Id.* art. 36.

206. 1977 CONST. art. 70.

207. Although the drafters of the new Constitution have done nothing to substantively revise the relationship among the nationalities and the federal state, a new term has been coined to describe that relationship: "socialist federalism." See Ramundo, *supra* note 196, at 53.

208. 1977 CONST. art. 72.

209. See 1977 CONST. art. 72.

210. Shtromas, *supra* note 5, at 266-67.

fact, the right had been deleted from several drafts prior to the final draft which Brezhnev presented to the people in May, 1977.²¹¹

The retention of the right of free secession notwithstanding, it must be acknowledged that the new Constitution is strongly centralist in nature, and that the position of the union republics has been weakened still further by its adoption. The reference in article 70 of the new Constitution to the USSR as an "integral" union state does not fully comport with notions of a right of free secession.²¹² The right of union republics to have their own republic military formations has been deleted entirely.²¹³ Article 19 further states:

The state helps enhance the *social homogeneity* of society, namely the elimination of class differences and of the essential distinctions between town and country and between mental and physical labour, and the *all-round development and drawing together of all the nations and nationalities of the USSR*.²¹⁴

Furthermore, under the 1936 Constitution, all sovereign authority not expressly granted to the Union of Soviet Socialist Republics was left to the union republics.²¹⁵ Under the 1977 Constitution, however, this residual authority is vested in the USSR. Article 73 states:

The jurisdiction of the Union of Soviet Socialist Republics, as represented by its highest bodies of state authority and administration, shall cover:

12) . . . settlement of other matters of All-Union importance.²¹⁶

The dichotomy between the retention of the free secession right of individual union republics and the obvious strengthening of the sovereignty of the USSR serves to point up two very basic and often conflicting purposes of the Constitution. On the one hand, the new Constitution is intended to reflect the political and social realities of life in the Soviet Union; it is intended to be a descriptive and normative document according to which the Soviet populus can be indoctrinated. The strengthening of the union is clearly fostered by adoption of provisions which accord with the state of the Union today. The retention of constitutional authority sup-

211. *Id.*

212. *Id.* 267. See 1977 CONST. art. 70.

213. 1936 CONST. art. 18a.

214. 1977 CONST. art. 19, para. 2.

215. 1936 CONST. art. 15.

216. 1977 CONST. art. 73.

porting the sovereignty of the union republics in light of the practical and political powerlessness of the union republics could have done nothing to enhance the credibility of federalism in the Union and its legal system.

On the other hand, the Constitution is a political device and a propaganda tool. The abolition of the right of the unions to freely secede could have hurt the USSR in either of two ways. First, it could well have spurred increased discontent among the peoples of the individual republics regarding their political impotence. Second, and perhaps more importantly, it is possible that the USSR feared international repercussions and perhaps even a weakening of its own international posture. The position of the Soviet Union in the United Nations is significantly enhanced by the separate membership of the Ukrainian and Byelorussian Republics. Separate membership for those republics in the United Nations has in part been predicated upon their ability to secede from the USSR,²¹⁷ as well as upon their ability to conduct foreign affairs independently.²¹⁸ Professor Krylov, in support of the USSR's position that the USSR, as well as the union republics, should be treated as separate subjects under international law, stated in 1947 that "[s]ome bourgeois writers, referring to the right of Union Republics to leave the Union, have expressed doubts as to the nature of the USSR as a state: if any Union Republic can secede from the USSR, is the USSR a state? . . . However, in spite of the fact, or perhaps thanks to the fact that the USSR grants every republic the right to withdrawal, the USSR is a monolithic unit."²¹⁹ Under the 1977 Constitution, the monolithic, and thus international, nature of the Soviet Union is clearly preserved. By retention of the secession right of union republics, even though the right is devoid of practical utility, their status in the world community has also been preserved.

C. *The Role of the Communist Party*

Pravda and *Izvestia* published the text of Leonid Brezhnev's speech on October 4, 1977, to the USSR Supreme Soviet urging the

217. See *The Member-Republics of the U.S.S.R. as Subjects of the Law of Nations*, 4 INT'L & COMP. L.Q. 629 (1955). See also 1 M. WHITEMAN, DIGEST OF INTERNATIONAL LAW 406 (1963) [hereinafter cited as WHITEMAN].

218. The 16 republics were constitutionally declared independent in the conduct of their foreign affairs in 1944. See 3 PEASLEE, CONSTITUTIONS OF NATIONS 480, 486-87 (2d ed. 1956).

219. WHITEMAN, *supra* note 217, at 410.

adoption of the new Constitution. Concerning the role of the Communist Party (CPSU), Brezhnev's remarks were recorded as follows:

Most bourgeois commentators also greatly dislike the draft's provisions that speak of the CPSU's role in the life of Soviet society. They make a great noise about what they call the "proclamation of the dictatorship of the Communist Party," "the primacy of the Party over the state," "a dangerous intertwining of Party and state agencies" and "the destruction of the distinctions between Party and state."

What can one say on this? The motives for the attack are obvious. The Communist Party is the vanguard of the Soviet people, their most class-conscious and advanced segment, inseparable from the people as a whole. (*Prolonged applause.*) The Party has no interests except the interests of the people. To try to counterpose the Party to the people, to talk about the "dictatorship of the Party," is tantamount to trying to counterpose, let us say, the heart to the rest of the human body. (*Applause.*) . . . As Soviet people accomplish more and more complicated and responsible tasks in the construction of communism, the Communist Party's role will grow more and more. And this will lead not to restriction but to the ever deeper development of socialist democracy-in full conformity with our Party's Program. (*Applause.*)²²⁰

The CPSU had been mentioned only twice in the 1936 Constitution. In article 141, the right to nominate candidates for soviets of working people's deputies was granted to Party organizations, along with social organizations, working people's societies, trade unions, cooperatives, youth organizations, and cultural societies.²²¹ The strongest statement regarding the party was contained in article 126, the primary purpose of which was to set forth the right of citizens to unite in mass organizations. Last among the listing of organizations in article 126 was the CPSU. The clause in article 126 stated that:

[t]he most active and conscientious citizens from the ranks of working class, the toiling peasantry, and the laboring intelligents shall be voluntarily united in the Communist Party of the Soviet Union, which is the vanguard of the working people in their struggle to build a communist society and is the leading core of all organizations of working people, both social and state.²²²

220. 29 CURRENT DIG. SOVIET PRESS (No. 39) 7 (October 26, 1977).

221. Compare 1936 CONST. art. 141 with 1977 CONST. art. 100.

222. 1936 CONST. art. 126.

Despite the fact that the CPSU did not merit even a separate sentence in the 1936 Constitution, Stalin's speech on the Draft Constitution indicated that the singular position of the Party was not weakened by the passing references in the Constitution:

I must admit that the Draft of the new Constitution does preserve the regime of the dictatorship of the working class, just as it also preserves unchanged the present leading position of the Communist Party of the U.S.S.R. As to freedom for various political parties, we adhere to somewhat different views. A party is a part of a class, its most advanced part. Several parties, and consequently, freedom for parties, can exist only in a society in which there are antagonistic classes whose interests are, say, capitalists and workers, landlords and peasants, kulaks and poor peasants, etc. But in the U.S.S.R. there are no longer such classes as the capitalists, the landlords, the kulaks, etc. In the U.S.S.R. there are only two classes, workers and peasants, whose interests—far from being mutually hostile—are, on the contrary, friendly. Hence, there is no ground in the U.S.S.R. for the existence of several parties, and, consequently, for freedom for these parties. In the U.S.S.R. there is ground only for one party, the Communist Party. In the U.S.S.R. only one party can exist, the Communist Party, which courageously defends the interests of the workers and peasants to the very end. And that it defends the interests of these classes not at all badly, of that there can hardly be any doubt.²²³

Whatever the reason for the dichotomy between Stalin's rhetoric and the sparse treatment of the CPSU under the 1936 Constitution, no such dichotomy exists between Brezhnev's rhetoric and the new Constitution. The position of the Communist Party is firmly entrenched under the 1977 Constitution. The CPSU now merits a separate provision at the beginning of the Constitution (article 6) which states:

The leading and guiding force of Soviet society and the nucleus of its political system, of all state organizations and public organizations, is the Communist Party of the Soviet Union. The CPSU exists for the people and serves the people.

The Communist Party, armed with Marxism-Leninism, determines the general perspectives of the development of society and the course of the home and foreign policy of the USSR, directs the great constructive work of the Soviet people, and imparts a planned, systematic and theoretically substantiated character to their struggle for the victory of communism.

223. Stalin, *supra* note 101, at 239-40.

All Party organizations shall function within the framework of the Constitution of the USSR.²²⁴

The authority which is accorded to the Party is pervasive; the Party determines domestic and foreign policy, directs the work of the people, and prepares the people for the victory of communism. If not a "victory for communism," the new Constitution is clearly a victory for the Party. The CPSU has not increased in power as a result of the adoption of the new Constitution; the power which it has always possessed, however, has now been accorded clear constitutional legitimacy.²²⁵

It must be noted that in order to temper the tremendous grant of power authorized by the Constitution, and perhaps to silence Western critics of this provision of authority, the final sentence in article 6 was added to the final text.²²⁶ The requirement that the party function "within the framework of the Constitution" had not been a part of the draft.²²⁷ Brezhnev justified the inclusion of the requirement on the basis of a similar statement adopted at the behest of Lenin by the Eighth Congress of Soviets.²²⁸

D. *Foreign Relations Under the New Constitution*

Chapter Four of the 1977 Constitution sets forth articles on Soviet Foreign Policy which had no counterpart in the 1936 Constitution. The need to incorporate such a section in the new Constitution was, in the words of Leonid Brezhnev, the result of "fundamental changes in the international position of the Soviet Union, the immense growth of its influence in world politics and the close interrelationship of the internal and external factors of our development"²²⁹

The three articles contained in Chapter Four (articles 28-30) offer no significant change in Soviet foreign policy, but are primarily intended as a descriptive statement of extant policy. Chapter Four reflects explicitly the influence of Nikita Krushchev and the

224. 1977 CONST. art. 6.

225. Boris Meisner in Meisner, *Partei, Staat und Nation in der neuen Verfassung der USSR* (The Party, State and Nation in the New Constitution of the USSR), 28 OSTEUROPA 3, 10 (1978) [hereinafter cited as Meisner], suggests that the Party has now acquired power to exercise governmental as well as social functions.

226. See Hazard, *supra* note 4, at 39.

227. *Draft Constitution*, reprinted in BUTLER, *supra* note 128, at 35.

228. 29 CURRENT DIG. SOVIET PRESS (No. 39) 5 (October 26, 1977).

229. *Id.* (No. 23) 8 (July 6, 1977).

1961 Party Program, with references to foreign policy goals of "peaceful coexistence" in article 28 and to the promotion of mutual assistance through "socialist internationalism" in article 30. Both concepts were originated in Khrushchev's 1961 Party Program.²³⁰

Two particular provisions in the chapter were amended following the public discussion of the draft and should be mentioned here. In article 28, the "foreign policy of the USSR" was amended so that it is now aimed, *inter alia*, at "achieving universal and complete disarmament."²³¹ One author has commented that this goal is "a utopian one, a pious and unattainable wish."²³² However utopian or unattainable, the insertion would appear directly related to the then-forthcoming SALT negotiations with the United States. The other change in Chapter Four may or may not be a substantive one. Under the draft released in May 1977, article 29 set forth that relations of the USSR would be based *inter alia*, upon observance of the principles of "mutual renunciation of the use or threat of force" and upon "sovereign equality."²³³ The Constitution adopted in October 1977 reversed the order of these principles, placing "sovereign equality" first. One author, Yuri Luryi, has postulated that the juxtaposition may have been a political expedient, since the Soviet Union frequently accuses the United States of sovereignty violations.²³⁴ The better view would appear to be that the change was made in order that the listing of principles in article 29 as adopted would comply even in sequence with the fundamental principles which were articulated in Basket One of the Helsinki Final Act of August 1, 1975.²³⁵

E. Electoral Reform

Articles 95-102 of the 1977 Constitution set forth the nature and legal requirements of the Soviet electoral system. Although no earth-shattering changes have been made in this regard, several alterations are indeed noteworthy. Article 95 of the new Constitu-

230. See Ramundo, *supra* note 196, at 54. See also SHARLET, *supra* note 126, at 14.

231. Cf. *Draft Constitution* art. 28, reprinted in BUTLER *supra* note 126, at 38 (the "disarmament" provision did not exist in the draft provision).

232. Luryi, *supra* note 182, at 47.

233. See *Draft Constitution* art. 29 reprinted in BUTLER, *supra* note 128, at 38.

234. Luryi, *supra* note 182, at 47-48.

235. 73 DEP'T STATE BULL. 323, 324. See also Ramundo, *supra* note 193, at 55 n.93.

tion is a concise restatement of 1936 Constitution article 134, providing that election of deputies to all soviets shall be on the basis of universal, equal, and direct suffrage.²³⁶ Under corresponding provisions in the 1918 and 1924 constitutions, deputies to town and rural soviets were elected by the voters by a show of hands.²³⁷ The larger areas were governed by Congresses of Soviets which were elected by the lower soviets.²³⁸ Elections to the All-Union Congress under the 1924 Constitution were similarly indirect. Cities in the Congress were represented by one delegate for every 25,000 electors, and provinces represented by one delegate for every 125,000 electors.²³⁹ The 1936 Constitution, and subsequently the 1977 Constitution, have eliminated indirect election of deputies.

Article 96 of the draft Constitution was a source of considerable discussion following the presentation of the May 1977 draft Constitution, and underwent one substantive revision as a result. The draft article 96 lowered the age of election to soviets from 23²⁴⁰ to 18.²⁴¹ Under the adopted version of the Constitution, the lowering of the age of election to 18 was retained except with respect to election to the USSR Supreme Soviet, for which the age of election was lowered from 23 to 21.²⁴² Brezhnev in announcing the draft had referred to the provision lowering the age of election as "real evidence of the concern of our society with the young people and our faith in youth."²⁴³ In his statement commending the amended version to the Supreme Soviet for adoption, Brezhnev stated:

As you know from the press, during the nationwide discussion a lively debate arose over the age at which citizens should have the right to be elected to Soviets. Broad support was given to the article of the draft which states that citizens who have reached the age of 18 have the right to be elected to all Soviets. But there were also proposals to set the age qualification at 21, 23 and even 30 years.

In considering this question, the Constitutional Commission proceeded from the premise that labor collectives and public organizations, in nominating candidates for Deputy, conduct a comprehensive discussion of their qualities and make high demands on them. This is a reliable guarantee that only worthy comrades capable of

236. See 1936 CONST. art. 134.

237. STRONG, *supra* note 95, at 168.

238. *Id.*

239. CARR, *supra* note 15, at 142-44.

240. 1936 CONST. art. 135.

241. *Draft Constitution* art. 96 reprinted in BUTLER, *supra* note 128, at 48.

242. 1977 CONST. art. 96.

243. Luryi, *supra* note 182, at 56.

effectively fulfilling the difficult duties of Deputy will be elected to the Soviets. Of course, there are a good many such persons among our young people. Therefore, it has been possible to set the minimum age at 18 years for election to all Soviets except the USSR Supreme Soviet. Since the USSR Supreme Soviet makes the most responsible decisions affecting the whole state, the right to be elected to it will be granted to citizens who have reached the age of 21.²⁴⁴

Articles 97 and 98 are virtual reiterations of counterpart provisions in the 1936 Constitution.²⁴⁵ Article 99 of the new Constitution, however, goes beyond simple restatement. Article 140 of the 1936 Constitution had set forth that “[v]oting in elections of deputies shall be secret.”²⁴⁶ Article 99 goes a step further, reiterating article 140 and then declaring that “control over voters’ exercise of the franchise is inadmissible.”²⁴⁷ Although the Stalin Constitution provision had seemed clear enough, it was felt that the inclusion of reinforcing language was necessary, perhaps to dispel the criticisms of Western nations to Soviet elections. According to one author, the addition of this provision was originally intended to limit the state’s ability to “check up” on voters to determine who was not voting for the single name on the Soviet ballot (e.g., returning ballots blank or “writing in” something other than a vote for the Party).²⁴⁸

The only article to be added *in toto* from the draft submitted in May 1977 was article 102, concerning electors’ mandates to deputies. The system was described in the *Great Soviet Encyclopedia* as follows: “The right to provide a mandate to the deputies belongs to the meetings of the voters who are empowered to nominate candidates Only the proposals of citizens which pertain to the work of the Soviets or individual deputies, and which were approved by the deputies [will be construed as a mandate.]”²⁴⁹

244. 29 CURRENT DIG. SOVIET PRESS (No. 39) 3 (October 26, 1977).

245. 1936 CONST. arts. 136 & 139 (respectively).

246. 1936 CONST. art. 140.

247. 1977 CONST. art. 99.

248. Luryi, *supra* note 182, at 59. Luryi argues that a subtle language change in article 99 has rendered the adopted version weaker than the draft version. The argument seems more speculative than realistic, however. Despite the new voting provisions no changes in the voting behavior were observable in the latest elections of the Supreme Soviet. *Izvestia* (and *Pravda*) reported a complete turnout of voters and a virtually unanimous vote (99.8 percent) in favor of the nominated candidates.

249. *Id.* 60 nn. 47 & 48. Whether the language “approved by the deputies”

Brezhnev justified the inclusion of the new article by stating:

Many comrades, including Deputies to local Soviets, have proposed the inclusion in the Constitution of a new article—on voters' mandates. Mandates express the most diverse needs of the population and reflect the concrete interests of individual groups of working people and of society as a whole. Therefore, the fulfillment of mandates is an important part of the work of the Soviets and their Deputies. Suffice it to say that in the last two years alone more than 700,000 voters' mandates have been fulfilled. This is a real manifestation of socialist democracy. It is necessary that not only Deputies but also executives of enterprises, collective farms, construction projects and institutions pay the proper attention to the implementation of mandates.²⁵⁰

F. *Economic Foundations of the Soviet Union*

Chapter 2 of the 1977 Constitution contains nine articles (articles 10-18) which describe the basis of the Soviet Union's economic system. The provisions contained therein offer no substantive departures from the corresponding provisions in the 1936 Constitution. A few subtleties do exist, however, which merit consideration and which may indicate a slight shift in Soviet economic policy in the years ahead.

Perhaps the most important of these inferential revisions involves the concept of state property and ownership of property by collective farms (kolkhozes). Throughout the decade of the 1960's rumors were voiced suggesting that the ownership of property by kolkhozes would be abolished as permissible "socialist ownership" under the new Constitution and the kolkhozes transformed into state farms.²⁵¹ George Ginsburgs wrote during the 1960's of a transitional form of ownership between traditional state property and ordinary collective farm ownership, which he referred to as "the inter-collective farm ownership of enterprises and mixed cooperative-state undertakings."²⁵²

The new Constitution skirts the issue in article 11; the Constitution sets forth that ". . . The land, its minerals, waters, and forests are the exclusive property of the state. The state owns the

implies that a mandate will not be considered without unanimous approval of deputies is unknown. The practice of fulfilling mandates since the adoption of the new Constitution appears to indicate that unanimity is not required.

250. 29 CURRENT DIG. SOVIET PRESS (no. 39) 2-3 (October 26, 1977).

251. See 1936 CONST. art. 5.

252. Hazard, *supra* note 4, at 10 n.20.

basic means of production in industry, construction and agriculture . . .”²⁵³ Article 12 then goes on to state that “The property of collective farms and other co-operative organizations, and of their joint undertakings, *comprises the means of production* and other assets which they require for the purposes laid down in their rules. The land held by collective farms is secured to them for their free use in perpetuity.”²⁵⁴

Thus it appears that “property” of the kolkhoze is also the property of the state. That internal inconsistency is even more incomprehensible when compared against article 7 of the 1936 Constitution, which stated:

Each collective farm household shall, in addition to the basic income from the social collective farm economy, have for personal use a small plot of land and in personal ownership a subsidiary husbandry on the household plot, a dwelling house, productive livestock, poultry, and minor agricultural implements, according to the character of the agricultural *artel*.²⁵⁵

The third paragraph of article 12 of the 1977 Constitution provides further evidence that some change may be on the horizon for the nature of ownership of kolkhozes: “The state promotes development of collective farm and cooperative property and its *approximation of state property*.”²⁵⁶ John Hazard has posited that this may be a belated effort to implement an additional Stalinist policy. In 1952 Stalin’s book entitled *Economic Problems of the Soviet Union* had called for transformation of the collective farm structure into a state enterprise structure.²⁵⁷ It is noteworthy as well that the draft of the 1977 Constitution article 12 had granted ownership to kolkhozes of “the means of production and other property *which serve the realization of their charter task*.”²⁵⁸ In the final text, however, ownership of kolkhozes was limited to the “means of production and other property *needed for them to carry out charter tasks*.”²⁵⁹ This limitation may prove to be far more than

253. 1977 CONST. art. 11 (emphasis added).

254. *Id.* art. 12. paras. 2 & 3 (emphasis added).

255. 1936 CONST. art. 7. Whether all of those items are now included within the purview of “required assets” under 1977 Constitution article 11 is a matter of question.

256. 1977 CONST. art. 12 (emphasis added).

257. Hazard, *supra* note 4, at 10.

258. *Draft Constitution* art. 11 reprinted in BUTLER *supra* note 128, at 36. *Draft* art. 11 was renumbered as art. 12 in the adopted version.

259. 1977 CONST. art. 12 (emphasis added).

semantic in the future.²⁶⁰

The draft of the 1977 Constitution was much more ambitious in the pronouncements of economic precepts. The centralized concept of the economy is clearly set out in article 16. It is more direct in its expression of a unitary rather than federalist government system in the Soviet Union than the political provisions of the constitution. The 1936 Constitution was less explicit in this regard. The centralist approach is further reinforced by two interesting side developments: First, an article permitting the participation of collectives and social organizations in the management of enterprises (article 16 of the draft) was dropped from the final text; and, secondly, under the cabinet structure of the union government, of 80 designated ministries and commission chairmanships, 72 hold offices dealing with economic, financial, industrial or trade matters.²⁶¹

Other subtle revisions in the economic chapter of the new Constitution include the following: Under article 10, trade union property has been added as a permissible type of "socialist property."²⁶² This inclusion was merely a step to legitimize that which had been established under the 1961 Fundamental Principles of Civil Legislation.²⁶³ In article 14, the principle which had been enunciated under the Stalin Constitution as "[h]e who does not work, neither shall he eat"²⁶⁴ has now been deleted. A companion principle that "[f]rom each according to his ability, to each according to his work,"²⁶⁵ has been retained. Article 9 of the 1936 Constitution had recognized a system of "small-scale private economy of individual peasants and artisans based on personal labor."²⁶⁶ That provision has now been expanded in article 17 of the 1977 Constitution, which states that:

260. Luryi states that "[i]f one takes into account that the necessary character of property is determined not by the collective farms themselves but by the Party and government organs of the region, it is evident that with the change of one word, the right of kolkhozes to own and acquire property has been changed and severely limited." Luryi, *supra* note 182, at 42.

261. See *Izvestia*, April 20, 1979 on the formation of the Council of Ministers of the USSR by the 1st Session of the 10th Supreme Soviet of the USSR. The belief in a centrally-directed economy is reinforced by articles 14 and 15 of the 1977 Constitution, as well as by the Preamble.

262. 1977 CONST. art. 10.

263. SHARLET, *supra* note 126, at 12.

264. 1936 CONST. art. 12.

265. Compare *id.* art. 12 with 1977 CONST. art. 14.

266. 1936 CONST. art. 19.

[t]he law permits labour in handicrafts, farming, the provision of services for the public, and other forms of activity based exclusively on the personal work of individual citizens and members of their families. The state makes regulations for such work to ensure that it serves the interests of society.²⁶⁷

G. *The Death of the Proletariat*

The RSFSR Constitution of 1918 declared that the purpose of the republic was "the establishment of the dictatorship of the urban and rural workers, combined with the poorer peasantry, to secure the complete suppression of the bourgeoisie, the abolition of man by man, and the establishment of socialism."²⁶⁸ Article 2 of the 1936 Constitution had further developed the concept, stating:

Soviets of working people's deputies which grew and became strong as a result of the overthrow of the landlords and capitalists and the victory of the dictatorship of the proletariat shall constitute the political foundation of the USSR.²⁶⁹

The 22nd CPSU Congress of Soviets in 1961 announced that the dictatorship of the proletariat had fulfilled its mission, and had become a "state of the entire people."²⁷⁰ Although some Western critics have justifiably pointed out that such a concept is not in accord with Marxist-Leninist dogma,²⁷¹ the concept has now been incorporated into the new Constitution to replace the proletarian dictatorship.²⁷² Article 1 of the new Constitution declares that the USSR is a "socialist state of the whole people,"²⁷³ and article 2 vests in the people "[a]ll power in the USSR."²⁷⁴

The "state of the entire people" has become such a rudimentary concept in Soviet thought that in Brezhnev's address to the CPSU Central Committee in May 1977, he did not feel it necessary to elaborate to any great degree upon the change. He stated only that:

[w]ith the building of mature socialism and the shift of all strata of the population to the ideological-political positions of the working

267. 1977 CONST. art. 17.

268. STRONG, *supra* note 95, at 163.

266. 1936 CONST. art. 2.

270. Ramundo, *The Soviet State of the Entire People—Non-Marxist "Living Marxism,"* 32 GEO. WASH. L. REV. 315, 316 n.3 (1962-63).

271. *Id.* 325-27.

272. 1977 CONST. arts. 1 & 2.

273. *Id.* art. 1.

274. *Id.* art. 2.

class, our state, which came into being as a dictatorship of the proletariat, has developed into a state of all the people.²⁷⁵

In fact the concept has become so widely regarded that some Soviet authors have begun to refer to the 1977 Constitution as "the Constitution of the State of the Entire People."²⁷⁶

A closely related provision in the 1977 Constitution which is perhaps a more surprising departure from the 1936 Constitution is the statement in article 1 that the USSR expresses "the will and interests of the workers, peasants, and intelligentsia."²⁷⁷ The inclusion of the intelligentsia is a clear departure from Stalinist thought. In announcing the draft of the 1936 Constitution, Stalin had stated:

It may be asked: What about the working intelligentsia? The intelligentsia has never been a class, and never can be a class—it was and remains a stratum, which recruits its members from among all classes of society. In the old days the intelligentsia recruited its members from the ranks of the nobility, of the bourgeoisie, partly from the ranks of the peasantry, and only to a very inconsiderable extent from the ranks of the workers. In our day, under the Soviets, the intelligentsia recruits its members mainly from the ranks of the workers and peasants. But no matter where it may recruit its members, and what character it may bear, the intelligentsia is nevertheless a stratum and not a class The rights of the various strata of Soviet society, including the rights of the working intelligentsia, are dealt with mainly in Chapters X and XI of the Draft Constitution. It is evident from these chapters that the workers, the peasants, and the working intelligentsia enjoy entirely equal rights in all spheres of the economic, political, social, and cultural life of the country. Consequently, there can be no question of an infringement upon the rights of the working intelligentsia.²⁷⁸

Perhaps as a result of the rather adamant position which Stalin had taken in opposing the inclusion of the intelligentsia among the workers and peasants, Brezhnev made only passing reference to the change in both of his two major addresses on the 1977 Constitution.²⁷⁹ The modesty of Brezhnev's rhetoric on this subject may

275. 29 CURRENT DIG. SOVIET PRESS (No. 23) 6 (July 6, 1977).

276. See Kudriavtsev, *The Constitution of the State of the Entire People*, 17 SOVIET L. & GOV'T 3 (Summer, 1978).

277. 1977 CONST. art. 1.

278. Stalin, *supra* note 101, at 240-41.

279. See 29 CURRENT DIG. SOVIET PRESS (No. 23) 6 (July 6, 1977); *Id.* (No. 39) 2 (October 26, 1977).

hide a much more significant change. The Soviet society is acquiring "class" in the academic and vernacular senses of that word. There has been an upward mobility as the peasants and workers of the revolutionary era produced children who became more educated and privileged. This development through several generations has brought into existence a strong and vocal social group which clamors for recognition (many of the "dissenters" are actually the more impatient and restless members of this group). The language providing that "socially useful labor and its results shall determine the status of the person in society" in article 14 is also noteworthy. How the "status" of the person can be reconciled with the Preamble goal of the development of a "classless society" remains a matter of question. Boris Meissner²⁸⁰ suggests that these provisions must be read in the context of the more widely articulated role of the Communist Party in the constitution. As the party of all the people it does not enforce the "dictatorship of the proletariat" any more and, according to Meissner, becomes a "bureaucratic rulership". It makes nonsense of Communist theory to insist that the Communist Party in the Soviet Union, the only party in the country and one which is supposed to represent all of the people, can really be considered to have the usual political party attributes. By extending the officially recognized base of social and political participation to the intelligentsia (and, in fact, to all of the people) the party is acquiring a legitimacy for its unilateral role. It is also ensuring continuity of existence through future generations by being officially able to enlist into its ranks only the ablest and most educated members of the Soviet society and thereby acquire express authority to create an elite (albeit a classless one!). Herein lies the death of the proletariat.

H. *Retained Principles: The Role of Continuity*

As set forth at the outset of this article, the Constitution of 1977 was drafted "firmly on the ground of continuity."²⁸¹ This section will touch briefly upon several of the more notable aspects of the 1936 Constitution which have been retained in the 1977 Constitution and which have not yet been discussed herein.

As previously discussed,²⁸² Chapter 8 of the new Constitution basically reiterates the federal structure of the USSR, aside from

280. Meissner, *supra* note 225, at 7-8.

281. See note 2 *supra*; see also 1977 CONST. Preamble, para. 13.

282. See ch. III. B. *supra*.

several minor changes which imply that power which previously had been reserved to the union republics has now been delegated upward.²⁸³ The Soviets People's Deputies have been changed in name (they were previously the Soviets of Working People's Deputies),²⁸⁴ but have not otherwise been substantively altered.

The 1936 Constitution's provisions regarding equality of treatment²⁸⁵ have been revised, but the language in the new provisions²⁸⁶ is more verbose than substantive. Under the section entitled "Highest Bodies of State Authority,"²⁸⁷ the Supreme Soviet, which consists of the Soviet of the Union and the Soviet of Nationalities, has retained its nominal position of authority with only minor procedural revision.²⁸⁸ One change in this area which is noteworthy was the inclusion of a "First Vice Chairman" in the Presidium of the USSR.²⁸⁹ This provision was included primarily for the immediate purpose of providing a place for Nikolai Podgorny to step into when he "retired" as chairman of the Presidium. The announcement of Podgorny's retirement coincided with Brezhnev's presentation of the Draft Constitution in May 1977, and allowed Brezhnev to accede to the chairmanship.²⁹⁰ The move allows Brezhnev to meet other national heads of state not only as party leader, but as a "head of state" himself.

Also within the section on State Authority, the provisions in Chapter 16 regarding the USSR Council of Ministers have entered into force with only very minor revision from the 1936 Constitution.²⁹¹ Chapters 18, 19, and 20, concerning administration of lower level state authority²⁹² have similarly been adopted largely in keeping with the concept of continuity.

A particular area in which the USSR received some pressure to make revisions was the section on "Justice, Arbitration, and Pro-

283. See 1977 CONST. art. 73, para. 12.

284. Compare 1936 CONST. art. 134 with 1977 CONST., art. 95.

285. 1936 CONST. arts. 122 & 123.

286. 1977 CONST., arts. 34-36.

287. *Id.* Section Five.

288. 1977 CONST., arts. 108-127. The procedural revisions include the omission of article 41 of the 1936 Constitution (relating to convening of the Union and the Soviet of Nationalities simultaneously).

289. 1977 CONST. art. 120.

290. See 29 CURRENT DIG. SOVIET PRESS (No. 23) 1 (July 6, 1977).

291. See 1977 CONST., arts. 128-36. The long list of ministries included in 1936 Constitution articles 70, 77, and 78 has now been deleted under new article 129.

292. 1977 Constitution, chapter 18 concerns the union republics, chapter 19 concerns the autonomous republics, and chapter 20 concerns the local level of state authority.

curator's Supervision."²⁹³ Particularly with respect to article 155,²⁹⁴ setting forth that "Judges and people's assessors are independent and subject to law," proposals for strengthening the provision were voiced. Nonetheless, in this as in the overwhelming majority of provisions in this area, efforts at amendment fell prey to the notion of "continuity," and only the obscure, unsupported reference to independence of judges has been retained.²⁹⁵ It should be noted that a reference to recall of judges and people's assessors by the electors has been incorporated into article 152, perhaps as an effort to appease the advocates of more substantive judicial responsibility and independence.²⁹⁶

I. *The Preamble: A Communist Credo?*

In the preamble to the 1977 Constitution can be found a concise restatement of all of the principles upon which Soviet society is based. In the first three paragraphs the reader is inundated with a barrage of superlatives describing historical and ideological triumphs.²⁹⁷ The next eight paragraphs explain the foundations of Soviet society, beginning with the economic and political foundations, asserting that "[t]he leading role of the Communist Party, the vanguard of all the people, has grown."²⁹⁸

The twelfth paragraph is perhaps the most notable of all, setting forth the purposes of the state:

The supreme goal of the Soviet state is the building of a classless communist society in which there will be public, communist self-government. The main aims of the people's socialist state are: to lay the material and technical foundation of communism, to perfect socialist social relations and transform them into communist relations, to mould the citizen of communist society to raise the people's living and cultural standards, to safeguard the country's security and to further the consolidation of peace and development of international cooperation.²⁹⁹

293. 1977 CONST., chs. 20 & 21, arts. 151-68.

294. 1977 Constitution, article 155 article 154 in the Draft Constitution.

295. Luryi, *supra* note 182, at 60-66.

296. The revision was incorporated into article 152 of the 1977 Constitution as a result of public discussion of the draft. See *Draft Constitution* art. 152 reprinted in BUTLER *supra* note 126, at 58.

297. See 1977 CONST. Preamble, paras. 1-3.

298. Such a statement obviously assumes that room for growth in the party's role existed under the 1936 Constitution. The distinction should be made again here that the dimensions of the Party's role did not necessarily relate to the amount of power it possessed under the 1936 Constitution.

299. 1977 CONST. Preamble, para. 12.

The final paragraph most closely resembles a traditional credo, setting forth the basic goals of socialist society and concluding that the Soviet people through the 1977 Constitution have affirmed those principles.³⁰⁰

No corresponding provisions existed in the 1936 Constitution,³⁰¹ and hence, comparative analysis is not possible. Nevertheless, some of the recent codes³⁰² adopted in the Soviet Union have included preambles, and a review of the language contained therein is worthwhile. Soviet jurists today are largely in agreement that even though preambles do not create legal norms *per se*, they nevertheless play an important role in the application of the laws.³⁰³ The preambles of recent codes in the USSR deal more specifically with their particular subject area than does the 1977 Constitution, but are clearly indicative of the fact that preambles in Soviet law follow a pattern. Four of the six codes reviewed (as well as the 1977 Constitution) preface the preamble in historical terms. The Fundamentals of Law Legislation,³⁰⁴ of Labor Legislation,³⁰⁵ and of Legislation on Education³⁰⁶ each begin with the "Great October Socialist Revolution." The Fundamental of Civil Legislation begins by stating that "[w]ith the complete and final victory of socialism, the Soviet Union has entered the period of full-scale communist construction."³⁰⁷ The two codes which did not begin historically both began by setting forth the fact that the subject area dealt with therein was a "major task of the Soviet state."³⁰⁸

300. *Id.* para. 13.

301. Nor did any corresponding provisions exist in the earlier constitutions.

302. FUNDAMENTALS OF CIVIL LEGISLATION OF THE USSR AND THE UNION REPUBLICS (enacted Dec. 8, 1961) reprinted in BUTLER, *supra* note 128 at 393; FUNDAMENTALS OF LEGISLATION OF THE USSR AND THE UNION REPUBLICS ON MARRIAGE AND THE FAMILY (enacted, June 27, 1968) reprinted in BUTLER, *supra* note 128 at 451; FUNDAMENTALS OF LAND LEGISLATION OF THE USSR AND THE UNION REPUBLICS (enacted Dec. 13, 1968) reprinted in BUTLER, *supra* note 128, at 465; FUNDAMENTALS OF PUBLIC HEALTH LEGISLATION OF THE USSR AND THE UNION REPUBLICS (enacted Dec. 19, 1969) reprinted in BUTLER, *supra* note 128, at 621; FUNDAMENTALS OF LABOUR LEGISLATION OF THE USSR AND THE UNION REPUBLICS (enacted July 15, 1970) reprinted in BUTLER, *supra* note 128 at 583; FUNDAMENTALS OF LEGISLATION OF THE USSR AND THE UNION REPUBLICS ON EDUCATION (enacted July 19, 1973) reprinted in BUTLER, *supra* note 128, at 641.

303. JOHNSON, *supra* note 145 at 206.

304. See BUTLER, *supra* note 128, at 465.

305. See *id.* 583.

306. See *id.* 641.

307. *Id.* 393.

308. See *On Marriage and the Family*, reprinted in BUTLER, *supra* note 128, at 451; *On Public Health Legislation*, reprinted in BUTLER, *supra* note 128, at 621.

Each of the six preambles reviewed closes with a concise statement of the purpose(s) for the particular legislation therein involved. Each heralds the Party and communist ideals, and each praises the particular aspect of government with which it is concerned.

In 1936 Stalin had rejected the notion of including a preamble in the 1936 Constitution, deciding that a document whose primary purpose was to define state structure needed no preamble.³⁰⁹ In this respect, at least, the concept of historical continuity in the new Constitution yielded. The existence of the preamble in the 1977 Constitution may nevertheless have an element of continuity to it: it may well be an indication that the Soviet Union, and more particularly, the Party, has come to a realization that this is indeed *not* merely a document on state structure. It is a foundation for a legal system which shows few signs of "withering away."

The programmatic nature of Soviet legislation must again be emphasized in the context of the Preamble. As the Preamble attempts to envisage the future, courts and administrators must make their decisions in the light of whatever that future may mean at any given time in the development of communism. The application of law becomes a religious matter rather than a secular act. Looking into the past through the use of precedent is inconceivable. A final point must also be reiterated as well. The Soviet ideology is all-pervasive, and all law is subordinate thereto. Through the fusion of the state and society in one unitary concept it would be impermissible and fatal to allow laws to have different interpretations. The "prospective" provisions of the constitution therefore provide the one and only official interpretation (like the Holy See in the Catholic Church). This ideological element has always been present, but during the Lenin and Stalin periods it was expressed in the remarks of the leaders rather than in texts of laws. Thus the reasons for the change in the constitution from a description of a state system to a social document are more subtle. Aside from trying to do away with a cult of personality through the anonymity of statutory texts, the new Constitution also introduces the communist program into the Soviet legal system. Thus, the ideological pronouncements are not "cosmetic"; they have been placed in the constitution by subtle politicians and clever technocrats who are building an intricate social structure in which their leadership remains invulnerable.

309. Hazard, *supra* note 4, at 15 n.34.

IV. CONCLUSION

It would be impossible to analyze the Soviet Constitution and the legal system of the USSR in general without recognizing a conceptual norm which is easily forgotten by Western observers. Law performs a patently ideological and political function in the Soviet Union. Its officially stated purpose is to help the society advance towards communism, and it is an established axiom of the communist theory that the rights and interests of individuals must be subordinate to those of the society. One need not go further than the Constitution itself to see the centrally dictated interests of the society being placed above those of the individual. It is therefore implicit to Soviet legal thinking that personal rights are not accorded the same importance in that country or the same independence (which the Soviet jurists frequently criticize as "license") as in most of the Western legal systems. This denial of the primacy of personal rights is not based on some crude adaptation of the Machiavellian idea of power. It has a firm, though not necessarily convincing, theoretical support. In order to understand the difference between Soviet and Western legal thinking it is necessary to remember that constitutional and other legislative provisions are attributed qualities of "legal" norms in the Soviet Union exactly in the same manner as they are in other legal systems. There is no distinction between the different legal systems on that score. The real point of difference (and frequent source of misunderstanding) occurs when one begins to analyze the conceptual and normative meanings of the term "legal". Contrary to the more liberal Western interpretation of an individual's legal rights, the scope of their recognition and operation in the Soviet legal system is always dependent on the absence of any conflict with the political and economic interests of the society. Ideological distinctions mandate that legal rights are not accorded the same significance in Soviet societal structures as they are in other countries. Under Marxist-Leninist dogma, legal doctrine is completely subordinated to ideological doctrine.³¹⁰ Indeed, as one recent Soviet theorist has written, "under communism, law will wither away, but nonjuridical normative regulation will remain."³¹¹ Whether the new Constitution evinces a contrary concept is as yet undeterminable.

Prior to the 1977 Constitution, the Communist Party exercised

310. V. CHALIDZE, *TO DEFEND THESE RIGHTS* 4 (1974).

311. N. ALEKSANDROV, *TEORIYA GOSUDARSTVA I PRAVO* (Theory of the State and Law) 619 (1968).

its authority largely in a constitutional void. As one pre-1977 author wrote:

despite the neat and orderly appearance of Soviet law, the influence of extralegal institutions such as the Communist Party cannot be underestimated. Although there appears to be no constitutional or statutory authority for its activities, the Communist Party of the Soviet Union (CPSU) exercises extraordinary day-to-day influence over the constitutionally-defined institutions of Soviet law, particularly the Supreme Soviet and all branches of the judiciary.³¹²

The 1977 Constitution now accords the CPSU constitutional legitimacy to go along with its already limitless authority. That result was practically inevitable; no limitation of the power or position of the Party could have been expected. Although no significant change has occurred with respect to the Party's authority as a result of the adoption of the new Constitution, the very fact that the Soviet Union has seen fit to legitimize its power base heralds a more subtle but equally significant change. The change is obviously indicative of the fact that Party leaders are now so confident of the posture of the CPSU that the document can afford to be more realistic. More important, however, the fact that the USSR has perceived the need for constitutional legitimacy signals an increasing importance in the role and scope of Soviet law. Because of the fact that the now-legitimized authority of the Party remains limitless, the new Constitution cannot be viewed as a giant step toward Western concepts of human rights and preeminence of law. Law is necessarily subordinated to ideology in the Soviet Union. However, the fact that the new Constitution much more closely approximates reality in the Soviet Union than did its predecessors must be acknowledged as a step away from the pretense that has characterized Soviet law and the Soviet legal system. Under the Stalin Constitution, Soviet society was made to appear multipartite, and the role of the proletariat in society was elevated beyond reality. The new Constitution does away with these pretenses. Even though the substantive effects of the system will likely be the same under the 1977 Constitution, the fact that the arbitrary power is now openly granted lends at least a sense of predictability to the Soviet legal system. It remains to be ascertained whether the candor of the new Constitution—its openness about the role of the Communist Party—expresses a change of style in the usually secretive behavior of the Soviet leadership or

312. Berman, *Human Rights in the Soviet Union*, 11 *How. L.J.* 333 (1965).

whether it is a response of the leadership to the pressures put upon it by the increasingly more restless Communist "rank and file". A plausible case may be made for the second hypothesis which suggests that the present CPSU structure may require now, at least on the surface, the power structure of the party to be more participatory, than it was during Stalin's rule or even to some extent during Khrushchev's period of leadership.³¹³

There have been many indications of a "generation gap" crisis within the Communist Party of the Soviet Union. The age difference between the leadership and the large majority of party members is quite considerable. It is also an open secret that not even educated and ambitious young persons in the Soviet Union today are willing to join the Communist Party as a matter of course. The recent decade has seen a decline in new party memberships among the educated young persons, frequently the children of influential party members and other representatives of the Soviet elite.³¹⁴ Protest against the existing government among the young and educated is also widespread. The work of the Party ideologists and propagandists is becoming more difficult as they are required to respond to the questions of the young who, as a rule, are better educated than their parents and who, furthermore, have grown up in relatively peaceful and normal conditions of the post-Stalin period. They do not have the experience of the Civil War as a source of continuing hope in the ultimate victory of utopian communism which enabled so many of the old party members to endure injustice, pain, and disgrace. They do not even possess the fear that so many party veterans learned during the terrible years of Stalin terror and they do not know at first hand the tragic suffering Russian people had to endure during the Second World War. They feel simultaneously more free and more constrained. Their restlessness is more pervasive and dangerous than the open protest of the professional dissidents. It is a classless conflict of generations, immemorialized by Turgenev in his *Fathers and Sons*,

313. See D. LANE, *POLITICS AND SOCIETY IN THE USSR* 257 (1978). A different approach is suggested by J.F. Hough, a leading Sovietologist and the editor of the third edition of Merle Fainsod's celebrated *How Russia is Ruled*. His hypothesis is that broad membership participation was deliberately introduced by Brezhnev and his colleagues to prevent the reoccurrence of a personality cult. 25 *PROBLEMS OF COMMUNISM* 1, 14-15 (1976). In view of recent developments, this hypothesis may be questioned.

314. Wagenlehner, *Ideologie und Macht in der Sowjetunion* (Ideology and Power in the Soviet Union), 28 *OSTEUROPA* 780, 788-91 (1978).

which seems to have returned a century later to a society which is supposed to have cured all of the ills of the 19th century when Turgenev wrote his work. Yet one need only read Solzhenitsyn's vivid description of the Soviet elite in his book *The First Circle* in order to see the slow disintegration of ideological resolution. This is not to say that there are no more idealists in the Soviet Union. There are many. But their task to uphold the society's faith in a communist future is much more difficult.

All of these unexpected developments must worry the party leadership. The younger echelons of the party must be troubled even more because the carrying out of the party's objectives is their responsibility. They must convince the public that the party is right and that its aims are worthy.³¹⁵ Yet the young party members do not always have the faith of the party veterans who can dip into the revolutionary past in order to justify their absolute and unquestionable loyalty to the party program. The younger members of the CPSU do not have such memories. They need assurance that their work is worthwhile and a clear vision of their own personal future within the party system. Though committed to their party-oriented careers (which have the added incentives of considerable material and social privileges), they require nevertheless the evidence of a tangible progress of communism as a means to reassure them that it is superior to other political systems and that it is immune to criticisms leveled against it from within the country as well as from outside. For a long time these younger party functionaries have been compelled to play double roles, and pretend that the power within the Soviet Union does not officially emanate from the party leadership. The charade of the Soviet Union being governed by a body other than the CPSU prevailed in the 1936 Constitution. The state and the party were made to appear separate, though in reality, they were one and the same. The illusion of formal separation did not make much difference during the period of Stalin's personal rule, but it began to be embarrassing after his death. Yet the pretence had to continue despite its effect on party credibility. The new Constitution changes all of that radically.³¹⁶ It admits to the true importance of the Communist Party

315. Lewytskyi, *Grundzüge des sowjetischen Bürokratischen Herrschaftsmodells* (The Characteristics of the Soviet Bureaucratic Rule Model), 28 *Osteuropa* 761, 775 (1978).

316. It is clear that a regime in such a quasi-stable condition requires a definite legal framework, based either on a tacit understanding by all members of society of what is required of them or on written law. In the

within the governing structure of the Soviet Union. If nothing else, the new Constitution is at least a tremendous morale booster for the party "rank and file". There is no need for lies anymore.

days of Stalin and even of Khrushchev, there was a sense of direction emanating from above and felt by all, which guided every official unerringly to an awareness of what was currently required of him (reinforced, however, by special instructions) and enabled everyone else to sense what was expected of him. At the same time there existed a "decor" of laws from which the authorities chose whatever they needed at any given moment. But gradually, both "from above" and "from below," a desire became noticeable for more stable "written" norms rather than this "tacit understanding."

A. AMALRIK, *WILL THE SOVIET UNION SURVIVE UNTIL 1984?* 23 (1970).

APPENDIX

COMPARISONS OF PROVISIONS OF THE 1936 AND 1977 SOVIET CONSTITUTIONS

1977 CONSTITUTION

CONSTITUTION (BASIC LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS

PREAMBLE

The Great October Socialist Revolution, made by the workers and peasants of Russia under the leadership of the Communist Party headed by Lenin, overthrew capitalist and landowner rule, broke the fetters of oppression, established the dictatorship of the proletariat, and created the Soviet state, a new type of state, the basic instrument for defending the gains of the revolution and for building socialism and communism. Humanity thereby began the epoch-making turn from capitalism to socialism.

After achieving victory in the Civil War and repulsing imperialist intervention, the Soviet government carried through far-reaching social and economic transformations, and put an end once and for all to exploitation of man by man, antagonisms between classes, and strife between nationalities. The unification of the Soviet Republics in the Union of Soviet Socialist Republics multiplied the forces and opportunities of the peoples of the country in the building of socialism. Social ownership of the means of production and genuine democracy for the working masses were established. For the first time in the history of mankind a socialist society was created.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

CONSTITUTION (BASIC LAW) OF THE UNION OF SOVIET SOCIALIST REPUBLICS

No comparable provision.

The strength of socialism was vividly demonstrated by the immortal feat of the Soviet people and their Armed Forces in achieving their historic victory in the Great Patriotic War. This victory consolidated the influence and international standing of the Soviet Union and created new opportunities for growth of the forces of socialism, national liberation, democracy, and peace throughout the world.

Continuing their creative endeavours, the working people of the Soviet Union have ensured rapid, all-round development of the country and steady improvement of the socialist system. They have consolidated the alliance of the working class, collective-farm peasantry, and people's intelligentsia, and friendship of the nations and nationalities of the USSR. Sociopolitical and ideological unity of Soviet society, in which the working class is the leading force, has been achieved. The aims of the dictatorship of the proletariat having been fulfilled, the Soviet state has become a state of the whole people. The leading role of the Communist Party, the vanguard of all the people, has grown.

In the USSR a developed socialist society has been built. At this stage, when socialism is developing on its own foundations, the creative forces of the new system and the advantages of the socialist way of life are becoming increasingly evident, and the working people are more and more widely enjoying the fruits of their great revolutionary gains.

It is a society in which powerful productive forces and progressive science and culture have been created, in which the well-being of the people is constantly rising, and more and more favourable conditions are being provided for the all-round development of the individual.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

1977 CONSTITUTION

It is a society of mature socialist social relations, in which, on the basis of the drawing together of all classes and social strata and of the juridical and factual equality of all its nations and nationalities and their fraternal cooperation, a new historical community of people has been formed—the Soviet people.

It is a society of high organizational capacity, ideological commitment, and consciousness of the working people, who are patriots and internationalists.

It is a society in which the law of life is concern of all for the good of each and concern of each for the good of all.

It is a society of true democracy, the political system of which ensures effective management of all public affairs, ever more active participation of the working people in running the state, and the combining of citizens' real rights and freedoms with their obligations and responsibility to society.

Developed socialist society is a natural, logical stage on the road to communism.

The supreme goal of the Soviet state is the building of a classless communist society in which there will be public, communist self-government. The main aims of the people's socialist state are: to lay the material and technical foundation of communism, to perfect socialist social relations and transform them into communist relations, to mould the citizen of communist society, to raise the people's living and cultural standards, to safeguard the country's security, and to further the consolidation of peace and development of international cooperation.

The Soviet people, guided by the ideas of scientific communism and true to their revolutionary traditions,

1977 CONSTITUTION

relying on the great social, economic, and political gains of socialism, striving for the further development of socialist democracy, taking into account the international position of the USSR as part of the world system of socialism, and conscious of their internationalist responsibility, preserving continuity of the ideas and principles of the first Soviet Constitution of 1918, the 1924 Constitution of the USSR and the 1936 Constitution of the USSR, hereby affirm the principles of the social structure and policy of the USSR, and define the rights, freedoms and obligations of citizens, and the principles of the organization of the socialist state of the whole people, and its aims, and proclaim these in this Constitution.

I. PRINCIPLES OF THE SOCIAL STRUCTURE AND POLICY OF THE USSR

CHAPTER 1. THE POLITICAL SYSTEM

Article 1. The Union of Soviet Socialist Republics is a socialist state of the whole people, expressing the will and interests of the workers, peasants, and intelligentsia, the working people of all the nations and nationalities of the country.

Article 2. All power in the USSR belongs to the people. The people exercise state power through Soviets of People's Deputies, which constitute the political foundation of the USSR. All other state bodies are under the control of, and accountable to, the Soviets of People's Deputies.

I. THE SOCIAL STRUCTURE

Article 1. The Union of Soviet Socialist Republics is a socialist state of workers and peasants.

Article 2. Soviets of working people's deputies which grew and became strong as a result of the overthrow of the landlords and capitalists and the victory of the dictatorship of the proletariat shall constitute the political foundation of the USSR.

Article 3. All power in the USSR shall belong to the working

people of the city and country in the person of soviets of working people's deputies.

No comparable provision.

Article 3. The Soviet state is organised and functions on the principle of democratic centralism, namely the electiveness of all bodies of state authority from the lowest to the highest, their accountability to the people, and the obligation of lower bodies to observe the decisions of higher ones. Democratic centralism combines central leadership with local initiative and creative activity and with the responsibility of each state body and official for the work entrusted to them.

Article 4. The Soviet state and all its bodies function on the basis of socialist law, ensure the maintenance of law and order, and safeguard the interests of society and the rights and freedoms of citizens.

State organisations, public organizations and officials shall observe the Constitution of the USSR and Soviet laws.

Article 5. Major matters of state shall be submitted to nationwide discussion and put to a popular vote (referendum).

Article 6. The leading and guiding force of Soviet society and the nucleus of its political system, of all state organisations and public organizations, is the Communist Party of the Soviet Union. The CPSU exists for the people and serves the people.

The Communist Party, armed with Marxism-Leninism, determines the general perspectives of the development of society and the course of the home and foreign policy of the USSR, directs the great constructive work of the Soviet people, and imparts a planned, systematic and theoretically substantiated character to their struggle for the victory of communism.

No comparable provision.

Article 49. The Presidium of the USSR Supreme Soviet shall: (e) conduct a referendum of the whole people at its own initiative or the demand of one of the union republics;

No comparable provision, but see provisions accompanying articles 51 and 100.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

1977 CONSTITUTION

All Party organisations shall function within the framework of the Constitution of the USSR.

Article 7. Trade unions, the All-Union Leninist Young Communist League, cooperatives, and other public organizations, participate, in accordance with the aims laid down in their rules, in managing state and public affairs, and in deciding political, economic, and social and cultural matters.

Article 8. Work collectives take part in discussing and deciding state and public affairs, in planning production and social development, in training and placing personnel, and in discussing and deciding matters pertaining to the management of enterprises and institutions, the improvement of working and living conditions, and the use of funds allocated both for developing production and for social and cultural purposes and financial incentives.

Work collectives promote socialist emulation, the spread of progressive methods of work, and the strengthening of production discipline, educate their members in the spirit of communist morality, and strive to enhance their political consciousness and raise their cultural level and skills and qualifications.

Article 9. The principal direction in the development of the political system of Soviet society is the extension of socialist democracy, namely ever broader participation of citizens in managing the affairs of society and the state, continuous improvement of the machinery of state, heightening of the activity of public organisations, strengthening of the system of people's control, consolidation of the legal foundations of the functioning of the state and of public life, greater openness and publicity, and constant responsiveness to public opinion.

No comparable provision.

No comparable provision.

No comparable provision.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 4. The socialist system of economy and socialist ownership of the instruments and means of production confirmed as a result of the liquidation of the capitalist system of economy, the abolition of private ownership of the instruments and means of production, and the elimination of the exploitation of man by man shall constitute the economic foundation of the USSR.

Article 5. Socialist ownership in the USSR shall have either the form of state ownership (the whole people's wealth) or the form of cooperative and collective farm ownership (ownership of individual collective farms, ownership of cooperative combines).

Article 6. The land, its minerals, waters, forests, plants, factories, mines, quarries, rail, water, and air transport, banks, means of communications, large agricultural enterprises organized by the state (state farms, machine-tractor stations, etc.), as well as municipal enterprises and the basic housing fund in cities and industrial centers shall be in state ownership, that is, the wealth of the whole people.

Article 7. Social enterprises on collective farms and cooperative organizations with their livestock and implements, the output produced by collective farms and cooperative organizations, and also their social buildings, shall constitute social, socialist ownership of collective farms and cooperative organizations.

1977 CONSTITUTION

CHAPTER 2. THE ECONOMIC SYSTEM

Article 10. The foundation of the economic system of the USSR is socialist ownership of the means of production in the form of state property (belonging to all the people) and collective farm and cooperative property.

Socialist ownership also embraces the property of trade unions and other public organizations which they require to carry out their purposes under their rules.

The state protects socialist property and provides conditions for its growth.

No one has the right to use socialist property for personal gain or other selfish ends.

Article 11. State property, i.e., the common property of the Soviet people, is the principal form of socialist property.

The land, its minerals, waters, and forests are the exclusive property of the state. The state owns the basic means of production in industry, construction, and agriculture; the means of transport and communication; the banks; the property of state-run trade organizations and public utilities, and other state-run undertakings; most urban housing; and other property necessary for state purposes.

Article 12. The property of collective farms and other cooperative organizations, and of their joint undertakings, comprises the means of production and other assets which they require for the purposes laid down in their rules.

The land held by collective farms is secured to them for their free use in perpetuity.

The state promotes development of collective farm and cooperative property and its approximation to state property.

Collective farms, like other land users, are obliged to make effective and thrifty use of the land and to increase its fertility.

Article 13. Earned income forms the basis of the personal property of Soviet citizens. The personal property of citizens of the USSR may include articles of everyday use, personal consumption and convenience, the implements and other objects of a small-holding, a house, and earned savings. The personal property of citizens and the right to inherit it are protected by the state.

Citizens may be granted the use of plots of land, in the manner prescribed by law, for a subsidiary small-holding (including the keeping of livestock and poultry), for fruit and vegetable growing or for building an individual dwelling. Citizens are required to make rational use of the land allotted to them. The state and collective farms provide assistance to citizens in working their small-holdings.

Property owned or used by citizens shall not serve as a means of deriving unearned income or be employed to the detriment of the interests of society.

Each collective farm household shall, in addition to the basic income from the social collective farm economy, have for personal use a small plot of land and in personal ownership a subsidiary husbandry on the household plot, a dwelling house, productive livestock, poultry, and minor agricultural implements, according to the charter of the agricultural cartel.

Article 8. Land occupied by collective farms shall be allotted for them free of charge and for unlimited time of use, that is, in perpetuity.

Article 10. The right of personal ownership of citizens in their labor income and savings, dwelling house, and subsidiary household economy, and in household articles, and in articles of personal consumption and convenience, as well as the right to inherit the personal ownership of citizens, shall be protected by law.

See also provisions at article 17.

1977 CONSTITUTION

Article 14. 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 to work, the state helps transform labor into the prime vital need of every Soviet citizen.

Article 15. The supreme goal of social production under socialism is the fullest possible satisfaction of the people's growing material, and cultural and intellectual requirement.

Relying on the creative initiative of the working people, socialist emulation, and scientific and technological progress, and by improving the forms and methods of economic management, the state ensures growth of the productivity of labour, raising of the efficiency of production and of the quality of work, and dynamic, planned, proportionate development of the economy.

Article 16. The economy of the USSR is an integral economic complex comprising all the elements of social production, distribution and exchange on its territory.

The economy is managed on the basis of state plans for economic and social development, with due account of the sectoral and territorial principles, and by combining centralized direction with the managerial independence and initiative of individual

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 12. Labor in the USSR shall be a duty and a matter of honor for every citizen able to work according to the principle: "He who does not work, neither shall he eat."

In the USSR the principle of socialism shall be carried out: "From each according to his ability, to each according to his labor."

No comparable provision.

Article 11. The economic life of the USSR shall be determined and directed by the state national economic plan in the interests of increasing social wealth, a steady rise in the material and cultural level of the working people, strengthening the independence of the USSR, and intensifying its defense capability.

and amalgamated enterprises and other organizations, for which active use is made of management accounting, profit, cost, and other economic levers and incentives.

Article 17. In the USSR, the law permits individual labor in handicrafts, farming, the provision of services for the public, and other forms of activity based exclusively on the personal work of individual citizens and members of their families. The state makes regulations for such work to ensure that it serves the interests of society.

Article 18. In the interests of the present and future generations, the necessary steps are taken in the USSR to protect and make scientific, rational use of the land and its mineral and water resources, and the plant and animal kingdoms, to preserve the purity of air and water, ensure reproduction of natural wealth, and improve the human environment.

CHAPTER 3. SOCIAL DEVELOPMENT AND CULTURE

Article 19. The social basis of the USSR is the unbreakable alliance of the workers, peasants, and intelligentsia.

The state helps enhance the social homogeneity of society, namely the elimination of class differences and of the essential distinctions between town and country and between mental and physical labor, and the all-round development and drawing together of all the nations and nationalities of the USSR.

Article 20. In accordance with the communist ideal—"The free development of each is the condition of the free development of all"—the state pursues the aim of giving citizens more and more

Article 9. Alongside the socialist system of economy, which shall be the predominant form of economy in the USSR, small-scale private economy of individual peasants and artisans based on personal labor and precluding the use of another's labor shall be permitted by law.

No comparable provision.

No comparable provision.

No comparable provision.

1977 CONSTITUTION

real opportunities to apply their creative energies, abilities, and talents, and to develop their personalities in every way.

Article 21. The state concerns itself with improving working conditions, safety and labor protection and the scientific organization of work, and with reducing and ultimately eliminating all arduous physical labor through comprehensive mechanization and automation of production processes in all branches of the economy.

Article 22. A program is being consistently implemented in the USSR to convert agricultural work into a variety of industrial work, to extend the network of educational, cultural and medical institutions, and of trade, public catering, service and public utility facilities in rural localities, and transform hamlets and villages into well-planned and well-appointed settlements.

Article 23. The state pursues a steady policy of raising people's pay levels and real incomes through increase in productivity.

In order to satisfy the needs of Soviet people more fully social consumption funds are created. The state, with the broad participation of public organizations and work collectives, ensures the growth and just distribution of these funds.

Article 24. In the USSR, state systems of health protection, social security, trade and public catering, communal services and amenities, and public utilities operate and are being extended.

The state encourages co-operatives and other public organizations to provide all types of services for the population. It encourages the development of mass physical culture and sport.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

No comparable provision.

No comparable provision.

No comparable provision.

No comparable provision.

1977 CONSTITUTION

Article 25. In the USSR there is a uniform system of public education, which is being constantly improved, that provides general education and vocational training for citizens, serves the communist education and intellectual and physical development of the youth, and trains them for work and social activity.

Article 26. In accordance with society's needs the state provides for planned development of science and the training of scientific personnel and organizes introduction of the results of research in the economy and other spheres of life.

Article 27. The state concerns itself with protecting, augmenting and making extensive use of society's cultural wealth for the moral and aesthetic education of the Soviet people, for raising their cultural level.

In the USSR development of the professional, amateur and folk arts is encouraged in every way.

CHAPTER 4. FOREIGN POLICY

Article 28. The USSR steadfastly pursues a Leninist policy of peace and stands for strengthening of the security of nations and broad international co-operation.

The foreign policy of the USSR is aimed at ensuring international conditions favorable for building communism in the USSR, safeguarding the state interests of the Soviet Union, consolidating the positions of world socialism, supporting the struggle of peoples for national liberation and social progress, preventing wars of aggression, achieving universal and complete disarmament, and consistently implementing the principle of the peaceful coexistence of states with different social systems.

In the USSR war propaganda is banned.

No comparable provision.

No comparable provision.

No comparable provision.

No comparable provision.

1977 CONSTITUTION

Article 29. The USSR's relations with other states are based on observance of the following principles: sovereign equality; mutual renunciation of the use or threat of force; inviolability of frontiers; territorial integrity of states; peaceful settlement of disputes; non-intervention in internal affairs; respect for human rights and fundamental freedoms; the equal rights of peoples and their right to decide their own destiny; co-operation among states; and fulfilment in good faith of obligations arising from the generally recognized principles and rules of international law, and from the international treaties signed by the USSR.

Article 30. The USSR, as part of the world system of socialism and of the socialist community, promotes and strengthens friendship, co-operation, and comradesly mutual assistance with other socialist countries on the basis of the principle of socialist internationalism, and takes an active part in socialist economic integration and the socialist international division of labor.

CHAPTER 5. DEFENCE OF THE SOCIALIST MOTHERLAND

Article 31. Defence of the Socialist Motherland is one of the most important functions of the state, and is the concern of the whole people.

In order to defend the gains of socialism, the peaceful labor of the Soviet people, and the sovereignty and territorial integrity of the state, the USSR maintains Armed Forces and has instituted universal military service.

The duty of the Armed Forces of the USSR to the people is to provide reliable defense of the Socialist Motherland and to be in constant combat readiness, guaranteeing that any aggressor is instantly repulsed.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

No comparable provision.

No comparable provision.

No comparable provision, but see provisions accompanying articles 62, 63.

Article 32. The state ensures the security and defence capability of the country, and supplies the Armed Forces of the USSR with everything necessary for that purpose.

The duties of state bodies, public organizations, officials, and citizens in regard to safeguarding the country's security and strengthening its defence capacity are defined by the legislation of the USSR.

II. THE STATE AND THE INDIVIDUAL

CHAPTER 6. CITIZENSHIP OF THE USSR. EQUALITY OF CITIZENS' RIGHTS

Article 33. Uniform federal citizenship is established for the USSR. Every citizen of a Union Republic is a citizen of the USSR.

The grounds and procedure for acquiring or forfeiting Soviet citizenship are defined by the Law on Citizenship of the USSR.

When abroad, citizens of the USSR enjoy the protection and assistance of the Soviet state.

Article 34. Citizens of the USSR are equal before the law, without distinction of origin, social or property status, race or nationality, sex, education, language, attitude to religion, type and nature of occupation, domicile, or other status.

The equal rights of citizens in the USSR are guaranteed in all fields of economic, political, social, and cultural life.

No comparable provision.

Article 21. A single union citizenship shall be established for citizens of the USSR.

Each citizen of a union republic shall be a citizen of the USSR.

Article 123. The equality of rights of citizens of the USSR, irrespective of their nationality and race, in all domains of economic, state, cultural, and socio-political life shall be an unalterable law.

Any direct or indirect limitation of rights whatever or, conversely, the establishment of direct or indirect privileges for citizens depending on their racial or national affiliation, or any advocacy of racial or national exclusiveness or of hatred or contempt shall be chastised by law.

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Article 35. Women and men have equal rights in the USSR.

Exercise of these rights is ensured by according women equal access with men to education and vocational and professional training, equal opportunities in employment, remuneration, and promotion, and in social and political, and cultural activity, and by special labor and health protection measures for women; by providing conditions enabling mothers to work; by legal protection, and material and moral support for mothers and children, including paid leaves and other benefits for expectant mothers, and gradual reduction of working time for mothers with small children.

Article 36. Citizens of the USSR of different races and nationalities have equal rights.

Exercise of these rights is ensured by a policy of all-round development and drawing together of all the nations and nationalities of the USSR, by educating citizens in the spirit of Soviet patriotism and socialist internationalism, and by the possibility to use their native language and the languages of other people of the USSR.

Any direct or indirect limitation of the rights of citizens or establishment of direct or indirect privileges on grounds of race or nationality, and any advocacy of racial or national exclusiveness, hostility or contempt, are punishable by law.

Article 37. Citizens of other countries and stateless persons in the USSR are guaranteed the rights and freedoms provided by law, including the right to apply to a court and other state bodies for the protection of their personal, property, family, and other rights.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 122. Women in the USSR shall be granted equal rights with men in all domains of economic, state, cultural, and socio-political life.

The possibility of exercising these rights of women shall be secured by granting women an equal right with men to labor, payment for labor, rest, social insurance, and education, by state protection of the interests of mother and child, by state aid to mothers with many children and to unmarried mothers, by granting women pregnancy leaves with retention of maintenance, and by an extensive network of maternity homes, children's nurseries, and kindergartens.

Article 123. The equality of rights of citizens of the USSR, irrespective of their nationality and race, in all domains of economic, state, cultural, and socio-political life shall be an unalterable law.

Any direct or indirect limitation of rights whatever or, conversely, the establishment of direct or indirect privileges for citizens depending on their racial or national affiliation, or any advocacy of racial or national exclusiveness or of hatred or contempt shall be chastised by law.

No comparable provision.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

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Citizens of other countries and stateless persons, when in the USSR, are obliged to respect the Constitution of the USSR and observe Soviet laws.

Article 38. The USSR grants the right of asylum to foreigners persecuted for defending the interests of the working people and the cause of peace, or for participation in the revolutionary and national liberation movement, or for progressive social and political, scientific or other creative activity.

CHAPTER 7. THE BASIC RIGHTS, FREEDOMS, AND DUTIES OF CITIZENS OF THE USSR

Article 39. Citizens of the USSR enjoy in full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the USSR and by Soviet laws. The socialist system ensures enlargement of the rights and freedoms of citizens and continuous improvement of their living standards as social, economic, and cultural development programs are fulfilled.

Enjoyment by citizens of their rights and freedoms must not be to the detriment of the interests of society or the state, or infringe the rights of other citizens.

Article 40. Citizens of the USSR have the right to work (that is, to 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

Article 129. The USSR shall grant the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for scientific activity, or for national-liberation struggle.

Article 130. Each citizen of the USSR shall be obliged to observe the Constitution of the Union of Soviet Socialist Republics, to execute the laws, to maintain labor discipline, to be honorably concerned with his social duty, and to respect the rules of socialist community life.

Article 131. Each citizen of the USSR shall be obliged to safeguard and strengthen social, socialist ownership as the sacred and inviolable basis of the Soviet system, as the source of the wealth and might of the motherland, as the source of the prosperous and cultural life of all working people.

Persons who commit offenses against social, socialist ownership shall be enemies of the people.

Article 118. Citizens of the USSR shall have the right to labor, that is, the right to receive a guaranteed job with payment for their labor in accordance with its quantity and quality.

The right to labor shall be guaranteed by the socialist organiza-

or profession, type of job and work in accordance with their inclinations, abilities, training and education, with due account of the needs of society.

This right is ensured by the socialist economic system, steady growth of the productive forces, free vocational and professional training, improvement of skills, training in new trades or professions, and development of the systems of vocational guidance and job placement.

Article 41. Citizens of the USSR have the right to rest and leisure.

This right is ensured by the establishment of a working week not exceeding 41 hours for workers and other employees, a shorter working day in a number of trades and industries, and shorter hours for night work; by the provision of paid annual holidays, weekly days of rest, extension of the network of cultural, educational and health-building institutions, and the development on a mass scale of sport, physical culture, and camping and tourism; by the provision of neighborhood recreational facilities, and of other opportunities for rational use of free time.

The length of collective farmers' working and leisure time is established by their collective farms.

Article 42. Citizens of the USSR have the right to health protection.

This right is ensured by free, qualified medical care provided by state health institutions; by extension of the network of therapeutic and health-building institutions; by the development and improvement of safety and hygiene in industry; by carrying out

tion 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.

Article 119. Citizens of the USSR shall have the right to leisure.

The right to leisure shall be secured by the establishment for workers and employees of a seven-hour working day and a reduction of the working day to six hours for a number of professions with arduous working conditions, and to four hours in shops with especially arduous working conditions; the establishment of annual vacations for workers and employees with retention of wages; by providing a network of sanatoriums, rest homes, and clubs serving working people.

No comparable provision, but see provision accompanying article 43.

broad prophylactic measures; by measures to improve the environment; by special care for the health of the rising generation, including prohibition of child labor, excluding the work done by children as part of the school curriculum; and by developing research to prevent and reduce the incidence of disease and ensure citizens a long and active life.

Article 43. Citizens of the USSR have the right to maintenance in old age, in sickness, and in the event of complete or partial disability or loss of the breadwinner.

This right is guaranteed by social insurance of workers and other employees and collective farmers; by allowances for temporary disability; by the provision by the state or by collective farms of retirement pensions, disability pensions, and pensions for loss of the breadwinner; by providing employment for the partially disabled; by care for the elderly and the disabled; and by other forms of social security.

Article 44. Citizens of the USSR have the right to housing.

This right is ensured by the development and upkeep of state and socially-owned housing; by assistance for co-operative and individual house building; by fair distribution, under public control, of the housing that becomes available through fulfillment of the program of building well-appointed dwellings, and by low rents and low charges for utility services. Citizens of the USSR shall take good care of the housing allocated to them.

Article 45. Citizens of the USSR have the right to education.

This right is ensured by free provision of all forms of education, by the institution of universal, compulsory secondary education,

Article 120. Citizens of the USSR shall have the right to financial security in old age, as well as in the event of illness or loss of the capacity to labor.

This right shall be secured by the extensive development of social insurances or workers and employees at the expense of the state, medical aid free of charge for working people, and an extensive network of resorts provided for the use of working people.

No comparable provision.

Article 121. Citizens of the USSR shall have the right to education.

This right shall be secured by universal, compulsory eight-year

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and broad development of vocational, specialized secondary, and higher education, in which instruction is oriented toward practical activity and production; by the development of extramural, correspondence and evening courses; by the provisions of state scholarships and grants and privileges for students; by the free issue of school textbooks; by the opportunity to attend a school where teaching is in the native language; and by the provision of facilities for self-education.

Article 46. Citizens of the USSR have the right to enjoy cultural benefits.

This right is ensured by broad access to the cultural treasures of their own land and of the world that are preserved in state and other public collections; by the development and fair distribution of cultural and educational institutions throughout the country; by developing television and radio broadcasting and publishing of books, newspapers and periodicals, and by extending the free library service; and by expanding cultural exchanges with other countries.

Article 47. Citizens of the USSR, in accordance with the aims of building communism, are guaranteed freedom of scientific, technical, and artistic work. This freedom is ensured by broadening scientific research, encouraging invention and innovation, and developing literature and the arts. The state provides the necessary material conditions for this and support for voluntary societies and unions of workers in the arts, organizes introduction of inventions and innovations in production and other spheres of activity.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

education, the extensive development of secondary general polytechnic education, professional-technical education, and secondary specialized and higher education on the basis of the bond of study with life, with production, with every possible development of evening and correspondence education, by all types of education being free of charge, by a system of state stipends, by study at schools in the native language, by the organization at plants, state farms, and collective farms of production, technical, and agronomy study for working people free of charge.

No comparable provision.

No comparable provision.

The rights of authors, inventors and innovators are protected by the state.

Article 48. Citizens of the USSR have the right to take part in the management and administration of state and public affairs and in the discussion and adoption of laws and measures of All-Union and local significance.

This right is ensured by the opportunity to vote and to be elected to Soviets of People's Deputies and other elective state bodies, to take part in nationwide discussions and referendums, in people's control, in the work of state bodies, public organizations, and local community groups, and in meetings at places of work or residence.

Article 49. Every citizen of the USSR has the right to submit proposals to state bodies and public organizations for improving their activity, and to criticize shortcomings in their work.

Officials are obliged, within established time-limits, to examine citizens' proposals and requests, to reply to them, and to take appropriate action.

Persecution for criticism is prohibited. Persons guilty of such persecution shall be called to account.

Article 50. In accordance with the interests of the people and in order to strengthen and develop the socialist system, citizens of the USSR are guaranteed freedom of speech, of the press, and of assembly, meetings, street processions and demonstrations.

Exercise of these political freedoms is ensured by putting public buildings, streets and squares at the disposal of the working people and their organizations, by broad dissemination of infor-

No comparable provision.

No comparable provision.

Article 125. In accordance with the interests of the working people and with a view to strengthening the socialist system, citizens of the USSR shall be guaranteed by law:

- (a) freedom of speech;
- (b) freedom of the press;
- (c) freedom of assembly and meeting;
- (d) freedom of street processions and demonstrations.

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mation, and by the opportunity to use the press, television, and radio.

Article 51. In accordance with the aims of building communism, citizens of the USSR have the right to associate in public organizations that promote their political activity and initiative and satisfaction of their various interests.

Public organizations are guaranteed conditions for successfully performing the functions defined in their rules.

Article 52. Citizens of the USSR are guaranteed freedom of conscience, that is, the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious grounds is prohibited.

In the USSR, the church is separated from the state, and the school from the church.

Article 53. The family enjoys the protection of the state.

Marriage is based on the free consent of the woman and the man; the spouses are completely equal in their family relations.

The state helps the family by providing and developing a broad

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

These rights of citizens shall be secured by granting working people and their organizations printing presses, supplies of paper, public buildings, streets, means of communication, and other material conditions necessary for their exercise.

Article 126. In accordance with the interests of the working people and with a view to developing the organizational initiative and political activism of the popular masses, citizens of the USSR shall be secured the right to unite in social organizations: trade unions, cooperative associations, youth organizations, sport and defense organizations, cultural, technical, and scientific societies, and the most active and conscientious citizens from the ranks of the working class, the toiling peasantry, and the laboring intelligentsia shall be voluntarily united in the Communist Party of the Soviet Union, which is the vanguard of the working people in their struggle to build a communist society and is the leading core of all organizations or working people, both social and state.

Article 124. With a view to securing for citizens the freedom of conscience, the church in the USSR shall be separated from the state, and the school from the church. Freedom of religious worship and the freedom of anti-religious propaganda shall be recognized for all citizens.

No comparable provision.

system of child-care institutions, by organizing and improving communal services and public catering, by paying grants on the birth of a child, by providing children's allowances and benefits for large families, and other forms of family allowances and assistance.

Article 54. Citizens of the USSR are guaranteed inviolability of the person. No one may be arrested except by a court decision or on the warrant of a procurator.

Article 55. Citizens of the USSR are guaranteed inviolability of the home. No one may, without lawful grounds, enter a home against the will of those residing in it.

Article 56. The privacy of citizens, and of their correspondence, telephone conversations, and telegraphic communications is protected by law.

Article 57. Respect for the individual and protection of the rights and freedoms of citizens are the duty of state bodies, public organizations, and officials.

Citizens of the USSR have the right to protection by the courts against encroachments on their honor and reputation, life and health, and personal freedom and property.

Article 58. Citizens of the USSR have the right to lodge a complaint against the actions of officials, state bodies and public bodies. Complaints shall be examined according to the procedure and within the time-limit established by law.

Actions by officials that contravene the law or exceed their powers, and infringe the rights of citizens, may be appealed against in a court in the manner proscribed by law.

Article 127. Citizens of the USSR shall be secured the inviolability of the person. No one may be subjected to arrest other than by decree of a court or with the sanction of the procurator.

Article 128. The inviolability of the dwelling of citizens and the secrecy of correspondence shall be protected by law.

See provision at article 55.

No comparable provision.

No comparable provision.

Citizens of the USSR have the right to compensation for damage resulting from unlawful actions by state organizations and public organizations, or by officials in the performance of their duties.

Article 59. 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 of the USSR and Soviet laws, comply with the standards of socialist conduct, and uphold the honor and dignity of Soviet citizenship.

Article 60. It is the duty of, and a matter of honor for, every able-bodied citizen of the USSR to work conscientiously in his chosen, socially useful occupation, and strictly to observe labor discipline. Evasion of socially useful work is incompatible with the principles of socialist society.

Persons encroaching in any way on socialist property shall be punished according to the law.

Article 61. Citizens of the USSR are obliged to preserve and protect socialist property. It is the duty of a citizen of the USSR to combat misappropriation and squandering of state and socially-owned property and to make thrifty use of the people's wealth.

Article 62. Citizens of the USSR are obliged to safeguard the interests of the Soviet state, and to enhance its power and prestige.

Defense of the Socialist Motherland is the sacred duty of every citizen of the USSR.

No comparable provision, but see provisions accompanying article 39.

No comparable provision, but see provisions accompanying articles 14, 40.

No comparable provision, but see provisions accompanying article 39.

Article 133. Defense of the fatherland is the sacred duty of every citizen of the USSR. Treason: violation of the oath of allegiance, crossing over to the side of the enemy, infliction of damage to the military might of the state, espionage—shall be chastised with all the severity of the law as the gravest evil crime.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Betrayal of the Motherland is the gravest of crimes against the people.

Article 63. Military service in the ranks of the Armed Forces of the USSR is an honorable duty of Soviet citizens.

Article 64. It is the duty of every citizen of the USSR to respect the national dignity of other citizens, and to strengthen friendship of the nations and nationalities of the multinational Soviet state.

Article 65. A citizen of the USSR is obliged to respect the rights and lawful interests of other persons, to be uncompromising toward anti-social behaviour, and to help maintain public order.

Article 66. Citizens of the USSR are obliged to concern themselves with the upbringing of children, to train them for socially useful work, and to raise them as worthy members of socialist society. Children are obliged to care for their parents and help them.

Article 67. Citizens of the USSR are obliged to protect nature and conserve its riches.

Article 68. Concern for the preservation of historical monuments and other cultural values is a duty and obligation of citizens of the USSR.

Article 69. It is the internationalist duty of citizens of the USSR to promote friendship and co-operation with peoples of other lands and help maintain and strengthen world peace.

Article 132. Universal military obligation shall be a law. Military service in the ranks of the USSR Armed Forces shall be the honorable duty of citizens of the USSR.
No comparable provision.

No comparable provision.

No comparable provision.

No comparable provision.

No comparable provision.

No comparable provision.

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III. THE NATIONAL-STATE STRUCTURE OF THE USSR

CHAPTER 8. THE USSR—A FEDERAL STATE

Article 70. The Union of Soviet Socialist Republics is an integral, federal, multinational state formed on the principle of socialist federalism as a result of the free self-determination of nations and the voluntary association of equal Soviet Socialist Republics.

The USSR embodies the state unity of the Soviet people and draws all its nations and nationalities together for the purpose of jointly building communism.

Article 71. The Union of Soviet Socialist Republics unites: The Russian Soviet Federative Socialist Republic, the Ukrainian Soviet Socialist Republic, the Byelorussian Soviet Socialist Republic, the Uzbek Soviet Socialist Republic, the Kazakh Soviet Socialist Republic, the Georgian Soviet Socialist Republic, the Azerbaijan Soviet Socialist Republic, the Lithuanian Soviet Socialist Republic, the Moldavian Soviet Socialist Republic, the Latvian Soviet Socialist Republic, the Kirghiz Soviet Socialist Republic, the Tajik Soviet Socialist Republic, the Armenian Soviet Socialist Republic, the Turkmen Soviet Socialist Republic, the Estonian Soviet Socialist Republic,

II. THE STATE STRUCTURE

Article 13. The Union of Soviet Socialist Republics is a union state formed on the basis of a voluntary combination of equal Soviet Socialist Republics

Article 13. The Union of Soviet Socialist Republics is a union state formed on the basis of a voluntary combination of equal Soviet Socialist Republics:

Russian Soviet Federated Socialist Republic,
Ukrainian Soviet Socialist Republic,
Belorussian Soviet Socialist Republic,
Uzbek Soviet Socialist Republic,
Kazakh Soviet Socialist Republic,
Georgian Soviet Socialist Republic,
Azerbaidzhan Soviet Socialist Republic,
Lithuanian Soviet Socialist Republic,
Moldavian Soviet Socialist Republic,
Latvian Soviet Socialist Republic,
Kirgiz Soviet Socialist Republic,
Tadzhik Soviet Socialist Republic,
Armenian Soviet Socialist Republic,

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Article 72. Each Union Republic shall retain the right freely to secede from the USSR.

Article 73. The jurisdiction of the Union of Soviet Socialist Republics, as represented by its highest bodies of state authority and administration, shall cover:

- 1) the admission of new republics to the USSR; endorsement of the formation of new autonomous republics and autonomous regions within Union Republics;
- 2) determination of the state boundaries of the USSR and approval of changes in the boundaries between Union Republics;
- 3) establishment of the general principles for the organization and functioning of republican and local bodies of state authority and administration;
- 4) the assurance of uniformity of legislative norms throughout the USSR and establishment of the fundamentals of the legislation of the Union of Soviet Socialist Republics and Union Republics;

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Turkmen Soviet Socialist Republic,
Estonian Soviet Socialist Republic.

Article 17. The right of free secession from the USSR shall be preserved for each union republic.

Article 14. There shall be subject to the jurisdiction of the Union of Soviet Socialist Republics in the person of its highest agencies of state power and agencies of state administration:

- (c) admission of new republics into the USSR;
- (f) confirmation of the formation of new autonomous republics and autonomous regions within union republics;
- (e) confirmation of changes of boundaries between union republics;
- (g) establishment of basic principles of land use, as well as the use of minerals, forests, and waters;
- (r) establishment of basic principles in the domain of enlightenment and public health;
- (t) establishment of fundamental principles of legislation on labor;
- (u) establishment of fundamental principles of legislation on court organization and procedure, and fundamental principles of civil, criminal, and correctional labor legislation;
- (v) legislation on union citizenship; legislation on the rights of aliens;
- (w) establishment of fundamental principles of legislation on marriage and the family;
- (x) promulgation of all-union acts on amnesty;

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- 5) pursuance of a uniform social and economic policy; direction of the country's economy; determination of the main lines of scientific and technological progress and the general measures for rational exploitation and conservation of natural resources; the drafting and approval of state plans for the economic and social development of the USSR, and endorsement of reports on their fulfillment;
- 6) the drafting and approval of the consolidated Budget of the USSR, and endorsement of the report on its execution; management of a single monetary and credit system; determination of the taxes and revenues forming the Budget of the USSR; and the formulation of prices and wages policy;
- 7) direction of the sectors of the economy, and of enterprises and amalgamations under Union jurisdiction, and general direction of industries under Union-Republican jurisdiction;
- 8) issues of war and peace, defence of the sovereignty of the USSR and safeguarding of its frontiers and territory, and organization of defence; direction of the Armed Forces of the USSR;

- 9) state security;
- 10) representation of the USSR in international relations; the USSR's relations with other states and with international organizations; establishment of the general procedure for, and coordination of, the relations of Union Republics with other states and with international organisations; foreign trade and other

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

- (j) establishment of national economic plans of the USSR;
- (k) conformation of a unified state budget of the USSR and the report on its execution, the establishment of taxes and revenues which go to the formation of union, republic, and local budgets;
- (s) organization of a unified system of national economic accounting;
- (n) direction of the monetary and credit system;
- (1) administration of banks, industrial and agricultural institutions and enterprises, as well as trade enterprises, of all-union subordination; general direction of industry and construction of union republic subordination;
- (b) questions of war and peace;
- (g) organization of the defense of the USSR, direction of all Armed Forces of the USSR, the establishment of guiding basic principles for the organization of union republic military formations;
- (i) protection of state security;
- (a) representation of the USSR in international relations; the concluding, ratification, and denunciation of USSR treaties with other states, the establishment of a general procedure in mutual relations of union republics with foreign states;
- (h) foreign trade on the basis of a state monopoly;

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forms of external economic activity on the basis of state monopoly;

- 11) control over observance of the Constitution of the USSR, and assurance of conformity of the Constitutions of Union Republics to the Constitution of the USSR;
- 12) and settlement of other matters of All-Union importance.

Article 74. The laws of the USSR shall have the same force in all Union Republics. In the event of a discrepancy between a Union Republic law and an All-Union law, the law of the USSR shall prevail.

Article 75. The territory of the Union of Soviet Socialist Republics is a single entity and comprises the territories of the Union Republics.

The sovereignty of the USSR extends throughout its territory.

CHAPTER 9. THE UNION SOVIET SOCIALIST REPUBLIC

Article 76. A Union Republic is a sovereign Soviet socialist state that has united with other Soviet Republics in the Union of Soviet Socialist Republics.

Outside the spheres listed in Article 73 of the Constitution of the USSR, a Union Republic exercises independent authority on its own territory.

A Union Republic shall have its own Constitution conforming to the Constitution of the USSR with the specific features of the Republic being taken into account.

Article 77. Union Republics take part in decision-making in the Supreme Soviet of the USSR, the Presidium of the Supreme

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

- (d) control over the observance of the Constitution of the USSR and ensuring the conformity of the union republic Constitutions with the Constitution of the USSR;
- No comparable provision.

Article 19. Laws of the USSR shall have the same force on the territory of all union republics.

Article 20. In the event a law of a union republic diverges from an all-union law, the all-union law shall be valid.

No comparable provision, but see provisions accompanying article 76.

Article 15. The sovereignty of the union republics shall be restricted only within the limits specified in Article 14 of the USSR Constitution. Beyond such limits each union republic shall exercise state power independently. The USSR shall protect the sovereign rights of the union republics.

Article 16. Each union republic shall have its own Constitution, which shall take into account the peculiarities of the republic and which shall be drawn up in full accordance with the USSR Constitution.

No comparable provision, but see provisions accompanying article 76.

Soviet of the USSR, the Government of the USSR, and other bodies of the Union of Soviet Socialist Republics in matters that come within the jurisdiction of the Union of Soviet Socialist Republics.

A Union Republic shall ensure comprehensive economic and social development on its territory, facilitate exercise of the powers of the USSR on its territory, and implement the decisions of the highest bodies of state authority and administration of the USSR.

In matters that come within its jurisdiction, a Union Republic shall co-ordinate and control the activity of enterprises, institutions, and organizations subordinate to the Union.

Article 78. The territory of a Union Republic may not be altered without its consent. The boundaries between Union Republics may be altered by mutual agreement of the Republics concerned, subject to ratification by the Union of Soviet Socialist Republics.

Article 79. A Union Republic shall determine its division into territories, regions, areas, and districts, and decide other matters relating to its administrative and territorial structure.

Article 80. A Union Republic has the right to enter into relations with other states, conclude treaties with them, exchange diplomatic and consular representatives, and take part in the work of international organisations.

Article 18. The territory of a union republic may not be changed without its consent.

Article 28. The resolution of questions concerning regional or territory administrative and territorial structure of union republics shall be relegated to the jurisdiction of the union republics.

Article 18a. Each union republic shall have the right to enter into direct relations with foreign states, to conclude agreements with them, and to exchange diplomatic and consular representatives.

Article 18b. Each union republic shall have its own republic military formations.*

* omitted in 1977 Constitution.

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Article 81. The sovereign rights of Union Republics shall be safeguarded by the USSR.

CHAPTER 10. THE AUTONOMOUS SOVIET SOCIALIST REPUBLIC

Article 82. An Autonomous Republic is a constituent part of a Union Republic.

In spheres not within the jurisdiction of the Union of Soviet Socialist Republics and the Union Republic, an Autonomous Republic shall deal independently with matters within its jurisdiction.

An Autonomous Republic shall have its own Constitution conforming to the Constitutions of the USSR and the Union Republic with the specific features of the Autonomous Republic being taken into account.

Article 83. An Autonomous Republic takes part in decision-making through the highest bodies of state authority and administration of the USSR and of the Union Republic respectively, in matters that come within the jurisdiction of the USSR and the Union Republic.

An Autonomous Republic shall ensure comprehensive economic and social development on its territory, facilitate exercise of the powers of the USSR and the Union Republic on its territory, and implement decisions of the highest bodies of state authority and administration of the USSR and the Union Republic.

In matters within its jurisdiction, an Autonomous Republic shall co-ordinate and control the activity of enterprises, institutions, and organizations subordinate to the Union or the Union Republic.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 15. . . . The USSR shall protect the sovereign rights of the union republics.

No comparable provision, but see provisions accompanying articles 143, 144.

No comparable provision.

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Article 84. The territory of an Autonomous Republic may not be altered without its consent.

Article 85. The Russian Soviet Federative Socialist Republic includes the Bashkir, Buryat, Daghستان, Kabardin-Balkar, Kalmyk, Karelian, Komi, Mari, Mordovian, North Ossetian, Tatar, Tuva, Udmurt, Chechen-Ingush, Chuvash, and Yakut Autonomous Soviet Socialist Republics.

The Uzbek Soviet Socialist Republic includes the Karakalpak Autonomous Soviet Socialist Republic.

The Georgian Soviet Socialist Republic includes the Abkhazian and Adzhar Autonomous Soviet Socialist Republics.

The Azerbaijan Soviet Socialist Republic includes the Nakhichevan Autonomous Soviet Socialist Republic.

CHAPTER 11. THE AUTONOMOUS REGION AND AUTONOMOUS AREA

Article 86. An Autonomous Region is a constituent part of a Union Republic or Territory. The Law on an Autonomous Region, upon submission by the Soviet of People's Deputies of the Autonomous Region concerned, shall be adopted by the Supreme Soviet of the Union Republic.

Article 87. The Russian Soviet Federative Socialist Republic includes the Adygei, Gorno-Altai, Jewish, Karachai-Circassian, and Khakass Autonomous Regions.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

No comparable provision.

Article 22. In the Russian Soviet Federated Socialist Republic shall be the autonomous soviet socialist republics: Bashkir, Buryat, Dagestan, Kabardino-Balkarskaya, Kalmyk, Karelia, Komi, Mari, Mordovia, North Ossetian, Tatar, Tuva, Udmurt, Checheno-Ingush, Chuvash, Iakut; autonomous regions: Adygei, Gorno-Altai, Jewish, Karachaevo-Cherkess, Khakass.

Article 26. In the Uzbek Soviet Socialist Republic shall be the Karakalpak Autonomous Soviet Socialist Republic.

Article 25. In the Georgian Soviet Socialist Republic shall be the Abkhazian and Adzharian autonomous soviet socialist republics and the South Ossetian Autonomous Region.

Article 24. In the Azerbaidzhan Soviet Socialist Republic shall be the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region.

No comparable provision.

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The Georgian Soviet Socialist Republic includes the South Ossetian Autonomous Region.

The Azerbaijan Soviet Socialist Republic includes the Nagorno-Karabakh Autonomous Region.

The Tajik Soviet Socialist Republic includes the Gorno-Badakhshan Autonomous Region.

Article 88. An Autonomous Area is a constituent part of a Territory or Region. The Law on an Autonomous Area shall be adopted by the Supreme Soviet of the Union Republic concerned.

IV. SOVIETS OF PEOPLE'S DEPUTIES AND ELECTORAL PROCEDURE

CHAPTER 12. THE SYSTEM OF SOVIETS OF PEOPLE'S DEPUTIES AND THE PRINCIPLES OF THEIR WORK

Article 89. The Soviets of People's Deputies, i.e., the Supreme Soviet of the USSR, the Supreme Soviets of Union Republics, the Supreme Soviets of Autonomous Republics, the Soviets of People's Deputies of Autonomous Regions and Autonomous Areas, and the Soviets of People's Deputies of districts, cities, city districts, settlements and villages shall constitute a single system of bodies of state authority.

Article 90. The term of the Supreme Soviet of the USSR, the Supreme Soviets of Union Republics, and the Supreme Soviets of Autonomous Republics shall be five years.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 25. In the Georgian Soviet Socialist Republic shall be the Abkhazian and Adzharian autonomous soviet socialist republics and the South Ossetian Autonomous Region.

Article 24. In the Azaerbaïdzhan Soviet Socialist Republic shall be the Nakhichevan Autonomous Soviet Socialist Republic and the Nagorno-Karabakh Autonomous Region.

Article 27. In the Tadzhik Soviet Socialist Republic shall be the Gorno-Badakhshan Autonomous Region.

No comparable provision, but see provision at article 79.

No comparable provision.

Article 36. The USSR Supreme Soviet shall be elected for a term of four years.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 58. The Supreme Soviet of a union republic shall be elected by the citizens of the republic for a term of four years.

Article 90. An autonomous republic supreme soviet shall be elected by citizens of the republic for a term of four years according to the norms of representation established by the autonomous republic Constitution.

Article 95. Territory, regional, autonomous region, national area, district, city, and rural (stanitsas, villages, hamlets, kishlaks, auls) soviets of working people's deputies shall be elected respectively by the working people of the territory, region, autonomous region, national area, district, city, or rural locality for a term of two years.

No comparable provision.

No comparable provision.

1977 CONSTITUTION

The term of local Soviets of People's Deputies shall be two and a half years.

Elections to Soviets of People's Deputies shall be called not later than two months before expiry of the term of the Soviet concerned.

Article 91. The most important matters within the jurisdiction of the respective Soviets of People's Deputies shall be considered at their sessions.

Soviets of People's Deputies shall elect standing commissions and form executive-administrative, and other bodies accountable to them.

Article 92. Soviets of People's Deputies shall form people's control bodies combining state control with control by the working people at enterprises, collective farms, institutions, and organisations.

People's control bodies shall check on the fulfillment of state plans and assignments, combat breaches of state discipline, localistic tendencies, narrow departmental attitudes, mismanagement, extravagance and waste, red tape and bureaucracy, and help improve the working of the state machinery.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

No comparable provision.

No comparable provision.

1977 CONSTITUTION

Article 93. Soviets of People's Deputies shall direct all sectors of state, economic and social and cultural development, either directly or through bodies instituted by them, take decisions and ensure their execution, and verify their implementation.

Article 94. Soviets of People's Deputies shall function publicly on the basis of collective, free, constructive discussion and decision-making, of systematic reporting back to them and the people by their executive-administrative and other bodies, and of involving citizens on a broad scale in their work.

Soviets of People's Deputies and the bodies set up by them shall systematically inform the public about their work and the decisions taken by them.

CHAPTER 13. THE ELECTORAL SYSTEM

Article 95. Deputies to all Soviets shall be elected on the basis of universal, equal, and direct suffrage by secret ballot.

IX. THE ELECTORAL SYSTEM

Article 134. Deputies to all soviets of working people's deputies, the USSR Supreme Soviet, union republic supreme soviets, territory and regional soviets of working people's deputies, autonomous republic supreme soviets, autonomous region soviets of working people's deputies, national area, district, city, and rural (stanitsa, village, hamlet, kishlak, aul) soviets of working people's deputies shall be elected on the basis of universal, equal, and direct suffrage by secret ballot.

Article 135. Elections of deputies shall be universal: all citizens of the USSR who have attained 18 years of age irrespective of racial and national affiliation, sex, religious confession, educational qualification, domicile, social origin, property status, or past activity shall have the right to participate in the elections

Article 96. Elections shall be universal: all citizens of the USSR who have reached the age of 18 shall have the right to vote and to be elected, with the exception of persons who have been legally certified insane.

1977 CONSTITUTION

To be eligible for election to the Supreme Soviet of the USSR a citizen of the USSR must have reached the age of 21.

Article 97. Elections shall be equal: each citizen shall have one vote; all voters shall exercise the franchise on an equal footing.

Article 98. Elections shall be direct: Deputies to all Soviets of People's Deputies shall be elected by citizens by direct vote.

Article 99. Voting at elections shall be secret: control over voters' exercise of the franchise is inadmissible.

Article 100. The following shall have the right to nominate candidates: branches and organizations of the Communist Party of the Soviet Union, trade unions, and the All-Union Leninist Young Communist League; co-operatives and other public organizations; work collectives, and meetings of servicemen in their military units.

Citizens of the USSR and public organizations are guaranteed the right to free and all-round discussion of the political and personal qualities and competence of candidates, and the right to campaign for them at meetings, in the press, and on television and radio.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

of deputies, except for persons who have been deemed insane in the procedure established by law.

Each citizen of the USSR who has attained 23 years of age, irrespective of racial and national affiliation, sex, religious confession, educational qualification, domicile, social origin, financial status, and past activity may be elected a deputy of the USSR Supreme Soviet.

Article 136. Election of deputies shall be equal: each citizen shall have one vote; all citizens shall participate in elections on an equal basis.

Article 139. Elections of deputies shall be direct: all soviets of working people's deputies, from rural and city soviets of working people's deputies to the USSR Supreme Soviet, shall be elected by citizens directly by means of direct elections.

Article 140. Voting in elections of deputies shall be secret.

Article 141. Candidates in elections shall be nominated by electoral districts.

The right to nominate candidates shall be secured for social organizations and societies of working people: communist party organizations, trade unions, cooperatives, youth organizations, and cultural societies.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

1977 CONSTITUTION

The expenses involved in holding elections to Soviets of People's Deputies shall be met by the state.

Article 101. Deputies to Soviets of People's Deputies shall be elected by constituencies.

A citizen of the USSR may not, as a rule, be elected to more than two Soviets of People's Deputies.

Elections to the Soviets shall be conducted by electoral commissions consisting of representatives of public organizations and work collectives, and of meetings of servicemen in military units.

The procedure for holding elections to Soviets of People's Deputies shall be defined by the laws of the USSR, and of Union and Autonomous Republics.

Article 102. Electors give mandates to their Deputies.

The appropriate Soviets of People's Deputies shall examine electors' mandates, take them into account in drafting economic and social development plans and in drawing up the budget, organize implementation of the mandates, and inform citizens about it.

CHAPTER 14. PEOPLE'S DEPUTIES

Article 103. Deputies are the plenipotentiary representatives of the people in the Soviets of People's Deputies.

In the Soviets, Deputies deal with matters relating to state, economic and social and cultural development, organize implementation of the decisions of the Soviets, and exercise control over the work of state bodies, enterprises, institutions and organizations.

No comparable provision.

No comparable provision.

No comparable provision.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

1977 CONSTITUTION

Deputies shall be guided in their activities by the interests of the state, and shall take the needs of their constituents into account and work to implement their electors' mandates.

Article 104. Deputies shall exercise their powers without discontinuing their regular employment or duties.

During sessions of the Soviet, and so as to exercise their Deputy's powers in other cases stipulated by law, Deputies shall be released from their regular employment or duties, with retention of their average earnings at their permanent place of work.

Article 105. A Deputy has the right to address inquiries to the appropriate state bodies and officials, who are obliged to reply to them at a session of the Soviet.

Deputies have the right to approach any state or public body, enterprise, institution, or organization on matters arising from their work as Deputies and to take part in considering the questions raised by them. The heads of the state or public bodies, enterprises, institutions or organizations concerned are obliged to receive Deputies without delay and to consider their proposals within the time-limit established by law.

Article 106. Deputies shall be ensured conditions for the unhindered and effective exercise of their rights and duties.

The immunity of Deputies, and other guarantees of their activity as Deputies, are defined in the Law on the Status of Deputies and other legislative acts of the USSR and of Union and Autonomous Republics.

No comparable provision.

No comparable provision.

No comparable provision.

1977 CONSTITUTION

Article 107. Deputies shall report on their work and on that of the Soviet to their constituents, and to the work collectives and public organizations that nominated them.

Deputies who have not justified the confidence of their constituents may be recalled at any time by decision of a majority of the electors in accordance with the procedure established by law.

V. HIGHER BODIES OF STATE AUTHORITY AND ADMINISTRATION OF THE USSR

CHAPTER 15. THE SUPREME SOVIET OF THE USSR

Article 108. The highest body of state authority of the USSR shall be the Supreme Soviet of the USSR.

The Supreme Soviet of the USSR is empowered to deal with all matters within the jurisdiction of the Union of Soviet Socialist Republics, as defined by this Constitution.

The adoption and amendment of the Constitution of the USSR; admission of new Republics to the USSR; endorsement of the formation of new Autonomous Republics and Autonomous Regions; approval of the state plans for economic and social development, of the Budget of the USSR, and of reports on their execution; and the institution of bodies of the USSR accountable to it; are the exclusive prerogative of the Supreme Soviet of the USSR.

Laws of the USSR shall be enacted by the Supreme Soviet of the USSR or by a nationwide vote (referendum) held by decision of the Supreme Soviet of the USSR.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 142. Each deputy shall be obliged to account to the electors for his own work and for the work of the soviet of working people's deputies and may be recalled at any time by decision of a majority of electors in the procedure established by law.

Article 30. The Supreme Soviet of the USSR shall be the highest agency of state power of the USSR.

Article 31. The USSR Supreme Soviet shall exercise all rights conferred on the Union of Soviet Socialist Republics according to Article 14 of the Constitution insofar as they do not, by virtue of the Constitution, come within the competence of USSR agencies which are accountable to the USSR Supreme Soviet: the Presidium of the USSR Supreme Court, the USSR Council of Ministers, and Ministries of the USSR.

Article 32. The legislative power of the USSR shall be exercised exclusively by the USSR Supreme Soviet.

1977 CONSTITUTION

Article 109. The Supreme Soviet of the USSR shall consist of two chambers: the Soviet of the Union and the Soviet of Nationalities.

The two chambers of the Supreme Soviet of the USSR shall have equal rights.

Article 110. The Soviet of the Union and the Soviet of Nationalities shall have equal numbers of deputies.

The Soviet of the Union shall be elected by constituencies with equal populations.

The Soviet of Nationalities shall be elected on the basis of the following representation: 32 Deputies from each Union Republic, 11 Deputies from each Autonomous Republic, five Deputies from each Autonomous Region, and one Deputy from each Autonomous Area.

The Soviet of the Union and the Soviet of Nationalities, upon submission by the credentials commissions elected by them, shall decide on the validity of Deputies' credentials, and, in cases in which the election law has been violated, shall declare the election of the Deputies concerned null and void.

Article 111. Each chamber of the Supreme Soviet of the USSR shall elect a Chairman and four Vice-Chairmen.

The Chairmen of the Soviet of the Union and the Soviet of Nationalities shall preside over the sittings of the respective chambers and conduct their affairs.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 33. The USSR Supreme Soviet shall consist of two chambers: the Soviet of the Union and the Soviet of Nationalities.

Article 37. Both chambers of the USSR Supreme Soviet, the Soviet of the Union and the Soviet of Nationalities, shall have equal rights.

Article 34. The Soviet of the Union shall be elected by citizens of the USSR by electoral areas according to the norm of: one deputy per 300,000 of population.

Article 35. The Soviet of Nationalities shall be elected by citizens of the USSR by union and autonomous republics, autonomous regions, and national areas according to the norm of: 32 deputies from each Union Republic, 11 deputies from each autonomous republic, 5 deputies from each autonomous region, and one deputy from each national area.

Article 50. The Soviet of the Union and the Soviet of Nationalities shall elect credentials commissions which shall verify the powers of the deputies of each chamber.

Upon the representation of credentials commissions, the chambers shall decide either to recognize the powers or to annul the elections of individual deputies.

Article 42. The Soviet of the Union shall elect a Chairman of the Soviet of the Union and four of his deputies.

Article 43. The Soviet of Nationalities shall elect a Chairman of the Soviet of Nationalities and four of his deputies.

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Joint sittings of the chambers of the Supreme Soviet of the USSR shall be presided over alternately by the Chairman of the Soviet of the Union and the Chairman of the Soviet of Nationalities.

Article 112. Sessions of the Supreme Soviet of the USSR shall be convened twice a year.

Special sessions shall be convened by the Presidium of the Supreme Soviet of the USSR at its discretion or on the proposal of a Union Republic, or of not less than one-third of the Deputies of one of the chambers.

A session of the Supreme Soviet of the USSR shall consist of separate and joint sittings of the chambers, and of meetings of the standing commissions of the chambers or commissions of the Supreme Soviet of the USSR held between the sittings of the chambers. A session may be opened and closed at either separate or joint sittings of the chambers.

Article 113. The right to initiate legislation in the Supreme Soviet of the USSR is vested in the Soviet of the Union and the Soviet of Nationalities, the Presidium of the Supreme Soviet of the USSR, the Council of Ministers of the USSR, Union Republics through their higher bodies of state authority, commissions of the Supreme Soviet of the USSR and standing commissions of its chambers, Deputies of the Supreme Soviet of the USSR, the Supreme Court of the USSR, and the Procurator-General of the USSR.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 44. The Chairmen of the Soviet of the Union and of the Soviet of Nationalities shall direct the sessions of the respective chambers and shall be in charge of their internal procedure.

Article 45. Joint sessions of both chambers of the USSR Supreme Soviet shall be conducted alternately by the chairmen of the Soviet of the Union and of the Soviet of Nationalities.

Article 46. Sessions of the USSR Supreme Soviet shall be convened by the Presidium of the USSR Supreme Soviet twice a year.

Special sessions shall be convened by the Presidium of the USSR Supreme Soviet at its discretion or at the demand of one of the union republics.

Article 47. Sessions of the Soviet of the Union and of the Soviet of Nationalities shall commence and end simultaneously.

Article 38. Legislative initiative shall belong in equal measure to the Soviet of the Union and the Soviet of Nationalities.

The right to initiate legislation is also vested in public organizations through their All-Union bodies.

Article 114. Bills and others matters submitted to the Supreme Soviet of the USSR shall be debated by its chambers at separate or joint sittings. Where necessary, a bill or other matter may be referred to one or more commissions for preliminary or additional consideration.

A law of the USSR shall be deemed adopted when it has been passed in each chamber of the Supreme Soviet of the USSR by a majority of the total number of its Deputies. Decisions and other acts of the Supreme Soviet of the USSR are adopted by a majority of the total number of Deputies of the Supreme Soviet of the USSR.

Bills and other very important matters of state may be submitted for nationwide discussion by a decision of the Supreme Soviet of the USSR or its Presidium taken on their own initiative or on the proposal of a Union Republic.

Article 115. In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities, the matter at issue shall be referred for settlement to a conciliation commission formed by the chambers on a parity basis, after which it shall be considered for a second time by the Soviet of the Union and the Soviet of Nationalities at a joint sitting. If agreement is again not reached, the matter shall be postponed for debate at the next session of the Supreme Soviet of the USSR or submitted by the Supreme Soviet to a nationwide vote (referendum).

Article 39. A law shall be considered confirmed if it is adopted by both chambers of the USSR Supreme Soviet by a simple majority of votes of each chamber.

Article 47. In the event of disagreement between the Soviet of the Union and the Soviet of Nationalities, the question shall be transferred for settlement to a conciliation commission formed by the chambers on the basis of parity. If a conciliation commission does not come to an agreed decision or if its decision does not satisfy one of the chambers, the question shall be considered a second time in the chambers. In the absence of an agreed decision of both chambers, the Presidium of the USSR Supreme Soviet shall dissolve the USSR Supreme Soviet and designate new elections.

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Article 116. Laws of the USSR and decisions and other acts of the Supreme Soviet of the USSR shall be published in the languages of the Union Republics over the signatures of the Chairman and Secretary of the Presidium of the Supreme Soviet of the USSR.

Article 117. A Deputy of the Supreme Soviet of the USSR has the right to address inquiries to the Council of Ministers of the USSR and to Ministers and the heads of other bodies formed by the Supreme Soviet of the USSR. The Council of Ministers of the USSR, or the official to whom the inquiry is addressed, is obliged to give a verbal or written reply within three days at the given session of the Supreme Soviet of the USSR.

Article 118. A Deputy of the Supreme Soviet of the USSR may not be prosecuted, or arrested, or incur a court-imposed penalty, without the sanction of the Supreme Soviet of the USSR or, between its sessions, of the Presidium of the Supreme Soviet of the USSR.

Article 119. The Supreme Soviet of the USSR, at a joint sitting of its chambers, shall elect a Presidium of the Supreme Soviet of the USSR, which shall be a standing body of the Supreme Soviet of the USSR, accountable to it for all its work and exercising the functions of the highest body of state authority of the USSR between sessions of the Supreme Soviet, within the limits prescribed by the Constitution.

Article 120. The Presidium of the Supreme Soviet of the USSR shall be elected from among the Deputies and shall consist of a

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Article 40. Laws adopted by the USSR Supreme Soviet shall be published in the languages of the union republics over the signatures of the Chairman and the Secretary of the Presidium of the USSR Supreme Soviet.

Article 71. The Government of the USSR or the Minister of the USSR to whom a question of a deputy of the USSR Supreme Soviet is addressed shall be obliged within not more than three days to give an oral or written reply in the respective chamber.

Article 52. A deputy of the USSR Supreme Soviet may not be brought to judicial responsibility or arrested without the consent of the USSR Supreme Soviet, and in the interval between sessions of the USSR Supreme Soviet, without the consent of the Presidium of the USSR Supreme Soviet.

Article 48. The USSR Supreme Soviet shall, at a joint session of both chambers, elect the Presidium of the USSR Supreme Soviet, composed of: the Chairman of the Presidium of the USSR Supreme Soviet, fifteen deputy chairmen—one from each union republic—the Secretary of the Presidium, and twelve members of the Presidium of the USSR Supreme Soviet.

The Presidium of the USSR Supreme Soviet shall be accountable to the USSR Supreme Soviet in all its activity.
See provision accompanying Article 119.

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Chairman, First Vice-Chairman, 15 Vice-Chairmen (one from each Union Republic), a Secretary, and 21 members.

Article 121. The Presidium of the Supreme Soviet of the USSR shall:

- 1) name the date of elections to the Supreme Soviet of the USSR;
- 2) convene sessions of the Supreme Soviet of the USSR;
- 3) co-ordinate the work of the standing commissions of the chambers of the Supreme Soviet of the USSR;
- 4) ensure observance of the Constitution of the USSR and conformity of the Constitutions and laws of Union Republics to the Constitution and laws of the USSR;
- 5) interpret the laws of the USSR;
- 6) ratify and denounce international treaties of the USSR;
- 7) revoke decisions and ordinances of the Council of Ministers of the USSR and of the Councils of Ministers of Union Republics should they fail to conform to the law;
- 8) institute military and diplomatic ranks and other special titles; and confer the highest military and diplomatic ranks and other special titles;
- 9) institute orders and medals of the USSR, and honorific titles of the USSR; award orders and medals of the USSR; and confer honorific titles of the USSR;
- 10) grant citizenship of the USSR, and rule on matters of the renunciation or deprivation of citizenship of the USSR and of granting asylum;

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Article 49. The Presidium of the USSR Supreme Soviet shall:

- (d) dissolve the USSR Supreme Soviet on the basis of Article 47 of the USSR Constitution and designate new elections;
- (a) convene sessions of the USSR Supreme Soviet;
- (c) give an interpretation of prevailing USSR laws;
- (o) ratify and denounce international treaties of the USSR;
- (f) repeal decrees and regulations of the USSR Council of Ministers and of the union republic councils of ministers in the event they fail to conform to the law;
- (k) establish military ranks, diplomatic ranks, and other special ranks;
- (h) institute orders and medals of the USSR and establish honorary titles of the USSR;
- (i) award orders and medals of the USSR and confer honorary titles of the USSR;

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- 11) issue All-Union acts of amnesty and exercise the right of pardon;
- 12) appoint and recall diplomatic representatives of the USSR to other countries and to international organizations;
- 13) receive the letters of credence and recall of the diplomatic representatives of foreign states accredited to it;
- 14) form the Council of Defense of the USSR and confirm its composition; appoint and dismiss the high command of the Armed Forces of the USSR;
- 15) proclaim martial law in particular localities or throughout the country in the interests of defense of the USSR;
- 16) order general or partial mobilization;
- 17) between sessions of the Supreme Soviet of the USSR, proclaim a state of war in the event of an armed attack on the USSR, or when it is necessary to meet international treaty obligations relating to mutual defense against aggression;
- 18) and exercise other powers vested in it by the Constitution and laws of the USSR.

Article 122. The Presidium of the Supreme Soviet of the USSR, between sessions of the Supreme Soviet of the USSR and subject to submission for its confirmation at the next session, shall:

- 1) amend existing legislative acts of the USSR when necessary;
- 2) approve changes in the boundaries between Union Republics;
- 3) form and abolish Ministries and State Committees of the USSR on the recommendation of the Council of Ministers of the USSR;

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- (i) exercise the right of pardon;
 - (p) appoint and recall plenipotentiary representatives of the USSR in foreign states;
 - (q) accept credentials and letters of recall of diplomatic representatives of foreign states accredited to it;
 - (1) appoint and remove the high command of the USSR Armed Forces;
 - (r) declare martial law in individual localities or throughout the USSR in the interests of the defense of the USSR or of securing public order and state security;
 - (n) declare a general or partial mobilization;
 - (m) in the interval between sessions of the USSR Supreme Soviet, declare a state of war in the event of a military attack on the USSR or in the event of the need to fulfill international treaty obligations relating to mutual defense from aggression;
- No comparable provision.

Article 49. The Presidium of the USSR Supreme Soviet shall:

- (g) in the interval between sessions of the USSR Supreme Soviet, remove from office and appoint individual Ministers of the USSR upon the representation of the Chairman of the USSR Council of Ministers, with subsequent submission for confirmation of the USSR Supreme Soviet; . . .
- (m) in the interval between sessions of the USSR Supreme Soviet, declare a state of war in the event of a military attack on the USSR or in the event of the need to fulfill international treaty obligations relating to mutual defense from aggression; . . .

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4) relieve individual members of the Council of Ministers of the USSR of their responsibilities and appoint persons to the Council of Ministers on the recommendation of the Chairman of the Council of Ministers of the USSR.

Article 123. The Presidium of the Supreme Soviet of the USSR promulgates decrees and adopts decisions.

Article 124. On expiry of the term of the Supreme Soviet of the USSR, the Presidium of the Supreme Soviet of the USSR shall retain its powers until the newly elected Supreme Soviet of the USSR has elected a new Presidium.

The newly elected Supreme Soviet of the USSR shall be convened by the outgoing Presidium of the Supreme Soviet of the USSR within two months of the elections.

Article 49. The Presidium of the USSR Supreme Soviet shall:
(b) issue edicts;

Article 53. Upon the expiry of the powers or after the dissolution before time of the USSR Supreme Soviet, the Presidium of the USSR Supreme Soviet shall retain its powers until the formation of a new Presidium of the USSR Supreme Soviet by the newly elected USSR Supreme Soviet.

Article 54. Upon the expiry of the powers or in the event of the dissolution before time of the USSR Supreme Soviet, the Presidium of the USSR Supreme Soviet shall designate new elections within a period of not more than two months from the expiry of the powers or the dissolution of the USSR Supreme Soviet.

Article 55. The newly elected USSR Supreme Soviet shall be convoked by the Presidium of the USSR Supreme Soviet of the previous membership not later than three months after the elections.

Article 125. The Soviet of the Union and the Soviet of Nationalities shall elect standing commissions from among the Deputies to make a preliminary review of matters coming within the jurisdiction of the Supreme Soviet of the USSR, to promote execution of the laws of the USSR and other acts of the Supreme Soviet of the USSR and its Presidium, and to check on the work of state

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bodies and organizations. The chambers of the Supreme Soviet of the USSR may also set up joint commissions on a parity basis.

When it deems it necessary, the Supreme Soviet of the USSR sets up commissions of inquiry and audit, and commissions on any other matter.

All state and public bodies, organizations and officials are obliged to meet the requests of the commissions of the Supreme Soviet of the USSR and of its chambers, and submit the requisite materials and documents to them.

The commissions' recommendations shall be subject to consideration by state and public bodies, institutions and organizations. The commission shall be informed, within the prescribed time-limit, of the results of such consideration or of the action taken.

Article 126. The Supreme Soviet of the USSR shall supervise the work of all state bodies accountable to it.

The Supreme Soviet of the USSR shall form a Committee of People's Control of the USSR to head the system of people's control.

The organization and procedure of people's control bodies are defined by the Law on People's Control in the USSR.

Article 127. The procedure of the Supreme Soviet of the USSR and of its bodies shall be defined in the Rules and Regulations of the Supreme Soviet of the USSR and other laws of the USSR enacted on the basis of the Constitution of the USSR.

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Article 51. The USSR Supreme Soviet shall appoint, when it considers this necessary, investigative or inspection commissions on any question.

All institutions and officials shall be obliged to fulfill the demands of these commissions and to submit necessary materials and documents to them.

No comparable provision.

No comparable provision.

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Article 64. The USSR Council of Ministers shall be the highest executive and administrative agency of state power of the Union of Soviet Socialist Republics.

Article 56. The USSR Supreme Soviet shall form the USSR Council of Ministers—the Government of the USSR—at a joint session of both chambers.

Article 70. The USSR Council of Ministers shall be formed by the USSR Supreme Soviet, composed of:

Chairman of the USSR Council of Ministers;

First Deputy Chairmen of the USSR Council of Ministers;

Deputy Chairmen of the USSR Council of Ministers;

Ministers of the USSR;

Chairman of the State Planning Committee of the USSR Council of Ministers;

Chairman of the State Committee of the USSR Council of Ministers for Construction;

Chairman of the State Committee of the USSR Council of Ministers for Material-Technical Supply;

Chairman of the Committee of People's Control of the USSR;

Chairman of the State Committee of the USSR Council of Ministers for Labor and Social Questions;

Chairman of the State Committee of the USSR Council of Ministers for Science and Technology;

Chairman of the State Committee of the USSR Council of Ministers for Inventions and Discoveries;

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CHAPTER 16. THE COUNCIL OF MINISTERS OF THE USSR

Article 128. The Council of Ministers of the USSR, i.e., the Government of the USSR, is the highest executive and administrative body of state authority of the USSR.

Article 129. The Council of Ministers of the USSR shall be formed by the Supreme Soviet of the USSR at a joint sitting of the Soviet of the Union and the Soviet of Nationalities and shall consist of the Chairman of the Council of Ministers of the USSR, First Vice-Chairmen and Vice-Chairmen, Ministers of the USSR, and Chairmen of State Committees of the USSR.

The Chairmen of the Councils of Ministers of Union Republics shall be ex officio members of the Council of Ministers of the USSR.

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Article 129. (continued)

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Chairman of the State Committee for Prices of the USSR Council of Ministers;
 Chairman of the State Committee for Standards of the USSR Council of Ministers;
 Chairman of the State Committee of the USSR Council of Ministers for Professional-Technical Education;
 Chairman of the State Committee of the USSR Council of Ministers for Television and Radio;
 Chairman of the State Committee of the USSR Council of Ministers for Cinematography;
 Chairman of the State Committee of the USSR Council of Ministers for Publishing Houses, Printing, and the Book Trade;
 Chairman of the State Committee for Forestry of the USSR Council of Ministers;
 Chairman of the State Committee of the USSR Council of Ministers for Foreign Economic Relations;
 Chairman of the Committee of State Security attached to the USSR Council of Ministers;
 Chairman of the All-Union Combine "Soyuzsel'khoztekhnika" of the USSR Council of Ministers;
 Chairman of the Board of the USSR State Bank;
 Head of the Central Statistical Administration attached to the USSR Council of Ministers;
 The Chairman of the union republic councils of ministers shall be members *ex officio* of the USSR Council of Ministers.

The Supreme Soviet of the USSR, on the recommendation of the Chairman of the Council of Ministers of the USSR, may include in the Government of the USSR the heads of other bodies and organizations of the USSR.

The Council of Ministers of the USSR shall tender its resignation to a newly-elected Supreme Soviet of the USSR at its first session.

Article 130. The Council of Ministers of the USSR shall be responsible and accountable to the Supreme Soviet of the USSR and, between sessions of the Supreme Soviet of the USSR, to the Presidium of the Supreme Soviet of the USSR.

The Council of Ministers of the USSR shall report regularly on its work to the Supreme Soviet of the USSR.

Article 131. The Council of Ministers of the USSR is empowered to deal with all matters of state administration within the jurisdiction of the Union of Soviet Socialist Republics insofar as, under the Constitution, they do not come within the competence of the Supreme Soviet of the USSR or the Presidium of the Supreme Soviet of the USSR.

Within its powers the Council of Ministers of the USSR shall:

- 1) ensure direction of economic, social and cultural development; draft and implement measures to promote the well-being and cultural development of the people, to develop science and engineering, to ensure rational exploitation and conservation of natural resources, to consolidate the monetary and credit system, to pursue a uniform prices, wages, and social security policy, and to organize state insurance and a uniform system of accounting and statistics; and organize the management of industrial, constructional, and agricultural enterprises and amalgamations, transport and communications undertakings, banks, and other organizations and institutions of Union subordination;

Article 65. The USSR Council of Ministers shall be responsible to the USSR Supreme Soviet and accountable to it, and in the interval between sessions of the Supreme Soviet, to the Presidium of the USSR Supreme Soviet, to which it shall be accountable.

Article 68. The USSR Council of Ministers shall:

- (b) take measures to carry out the national economic plan and the state budget, and to strengthen the credit and monetary system;

2) draft current and long-term state plans for the economic and social development of the USSR and the Budget of the USSR, and submit them to the Supreme Soviet of the USSR; take measures to execute the state plans and Budget; and report to the Supreme Soviet of the USSR on the implementation of the plans and Budget;

3) implement measures to defend the interests of the state, protect socialist property and maintain public order, and guarantee and protect citizens' rights and freedoms;

4) take measures to ensure state security;

5) exercise general direction of the development of the Armed Forces of the USSR, and determine the annual contingent of citizens to be called up for active military service;

6) provide general direction in regard to relations with other states, foreign trade, and economic, scientific, technical, and cultural cooperation of the USSR with other countries; take measures to ensure fulfillment of the USSR's international treaties; and ratify and denounce intergovernmental international agreements;

7) and when necessary, form committees, central boards and other departments under the Council of Ministers of the USSR to deal with matters of economic, social and cultural development, and defense.

Article 132. A Presidium of the Council of Ministers of the USSR, consisting of the Chairman, the First Vice-Chairman, and Vice-Chairmen of the Council of Ministers of the USSR, shall function as a standing body of the Council of Ministers of the USSR to deal with questions relating to guidance of the economy, and with other matters of state administration.

See provision accompanying article 131(1).

(c) take measures to secure public order, defend the interests of the state, and protect the rights of citizens;

See provision accompanying article 131(3).

(e) determine the annual contingents of citizens subject to being called to active military service and direct the general construction of the Armed Forces of the country;

(d) exercise general direction in the domain of relations with foreign states;

(f) form the State Committees of the USSR, as well as, when necessary, special Committees and Chief Administrations attached to the USSR Council of Ministers for economic, cultural, and defense construction.

No comparable provision.

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Article 133. The Council of Ministers of the USSR, on the basis of, and in pursuance of, the laws of the USSR and other decisions of the Supreme Soviet of the USSR and its Presidium, shall issue decisions and ordinances and verify their execution. The decisions and ordinances of the Council of Ministers of the USSR shall be binding throughout the USSR.

Article 134. The Council of Ministers of the USSR has the right, in matters within the jurisdiction of the Union of Soviet Socialist Republics, to suspend execution of decisions and ordinances of the Councils of Ministers of Union Republics, and to rescind acts of ministries and state committees of the USSR, and of other bodies subordinate to it.

Article 135. The Council of Ministers of the USSR shall coordinate and direct the work of All-Union and Union-Republican ministries, state committees of the USSR, and other bodies subordinate to it.

All-Union ministries and state committees of the USSR shall direct the work of the branches of administration entrusted to them, or exercise inter-branch administration, throughout the territory of the USSR directly or through bodies set up by them.

Union-Republican ministries and state committees of the USSR direct the work of the branches of administration entrusted to them, or exercise inter-branch administration, as a rule, through the corresponding ministries and state committees, and other bodies of Union Republics, and directly administer

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Article 66. The USSR Council of Ministers shall issue decrees and regulations on the basis of and in execution of prevailing laws and shall verify execution.

Article 67. Decrees and regulations of the USSR Council of Ministers shall be binding for execution throughout the entire territory of the USSR.

Article 69. The USSR Council of Ministers shall have the right, in regard to branches of administration and economy relegated to the competence of the USSR, to suspend decrees and regulations of the union republic councils of ministers and to repeal orders and instructions of Ministers of the USSR, as well as acts of other institutions subordinate to it.

Article 68. The USSR Council of Ministers shall:

- (a) coordinate and direct the work of all-union and union republic Ministries of the USSR, State Committees of the USSR Council of Ministers, and other institutions subordinate to it;
-

Article 75. All-union ministries shall direct the branches of state administration entrusted to them throughout the territory of the USSR either directly or through agencies designated by them.

Article 76. Union republic ministries shall direct the branch of state administration entrusted to them through, as a rule, union republic ministries of the same name and shall administer directly only a certain limited number of enterprises according to a list confirmed by the Presidium of the USSR Supreme Soviet.

individual enterprises and amalgamations of Union subordination. The procedure for transferring enterprises and amalgamations from Republic or local subordination to Union subordination shall be defined by the Presidium of the Supreme Soviet of the USSR.

Ministries and state committees of the USSR shall be responsible for the condition and development of the spheres of administration entrusted to them; within their competence, they issue orders and other acts on the basis of, and in execution of, the laws of the USSR and other decisions of the Supreme Soviet of the USSR and its Presidium, and of decisions and ordinances of the Council of Ministers of the USSR, and organize and verify their implementation.

Article 136. The competence of the Council of Ministers of the USSR and its Presidium, the procedure for their work, relationships between the Council of Ministers and other state bodies, and the list of All-Union and Union-Republican ministries and state committees of the USSR are defined, on the basis of the Constitution, in the Law on the Council of Ministers of the USSR.

Article 72. Ministers of the USSR shall direct branches of state administration which are within the competence of the USSR.

Article 73. Ministers of the USSR shall issue, within the limits of the competence of the respective ministries, orders and instructions on the basis of and in execution of prevailing laws, as well as of decrees and regulations of the USSR Council of Ministers and shall verify their execution.

Article 74. Ministries of the USSR shall be either all-union or union republic.

Article 77. To all-union Ministries shall be relegated the Ministries of:

Aviation Industry;
Automobile Industry;
Foreign Trade;
Gas Industry;
Civil Aviation;
Machine-building;
Machine-building for Animal Husbandry and Fodder Production;
Machine-building for Light and Food Industry and for Household Instruments;
Medical Industry;

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Maritime Fleet;
Petroleum Industry;
Defense Industry;
General Machine-building;
Instrument-making, Means of Automation, and Control Systems;
Industry for Means of Communications;
Transport;
Radio Industry;
Medium Machine-building;
Machine-tool and Instrument Industry;
Construction, Highway, and Municipal Machine-building;
Construction of Enterprises of the Petroleum and Gas Industry;
Ship-building Industry;
Tractor and Agricultural Machine-building;
Transport Construction;
Heavy and Transport Machine-building;
Chemical and Petroleum Machine-building;
Chemical Industry;
Cellulose-Paper Industry;
Electronics Industry;
Electrical Engineering Industry;
Power Machine-building.

Article 78. To union republic ministries shall be relegated the Ministries of:
Internal Affairs;
Higher and Secondary Specialized Education;

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Geology;
 Procurements;
 Public Health;
 Foreign Affairs;
 Culture;
 Light Industry;
 Timber and Wood-processing Industry;
 Soil and Water Conservation;
 Assembly and Special Construction Works;
 Meat and Milk Industry;
 Oil Refining and Petrochemical Industry;
 Defense;
 Food Industry;
 Industrial Construction;
 Industry of Construction Materials;
 Enlightenment;
 Fisheries;
 Communications;
 Rural Construction;
 Agriculture;
 Construction;
 Construction of Enterprises of Heavy Industry;
 Trade;
 Coal Industry;
 Finances;
 Non-ferrous Metallurgy;
 Ferrous Metallurgy;
 Power and Electrification;
 Justice.

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Article 136 (continued).

VI. BASIC PRINCIPLES OF THE STRUCTURE OF THE BODIES OF STATE AUTHORITY AND ADMINISTRATION IN UNION REPUBLICS

CHAPTER 17. HIGHER BODIES OF STATE AUTHORITY AND ADMINISTRATION OF A UNION REPUBLIC

Article 137. The highest body of the state authority of a Union Republic shall be the Supreme Soviet of that Republic.

The Supreme Soviet of a Union Republic is empowered to deal with all matters within the jurisdiction of the Republic under the Constitutions of the USSR and the Republic.

Adoption and amendment of the Constitution of a Union Republic; endorsement of state plans for economic and social development, of the Republic's Budget, and of reports on their fulfillment; and the formation of bodies accountable to the Supreme Soviet of the Union Republic are the exclusive prerogative of that Supreme Soviet.

Laws of a Union Republic shall be enacted by the Supreme Soviet of the Union Republic or by a popular vote (referendum) held by decision of the Republic's Supreme Soviet.

Article 138. The Supreme Soviet of a Union Republic shall elect a Presidium, which is a standing body of that Supreme Soviet and accountable to it for all its work. The composition and powers of the Presidium of the Supreme Soviet of a Union Republic shall be defined in the Constitution of the Union Republic.

Article 57. The Supreme Soviet of a union republic shall be the highest agency of state power of a union republic.

Article 59. The Supreme Soviet of a union republic shall be the sole legislative agency of the republic.

Article 60. The Supreme Soviet of a republic shall:

(a) adopt the Constitution of the republic and make changes therein in accordance with Article 16 of the USSR Constitution;

(b) confirm the Constitution of the constituent autonomous republics and determine the boundaries of their territories;

(c) confirm the national economic plan and budget of the republic;

(d) enjoy the right of amnesty and pardon of citizens sentenced by judicial agencies of the union republic;

(e) establish the representation of the union republic in international relations;

(f) establish the procedure for the formation of republic military formations.

Article 61. A union republic Supreme Soviet shall elect a Presidium of the union republic Supreme Soviet composed of: the Chairman of the Presidium of the union republic Supreme Soviet, his deputies, the Secretary of the Presidium, and members of the Presidium of the union republic Supreme Soviet.

The powers of the Presidium of the union republic Supreme Soviet shall be determined by the Constitution of the union republic.

Article 62. In order to conduct sessions, a union republic Supreme Soviet shall elect a Chairman of the union republic Supreme Soviet and his deputies.

Article 63. The union republic Supreme Soviet shall form the Government of the union republic, the union republic Council of Ministers.

Article 83. The union republic Council of Ministers shall be formed by the union republic Supreme Soviet, composed of: Chairman of the union republic Council of Ministers; Deputy Chairmen of the Council of Ministers; Ministers;

Chairmen of state committees, commissions, and directors of other departments of the Council of Ministers formed by the union republic Supreme Soviet in accordance with the union republic Constitution.

Article 79. The union republic council of ministers shall be the highest executive and administrative agency of state power of the union republic.

Article 80. The union republic council of ministers shall be responsible to the union republic Supreme Soviet and shall be accountable to it, and in the interval between sessions of the union republic Supreme Soviet, to the Presidium of the union republic Supreme Soviet, to which it is accountable.

Article 139. The Supreme Soviet of a Union Republic shall form a Council of Ministers of the Union Republic, i.e., the Government of that Republic, which shall be the highest executive and administrative body of state authority in the Republic.

The Council of Ministers of a Union Republic shall be responsible and accountable to the Supreme Soviet of that Republic or, between sessions of the Supreme Soviet, to its Presidium.

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Article 140. The Council of Ministers of a Union Republic issues decisions and ordinances on the basis of, and in pursuance of, the legislative acts of the USSR and of the Union Republic, and of decisions and ordinances of the Council of Ministers of the USSR, and shall organize and verify their execution.

Article 141. The Council of Ministers of a Union Republic has the right to suspend the execution of decisions and ordinances of the Councils of Ministers of Autonomous Republics, to rescind the decisions and orders of the Executive Committees of Soviets of People's Deputies of Territories, Regions, and cities (i.e., cities under Republic jurisdiction) and of Autonomous Regions, and in Union Republics not divided into regions, of the Executive Committees of district and corresponding city Soviets of People's Deputies.

Article 142. The Council of Ministers of a Union Republic shall co-ordinate and direct the work of the Union-Republican and Republican ministries and of state committees of the Union Republic, and other bodies under its jurisdiction.

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Article 81. The union republic council of ministers shall issue decrees and regulations on the basis of and in execution of prevailing laws of the USSR and union republic and decrees and regulations of the USSR Council of Ministers, and shall verify their execution.

Article 82. A union republic Council of Ministers shall have the right to suspend decrees and regulations of autonomous republic councils of ministers, and repeal decisions and regulations of executive committees of soviets of working people's deputies of territories, regions, and autonomous regions.

Article 84. The union republic Ministers shall direct the branches of state administration within the competence of the union republic.

Article 85. Ministers of a union republic shall issue, within the limits of the competence of the respective ministries, orders and instructions on the basis of and in execution of the laws of the USSR and the union republic, decrees and regulations of the USSR and union republic Council of Ministers, and orders and instructions of union republic Ministries of the USSR.

Article 86. Ministries of a union republic shall be union republic or republic.

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The Union-Republican ministries and state committees of a Union Republic shall direct the branches of administration entrusted to them, or exercise inter-branch control, and shall be subordinate to both the Council of Ministers of the Union Republic and the corresponding Union-Republican ministry or state committee of the USSR.

Republican ministries and state committees shall direct the branches of administration entrusted to them, or exercise inter-branch control, and shall be subordinate to the Council of Ministers of the Union Republic.

CHAPTER 18. HIGHER BODIES OF STATE AUTHORITY AND ADMINISTRATION OF AN AUTONOMOUS REPUBLIC

Article 143. The highest body of state authority of an Autonomous Republic shall be the Supreme Soviet of that Republic.

Adoption and amendment of the Constitution of an Autonomous Republic; endorsement of state plans for economic and social development, and of the Republic's Budget; and the formation of bodies accountable to the Supreme Soviet of the Autonomous Republic are the exclusive prerogative of that Supreme Soviet.

Laws of an Autonomous Republic shall be enacted by the Supreme Soviet of the Autonomous Republic.

Article 144. The Supreme Soviet of an Autonomous Republic shall elect a Presidium of the Supreme Soviet of the Autonomous Republic and shall form a Council of Ministers of the Autonomous Republic, i.e., the Government of that Republic.

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Article 87. Union republic ministries shall direct the branch of state administration entrusted to them, being subordinate to both the union republic Council of Ministers and to the respective union republic Ministry of the USSR.

Article 88. Republic ministries shall direct the branch of state administration entrusted to them, being subordinate directly to the union republic Council of Ministers.

Article 89. The Supreme Soviet of an ASSR shall be the highest agency of state power of an autonomous republic.

Article 91. The autonomous republic Supreme Soviet shall be the sole legislative agency of the ASSR.

Article 92. Each autonomous republic shall have its own Constitution, taking into account the peculiarities of the autonomous republic and constructed in full conformity with the union republic Constitution.

Article 93. An autonomous republic Supreme Soviet shall elect the Presidium of the autonomous republic Supreme Soviet and shall form the autonomous republic Council of Ministers according to their own Constitution.

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VIII. LOCAL AGENCIES OF STATE POWER

Article 94. Soviets of working people's deputies shall be the agencies of state power in territories, regions, autonomous regions, national areas, districts, cities, and rural localities (stanitsas, villages, hamlets, kishlaks, auls).

No comparable provision.

Article 97. Soviets of working people's deputies shall direct the activity of agencies of administration subordinate to them, ensure the protection of the state order and the observance of the laws and protection of the rights of citizens, direct local economic and cultural construction, and establish the local budget.

No comparable provision, but see provision accompanying article 146.

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CHAPTER 19. LOCAL BODIES OF STATE AUTHORITY AND ADMINISTRATION

Article 145. The bodies of state authority in Territories, Regions, Autonomous Regions, Autonomous Areas, districts, cities, city districts, settlements, and rural communities shall be the corresponding Soviets of People's Deputies.

Article 146. Local Soviets of People's Deputies shall deal with all matters of local significance in accordance with the interests of the whole state and of the citizens residing in the area under their jurisdiction, implement decisions of higher bodies of state authority, guide the work of lower Soviets of People's Deputies, take part in the discussion of matters of Republican and All-Union significance, and submit their proposals concerning them.

Local Soviets of People's Deputies shall direct state, economic, social and cultural development within their territory; endorse plans of economic and social development and the local budget; exercise general guidance over state bodies, enterprises, institutions and organizations subordinate to them; ensure observance of the laws, maintenance of law and order, and protection of citizens' rights, and help strengthen the country's defense capability.

Article 147. Within their powers, local Soviets of People's Deputies shall ensure the comprehensive, all-round economic and social development of their area; exercise control over the observance of legislation by enterprises, institutions and organizations subordinate to higher authorities and located in their area; and co-ordinate and supervise their activity as regards land use, nature conservation, building, employment of manpower, produc-

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tion of consumer goods, and social, cultural, communal and other services and amenities for the public.

Article 148. Local Soviets of People's Deputies shall decide matters within the powers accorded them by the legislation of the USSR and of the appropriate Union Republic and Autonomous Republic. Their decisions shall be binding on all enterprises, institutions, and organizations located in their area and on officials and citizens.

Article 149. The executive-administrative bodies of local Soviets shall be the Executive Committees elected by them from among their Deputies.

Executive Committees shall report on their work at least once a year to the Soviets that elected them and to meetings of citizens at their places of work or residence.

Article 150. Executive Committees of local Soviets of People's Deputies shall be directly accountable both to the Soviets that elected them and to the higher executive-administrative body.

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Article 96. Norms of representation in soviets of working people's deputies shall be determined by the union republic Constitutions.

Article 98. Soviets of working people's deputies shall adopt decisions and issue regulations within the limits of the rights granted to them by USSR and union republic laws.

Article 99. The executive and administrative agencies of territory, regional, autonomous region, national area, district, city, and rural soviets of working people's deputies shall be the executive committees elected by them, composed of: chairman, his deputies, secretary, and members.

Article 100. The executive and administrative agencies of soviets of working people's deputies in small settlements shall, in accordance with the union republic Constitutions, be the chairman, deputy chairman, and secretary elected by the soviets of working people's deputies.

Article 101. The executive agencies of soviets of working people's deputies shall be accountable directly both to the soviet of working people's deputies which elected them and to the executive agency of the superior soviet of working people's deputies.

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IX. THE COURT AND THE PROCURACY

Article 102. Justice in the USSR shall be carried out by the USSR Supreme Court, the union republic supreme courts, territory and regional courts, autonomous republic and autonomous region courts, national area courts, special USSR courts created by decree of the USSR Supreme Soviet, and people's courts.

Article 109. People's judges of district (or city) people's courts shall be elected by citizens of the district (or city) on the basis of universal, equal, and direct suffrage by secret ballot for a term of five years.

People's assessors of district (or city) people's courts shall be elected at general meetings of workers, employees, and peasants at their place of work or residence, and of military servicemen, at military units, for a term of two years.

Article 106. The union republic supreme courts shall be elected by the union republic Supreme Soviets for a term of five years.

Article 107. The autonomous republic supreme courts shall be elected by the autonomous republic Supreme Soviets for a term of five years.

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VII. JUSTICE, ARBITRATION, AND PROCURATOR'S SUPERVISION

CHAPTER 20. COURTS AND ARBITRATION

Article 151. In the USSR justice is administered only by the courts.

In the USSR there are the following courts: the Supreme Court of the USSR, the Supreme Courts of Union Republics, the Supreme Courts of Autonomous Republics, Territorial, Regional, and city courts, courts of Autonomous Regions, courts of Autonomous Areas, district (city) people's courts, and military tribunals in the Armed Forces.

Article 152. All courts in the USSR shall be formed on the principle of the electiveness of judges and people's assessors.

People's judges of district (city) people's courts shall be elected for a term of five years by the citizens of the district (city) on the basis of universal, equal and direct suffrage by secret ballot. People's assessors of district (city) people's court shall be elected for a term of two and a half years at meetings of citizens at their places of work or residence by a show of hands.

Higher courts shall be elected for a term of five years by the corresponding Soviet of People's Deputies.

The judges of military tribunals shall be elected for a term of five years by the Presidium of the Supreme Soviet of the USSR and people's assessors for a term of two and a half years by meetings of servicemen.

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Judges and people's assessors are responsible and accountable to their electors or the bodies that elected them, shall report to them, and may be recalled by them in the manner prescribed by law.

Article 153. The Supreme Court of the USSR is the highest judicial body in the USSR and supervises the administration of justice by the courts of the USSR and Union Republics within the limits established by law.

The Supreme Court of the USSR shall be elected by the Supreme Soviet of the USSR and shall consist of a Chairman, Vice-Chairmen, members, and people's assessors. The Chairmen of the Supreme Courts of Union Republics are *ex officio* members of the Supreme Court of the USSR.

The organization and procedure of the Supreme Court of the USSR are defined in the Law on the Supreme Court of the USSR.

Article 154. The hearing of civil and criminal cases in all courts is collegial; in courts of first instance cases are heard with the participation of people's assessors. In the administration of justice people assessors have all the rights of a judge.

Article 155. Judges and people's assessors are independent and subject only to the law.

Article 156. Justice is administered in the USSR on the principle of the equality of citizens before the law and the court.

Article 157. Proceedings in all courts shall be open to the public. Hearings in camera are only allowed in cases provided for by law, with observance of all the rules of judicial procedure.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 108. Territory and regional courts, autonomous region courts, and national area courts shall be elected by territory, regional, or national area soviets of working people's deputies or by autonomous region soviets of working people's deputies for a term of five years.

Article 104. The USSR Supreme Court shall be the highest judicial agency. To the USSR Supreme Court shall be entrusted supervision over the judicial activity of USSR judicial agencies, as well as judicial agencies of union republics within the limits established by law.

Article 105. The USSR Supreme Court shall be elected by the USSR Supreme Soviet for a term of five years.

The presidents of the union republic supreme courts shall be members *ex officio* of the USSR Supreme Court.

Article 103. The consideration of cases in all courts shall be carried out with the participation of people's assessors except for instances specially provided for by law.

Article 112. Judges shall be independent and subordinate only to law.

No comparable provision, but see provision accompanying article 36.

Article 111. 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 defense.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

No comparable provision.

Article 110. Judicial proceedings shall be conducted in the language of the union or autonomous republic or autonomous region, ensuring for persons not knowing this language complete familiarization with the materials of the case through an interpreter, as well as the right to speak in court in the native language.

No comparable provision.

No comparable provision.

No comparable provision.

No comparable provision.

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Article 158. A defendant in a criminal action is guaranteed the right to legal assistance.

Article 159. Judicial proceedings shall be conducted in the language of the Union Republic, Autonomous Republic, Autonomous Region, or Autonomous Area, or in the language spoken by the majority of the people in the locality. Persons participating in court proceedings, who do not know the language in which they are being conducted, shall be ensured the right to become fully acquainted with the materials in the case; the services of an interpreter during the proceedings; and the right to address the court in their own language.

Article 160. No one may be adjudged guilty of a crime and subjected to punishment as a criminal except by the sentence of a court and in conformity with the law.

Article 161. Colleges of advocates are available to give legal assistance to citizens and organizations. In cases provided for by legislation citizens shall be given legal assistance free of charge. The organization and procedure of the bar are determined by legislation of the USSR and Union Republics.

Article 162. Representatives of public organizations and of work collectives may take part in civil and criminal proceedings.

Article 163. Economic disputes between enterprises, institutions, and organizations are settled by state arbitration bodies within the limits of their jurisdiction.

The organization and manner of functioning of state arbitration bodies are defined in the Law on State Arbitration in the USSR.

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CHAPTER 21. THE PROCURATOR'S OFFICE

Article 164. Supreme power of supervision over the strict and uniform observance of laws by all ministries, state committees and departments, enterprises, institutions and organizations, executive-administrative bodies of local Soviets of People's Deputies, collective farms, co-operatives and other public organizations, officials and citizens is vested in the Procurator-General of the USSR and procurators subordinate to him.

Article 165. The Procurator-General of the USSR is appointed by the Supreme Soviet of the USSR and is responsible and accountable to it and, between sessions of the Supreme Soviet, to the Presidium of the Supreme Soviet of the USSR.

Article 166. The procurators of Union Republics, Autonomous Republics, Territories, Regions and Autonomous Regions are appointed by the Procurator-General of the USSR. The procurators of Autonomous Areas and district and city procurators are appointed by the procurators of Union Republics, subject to confirmation by the Procurator-General of the USSR.

Article 167. The term of office of the Procurator-General of the USSR and all lower-ranking procurators shall be five years.

Article 168. The agencies of the Procurator's Office exercise their powers independently of any local bodies whatsoever, and are subordinate solely to the Procurator-General of the USSR. The organization and procedure of the agencies of the Procura-

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

Article 113. Supreme supervision over the precise execution of the laws by all ministries and institutions subordinate to them, and equally by individual officials, as well as by citizens of the USSR, shall be entrusted to the USSR Procurator General.

Article 114. The USSR Procurator General shall be appointed by the USSR Supreme Soviet for a term of seven years.

Article 115. Republic, territory, and regional procurators, as well as autonomous republic and autonomous region procurators, shall be appointed by the USSR Procurator General for a term of five years.

Article 116. National area, district, and city procurators shall be appointed by union republic procurators for a term of five years, confirmed by the USSR Procurator General.

Article 114. The USSR Procurator General shall be appointed by the USSR Supreme Soviet for a term of seven years.

Article 117. Agencies of the procuracy shall carry out their functions independently of any local agencies whatever, being subordinate only to the USSR Procurator General.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

tor's Office are defined in the Law on the Procurator's Office of the USSR.

VIII. THE EMBLEM, FLAG, ANTHEM, AND CAPITAL OF THE USSR

Article 169. The State Emblem of the Union of Soviet Socialist Republics is a hammer and sickle on a globe depicted in the rays of the sun and framed by ears of wheat, with the inscription, "Workers of All Countries, Unite!" in the languages of the Union Republics. At the top of the Emblem is a five-pointed star.

Article 170. The State Flag of the Union of Soviet Socialist Republics is a rectangle of red cloth with a hammer and sickle depicted in gold in the upper corner next to the staff and with a five-pointed red star edged in gold above them. The ratio of the width of the flag to its length is 1:2.

Article 171. The State Anthem of the Union of Soviet Socialist Republics is confirmed by the Presidium of the Supreme Soviet of the USSR.

Article 172. The Capital of the Union of Soviet Socialist Republics is the city of Moscow.

XII. ARMS, FLAG, CAPITAL

Article 143. The State Arms of the Union of Soviet Socialist Republics shall consist of a sickle and hammer against a globe depicted in the rays of the sun and framed by ears of grain, with the inscription in the language of the union republics: "Proletarians of All Countries, Unite!" At the top of the arms shall be a five-pointed star.

Article 144. The State Flag of the Union of Soviet Socialist Republics shall consist of a red cloth depicting in the upper corner near the flagstaff a gold sickle and hammer and above them a red five-pointed star bordered in gold. The proportion of breadth to length shall be 1:2.

No comparable provision.

Article 145. The city of Moscow shall be the capital of the Union of Soviet Socialist Republics.

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**IX. THE LEGAL FORCE OF THE CONSTITUTION
OF THE USSR AND PROCEDURE FOR
AMENDING THE CONSTITUTION**

Article 173. The Constitution of the USSR shall have supreme legal force. All laws and other acts of state bodies shall be promulgated on the basis of and in conformity with it.

Article 174. The Constitution of the USSR may be amended by a decision of the Supreme Soviet of the USSR adopted by a majority of not less than two-thirds of the total number of Deputies of each of its chambers.

COMPARABLE PROVISIONS IN 1936 CONSTITUTION

**XIII. PROCEDURE FOR AMENDING THE
CONSTITUTION**

No comparable provision.

Article 146. The Constitution of the USSR shall be amended only by decision of the USSR Supreme Soviet adopted by a majority of not less than 2/3 of the votes in each of its chambers.