

## ARTICLES

### RUSSIAN LABOR LAW IN THE TWENTIETH CENTURY: PATTERNS OF DEVELOPMENT AND HISTORICAL LESSONS

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*The revolution that took place in Russia on 25 October (or, according to the new style, on 7 November) 1917 is believed to have been the most important political event of the 20<sup>th</sup> century and to have had a great influence on all aspects of life both within the country and worldwide. This article discusses the extent to which the Russian socialist revolution affected the relatively narrow, although extremely important, area of the mechanism for the legal regulation of labor. For this purpose, the authors compared the concept of socialism and the practice of its implementation in Russia with the practice of the legal regulation of labor in the countries that did not experience a socialist revolution and therefore were considered by socialists as "bourgeois" countries. At the same time, the authors challenged the view of the majority of Russian researchers of the Soviet period, including the researchers of the history of the legal regulation of labor, that Soviet economic history was a process of linear progressive development (when applied to the sphere of labor). The article shows and analyzes the dissimilarity in the qualitative characteristics of the history of the economy and the history of the legal regulation of labor in Soviet Russia. On this basis, the conclusions are drawn as to the influence of the Soviet experience on other countries in the sphere of the legal regulation of social labor and the relevance of this experience for the current times.*

*Keywords: Socialist revolution; mechanism of the legal regulation of labor; application of labor; history of Russian labor law; history of the Russian economy; Soviet experience of labor management.*

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## Introduction

The revolution that took place in Russia on 25 October (or, according to the new style, on 7 November) 1917, was referred to in the Soviet Union as the Great October Socialist Revolution. It is also believed that it was the most important political event of the 20<sup>th</sup> century and that it had a great influence on all aspects of life both within the country and worldwide. This belief is probably quite correct, but our task is smaller: we will try to determine to what extent the Russian socialist revolution affected the relatively narrow, though extremely important, area of the mechanism of the legal regulation of labor. But for this we will have to, at least in very general terms, compare the concept of socialism – to the extent that the thinkers developed it mainly in the 19<sup>th</sup> century – and the practice of its implementation in Russia, with the practice of the legal regulation of labor in the countries where there was no socialist revolution and therefore considered “bourgeois countries” by socialists.

On the mechanism of the legal regulation of labor in a market economy, it can be considered indisputable that it was generally established in the second half of the 19<sup>th</sup> century. What it embraced were mainly the relations surrounding wage labor that took place in the area of industrial (factory) production.

This mechanism is based on three methods of regulation: (a) individual-contractual regulation, (b) collective-contractual regulation, and (c) state regulation.

Individual-contractual regulation, governed by the principle of freedom of contract is the principal method of the three, and the only one as of the end of the 18<sup>th</sup> century and the first half of the 19<sup>th</sup> century. However, as demonstrated by the practice of using social labor during this period, one should not overestimate the principle of freedom of contract in relation to labor relations, since it entails very high social costs (such as the widespread use of child and female labor, the absence of any satisfactory protection of it, etc.). In turn, this at the very least impedes the social development of a huge layer of wage workers if not leads to their degradation. And this situation already poses a threat to the public interest.

Therefore, in order to protect socially significant interests, both individual and general social ones, it becomes necessary to restrict the operation of the principle of freedom of contract in labor relations (that is, in the relations of applied labor). The role of such “restrictors” is exercised by the state and trade unions. The state adopts labor legislation and establishes labor inspectorates to monitor the implementation of this legislation; with the participation of trade unions, a system of collective bargaining agreements is formed. Both are effective means of limiting the freedom of labor contract, primarily in the interests of an employee as the weaker player in the labor market.

Thus, the existing mechanism of the legal regulation of labor is a necessary stage in the evolution of the market (capitalist) economy and, therefore, has an objective character.<sup>1</sup>

In Russia, as well as in other European countries, this mechanism started to take shape, in the second half of the 19<sup>th</sup> century, albeit with some delay. Beginning in the 1880s, a number of labor laws were adopted relating to, for instance, the labor of minors, employment contracts, working time, social insurance, and the labor in specific branches of the economy. Ultimately, the standards of labor that were mainly established in the Industry Charter and the Mining Charter were consolidated in the Charter on Industrial Labor (edited in 1913).

At the same time, the system of the legal regulation of labor that developed in Russia possessed one essential feature that, together with other factors, played a fatal role in the destiny of the Russian state: the system lacked the indispensable component of the collective bargaining agreement. The activity of the Russian trade unions was legitimized by the state in 1906. However, the emerging trade unions were under the influence of revolutionary radicals of various kinds and

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<sup>1</sup> We believe it is important to emphasize a point of objectivity in the genesis of the mechanism of the legal regulation of labor, which is in contrast to the long tradition of super-liberalism in economic theory, originating in the work of T. Malthus and D. Ricardo and represented at different times by such thinkers as H. Spencer, G. de Molinari, F. Bastiat and others, and in our times by L. von Mises and F.A. Hayek. The liberal economist K. Marx showed where the evolution of the liberal economic model could, and moreover, will go. The only reason this forecast has not yet come true is that this model has been replaced by a new one, which is based on the more or less broad interventionism of the social welfare state and (in the sphere of labor) on the activities of trade unions.

ultimately they became in a sense the above-ground “branches” of illegal political parties fighting against the existing political regime. It is no surprise that all these “revolutionary” trade unions became subject to police persecution and eventually ceased to exist.<sup>2</sup> Under these conditions, the only factor that protected the interests of wage workers was the state (the “tsarist autocracy”) with its legislation and a system of supervisory and jurisdictional bodies. But this state custody of the interests of the workers naturally drew the disfavor of a broad stratum of entrepreneurs and their ideologists who advocated “the freedom of labor for the nation” (in other words, for an unrestricted freedom of employment) and, accordingly, against the “feudal” guardianship policy of the public authority. As a result, this led to a paradoxical, at first glance, alliance between the revolutionary radicals, who were striving to destroy the “capitalist system” in Russia, and the bourgeoisie, who actually represented this very system. This alliance, being directed against the existing political regime, served a great deal in destroying it.

### **1. Socialist Theory and the History of “Real Socialism” in the USSR**

One meticulous expert in the field of the theory of socialism estimated more than one hundred years ago that the bibliography of the works devoted to the theory of socialism took up only five thick volumes. Over the past century, this volume has undoubtedly increased to a great degree. Therefore, we will not resort to lengthy quotations and going deep into detail here, but rather limit ourselves to only the most general conclusions.

At the heart of the socialist concept, as it appeared in the optimistic 19<sup>th</sup> century, is, in fact, an extremely noble idea, i.e. the idea of the omnipotence of the human mind. In fact, nowadays (speaking with the voice of the 19<sup>th</sup> century), when the natural sciences are resolving – and are about to resolve finally – all the problems of the universe, Why can’t the human mind arrange public life based on rational grounds, so that there would be no poverty or hunger, so that all people without exceptions could equally enjoy all the benefits of culture and civilization, so that justice would prevail in human society? A positive answer to this question seems to be obvious.

But, while stating this maxim as an idea goal, it was necessary to formulate the technology for achieving it, that is, to identify the appropriate means.

We consider it obvious that it is impossible to build social peace on rational grounds when the economy is functioning based on a huge, unrecordable array of decisions and actions of self-managing entities; in other words, when there is something that supporters of the socialist idea call the anarchy of the market. In order to ensure

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<sup>2</sup> The rapid growth of trade unions in Russia took place in the period immediately after the overthrow of the monarchical regime in early 1917.

more rational management, it is necessary to have one (and only one) subject to take all managerial decisions. This subject is the socialist state. In order for this entity to function, it is necessary to concentrate all available resources in its hands, so that it would be possible to rationally redistribute these resources across the territory and the branches of the economy and, even broader, across the entire dimension of the society. Such concentration of the resources of social production in the hands of the state is called nationalization; that is why it is a requirement of all socialist doctrines to destroy private property. Or, in any case, it is the “test for socialism”: if a particular concept of socialism permits plurality of forms of property and economic activity, then this is not a socialist doctrine, and the socio-economic model that has developed on its basis is at best a transitional one. Therefore, we must fully recognize that the well-known critic of socialism Ludwig Mises was correct to say that the term “state socialism” is a pleonasm: real socialism can only be state socialism.<sup>3</sup>

Labor is the most important economic factor, so it is also subject to nationalization, since nationalization is a condition for labor’s rational redistribution across the territory and various kinds of socially significant economic activities.

This is the orthodox model of socialism, which is supported by everyone who more or less understands socialism, including, of course, Marxists, or the Bolsheviks who took the power in October 1917.<sup>4</sup>

With all this in mind, it is necessary to interpret the historical evolution of Soviet socialism. While characterizing this evolution, it is important to avoid the mistake made by almost all of its researchers in Russia, including those who specialize in the history of the legal regulation of labor, namely, when they interpret Soviet economic history as a history of linear progressive development (as applied to labor, from the Code of Labor Laws (KZoT) of 1918 to the Labor Code of 1922, and then from the latter to the codes of the republics of the Union of 1971–1973, and then to the current Labor Code of the Russian Federation).

In fact, the history of the economy, like the history of the legal regulation of labor in Soviet Russia in its qualitative characteristics, is very inconsistent. It seems that the following periods can be distinguished in this history: (1) from 1918 till approximately 1921, the so-called “military communism”; (2) from 1921–1922 till, approximately, the end of the 1920s, the period of the New Economic Policy (NEP);

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<sup>3</sup> Мизес Л. фон. Всемогущее правительство: Тотальное государство и тотальная война [Ludwig von Mises, *The Almighty Government: Total State and Total War*] 73 (Chelyabinsk: Sotsium, 2006).

<sup>4</sup> This argument can be challenged: it is well known that different people, both Marxists and critics of Marxism, at various periods of history criticized the Bolsheviks, Lenin, and Stalin for “non-Marxism.” In Russia, the beginning of this criticism was laid down by the first and universally recognized thinkers of Marxism G.V. Plekhanov, P.B. Axelrod, and others. The situation is complicated by the fact that the founders of Marxism themselves preferred not to build a detailed conceptual model of what they thought to be the future socialist society. Nevertheless, in the writings of both Marx and Engels there are many places where they call socialism (and communism) a society built on the basis of reason. This is critical, everything else goes without saying.

(3) from the end of the 1920s and beginning of the 1930s till the mid-1950s (which we would call, for the purpose of discussion, the era of Stalin's socialism); (4) from the mid-1950s till the turn of the 1980s. All of the selected periods have a number of features in common with each other, but there are some very specific ones. Let us try to give a short description to each of the specified periods.

## **2. The Use of Labor in the Era of "Military Communism"**

The designation of the first period as "military communism" in Soviet literature is tied to the civil war in Russia and foreign military intervention, which allegedly determined the specifics of the economy and labor during this period. This explanation is correct, though only partially. The fact is that the causes and consequences are on the wrong places: in reality, it was not the war that effected such an organization of the economy, but the changes in the organization of the economy led to the civil war and foreign military intervention (it is enough to recall the pre-war Bolshevik slogan, "Let us turn the imperialist war into a civil war," and it is necessary to recognize that they knew perfectly well what they were calling for). This period marks an attempt to build a society and economy on a directly communist basis.

Let us briefly illustrate this situation.

The theoretical foundations of such a transition from capitalism to communism were formulated by V.I. Lenin in a work written in the summer of 1917, before the October coup. The leader of the Russian Communists believed that the level of social and economic development of capitalism in the advanced countries, including Russia, was sufficient for the transition from capitalism to what he believed to be a higher level within a very short historical period, and that this was a quite easy or, at least, feasible task.

The capitalist culture has created the large-scale production, factories, railways, mail, telephones, etc., and on this basis the vast majority of the functions of the old "state power" has become so simplified that they can be reduced to such simple operations as registration, recording, checks, that these functions are quite accessible to all literate people, that these functions can be fully performed for the usual "worker's wages," that it is possible (and necessary) to release these functions of any shadow of something privileged or "overbearing."

Records and control is the main thing that is required in order to "arrange" the proper functioning of the communist society of the first phase. All citizens here would become the employees of the state, which is represented by the armed proletarians. All citizens become the clerks and workers of the single national state "syndicate." The whole point is that they work equally, they carry out the equal share of work, and are equally paid. The records and control over

it is simplified by capitalism to the very extreme, to the unusually simple and available to every literate person operations of supervision and recording, to four basic arithmetic operations and issuance of correct receipts.<sup>5</sup>

When the majority of the people start exercising on an independent basis and everywhere this records and control over the capitalists, now turned into the employees, then it will become “truly universal, common, nation-wide, and then it cannot be avoided in any way.” As a consequence, “the whole society will become one office and one factory with equality of labor and equality of wage.”<sup>6</sup>

These theoretical positions were embodied in the decisions of the VI Congress of the Bolshevik Party, which also took place in the summer of 1917.

It is the implementation of this program that was represented in the processes that we observe in Russia during 1918–1921. Beginning in 1918, the state began gradually to nationalize all large, medium, and small industries, all banks, and almost completely liquidated monetary turnover.<sup>7</sup>

In the sphere of labor, a system of state bodies was created to carry out recording and planned redistribution of labor across the country and the places of employment. The role of trade unions that then became a specialized subdivision of the state apparatus, was radically revised.

The practice of all sorts of “labor mobilizations” and labor armies gained extraordinary development;<sup>8</sup> at the same time, “labor desertion” (that is, unauthorized departure from work or refusal to move to another enterprise or to another locality,

<sup>5</sup> Ленин В.И. Государство и революция [Vladimir I. Lenin, *The State and Revolution*] in Ленин В.И. Полное собрание сочинений. Т. 33 [Vladimir I. Lenin, *Complete Edition. Vol. 33*] 44, 101 (Moscow: Politizdat, 1969).

<sup>6</sup> *Id.* It should be noted that by saying this V.I. Lenin was not unique, neither in essence, nor even in form. For example, already in the Erfurt program of German Social Democracy it had been pointed out that, “Just as at present in some large industrial enterprises the production and payment of earnings are regulated on the basis of an established plan, the same will be done in a socialist society, which is similar to a single giant industrial enterprise”; and further: “In socialist society all means of production are collected in one hand, there is only one employer in it, and this employer cannot be changed” (Каутский К. Эрфуртская программа [Karl Kautsky, *Erfurt Program*] 110, 117 (St. Petersburg: Delo, 1907)). Afterwards, both K. Kautsky and European Social Democracy as a whole very consistently and rapidly withdrew, unlike Russian Bolsheviks, from this thesis, as they fully realized its practical futility.

<sup>7</sup> The complete destruction of money and the transition to a direct exchange of the products of labor was a core part of the mission of the Russian Communists. In practice, money was not actually destroyed, but it was so depreciated that its use lost all meaning. So the Bolsheviks achieved their goal.

<sup>8</sup> See Постановление Совета Рабочей и Крестьянской обороны от 15 января 1920 г. “О первой революционной Армии Труда,” СУ, 1920, № 3, ст. 15 [Decree of the Council of the Workers’ and Peasants’ Defense of 15 January 1920. On the First Revolutionary Labor Army, Legislation Bulletin, 1920, No. 3, Art. 15]. During the year January 1920 to January 1921, eight labor armies were created (Urals, Ukrainian, Caucasian, Petrograd, Labor Railway Army of the Caucasian Front, the 2<sup>nd</sup> Revolutionary (in Turkestan), Donetsk and Siberian). From 15 April to 1 July 1920, about 2.5 million Red Army soldiers participated in public labor (Гражданская война и военная интервенция в СССР: Энциклопедия [Civil War and Military Intervention in the USSR: *Encyclopedia*] 599–600 (Moscow: Sovetskaya entsiklopediya, 1983)).

evasion from registering as temporarily unoccupied, etc.) was prohibited.<sup>9</sup> “Labor desertion” was a crime that could be punished by direction of the perpetrator to the concentration camp where forced labor was practiced. A repeated unsuccessful attempt to escape from the camp could lead to the death penalty.<sup>10</sup>

This mechanism of labor management was legalized by such general instruments as the RSFSR Constitution of 1918, which proclaimed the slogan “He who does not work, neither shall he eat,” and the Labor Code, which established the universal duty of labor for all able-bodied citizens. In addition, during the period of 1918–1921 the Soviet authorities issued a huge and unrecordable array of special regulations.

### **3. The Mechanism of Legal Regulation of Labor in the Context of the New Economic Policy**

By the beginning of the 1920s, the economic mechanism established in Bolshevik Russia demonstrated its complete inefficiency. Whereas during the period of the civil war and foreign military intervention it had allowed authorities to solve the extraordinary economic problems (when the price to implement a decision taken often does not matter), this mechanism turned out to be completely ineffective in the conditions of peacetime. In the face of obvious economic collapse, the political leadership of the country decided to urgently change course. This new course was named the New Economic Policy (NEP). However, the New Economic Policy was new only in comparison with the previous policy. Its essence boiled down to the fact that the state renounced the role of the total owner, only a few enterprises remained under its management, while the rest were either transferred on certain legal bases to private owners or were closed. Thus, the policy envisioned pluralism in the forms of ownership and the forms of economic activity, all economic entities, including state actors, operated on commercial grounds, i.e. in order to generate profits; accordingly, the commodity-money turnover and the financial system of the state were restored. In short, it was an obvious retreat.

As V.I. Lenin put it:

We counted that, being raised on the wave of enthusiasm, of awakened popular enthusiasm... we expected, based on this very enthusiasm, to implement... the economic tasks of the same greatness. We expected, or,

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<sup>9</sup> See Декрет СНК от 4 мая 1920 г. “О трудовом дезертирстве и органах борьбы с ним,” СУ, 1920, № 35, ст. 168 [Decree of the Council of the People’s Commissars of 4 May 1920. On Labor Desertion and the Organs Fighting Labor Desertion, Legislation Bulletin, 1920, No. 35, Art. 168]; Декрет СНК от 9 мая 1921 г. “О трудовом дезертирстве,” СУ, 1921, № 46, ст. 227 [Decree of the Council of the People’s Commissars of 9 May 1921. On Labor Desertion, Legislation Bulletin, 1921, No. 46, Art. 227].

<sup>10</sup> See декреты ВЦИК о лагерях принудительных работ, опубликованные 15 апреля 1919 г. и 17 мая 1920 г., СУ, 1919, № 12, ст. 124; 1920, № 20, ст. 235 [Decrees of the Central Executive Committee on Forced Labor Camps, published on 15 April 1919 and 17 May 1920, Legislation Bulletin, 1919, No. 12, Art. 124; 1920, No. 20, Art. 235].

perhaps to be more accurate, we assumed without sufficient calculation, by the immediate orders of the proletarian state to establish communist-way state production and state distribution of products in a country of small peasant enterprises. Life has proved our mistake.<sup>11</sup>

So, the NEP was a retreat. However, this retreat was temporary. The party-state leadership of the country did not at all renounce the communist illusions as to the future perspective, but what is more, the new conditions of economic life were regarded as the arena of the struggle between the capitalist and communist principles, as a form of preparation for the communist no-commodity production. The XI conference of the RCP(b) held in December 1921 formulated a very indicative provision in this sense:

The struggle between the communist and the private economy is transferred onto the economic ground, to the market where the nationalized industry, concentrated in the state's hands, must, based on the methods of market competition, win its decisive domination.<sup>12</sup>

Similarly, V.I. Lenin, in the above-quoted essay, pointed out the necessity of passing through a whole series of "transition stages," namely "state capitalism and socialism," in order to "prepare – to prepare by the work of many years – the transition to communism."

Not on enthusiasm itself, but with the help of enthusiasm created by the great revolution, on personal interest, on personal concern, on economic calculation, please take the trouble first of all to build in the country of small peasant enterprises the strong overpasses through state capitalism to socialism; otherwise you will not approach communism, otherwise you will not let dozens and tens of millions of people to communism.<sup>13</sup>

As we can see, the New Economic Policy from the very beginning was contradictory at its core and was viewed as a temporary or transitional measure, since the attempt to build communism directly had failed.

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<sup>11</sup> Ленин В.И. К четырехлетней годовщине Октябрьской революции [Vladimir I. Lenin, *To the Fourth-Year Anniversary of the October Revolution*] in Ленин В.И. Полное собрание сочинений. Т. 44 [Vladimir I. Lenin, *Complete Edition. Vol. 44*] 151 (Moscow: Politizdat, 1969).

<sup>12</sup> Резолюции конференции "Очередные задачи партии в связи с восстановлением хозяйства" [*Resolutions of the Conference "The Party's Next Tasks in Connection with the Restoration of the Economy"*] in ВКП(б) в резолюциях и решениях съездов, конференций и пленумов ЦК. Ч. I [*RCP(b) in Resolutions and Decisions of Congresses, Conferences and Plenums of the Central Committee. Part I*] 407 ff. (Moscow: Gospolitizdat, 1941).

<sup>13</sup> Lenin, *To the Fourth-Year Anniversary of the October Revolution*, at 151.

This contradiction found its manifestation both in the new legislation on labor and in the practice of legal regulation of labor.

First of all, what was going on was a kind of denationalization of a person's ability to work: it returns to its owner. Accordingly, the universal duty of labor is abolished, and able-bodied persons are entitled to freely dispose of their ability to work. This means that the institution of the labor contract is subjected to "rehabilitation," both as a legal form of involvement in labor and as the main legal regulator of the contents of labor relations.

At the same time, the role of trade unions and the state in the area of labor significantly changes.

The functions of trade unions were revised following the results of the intra-party discussion that took place in the RCP(b) in late 1920 to early 1921. Trade unions ceased to be treated as an element of the state apparatus, they to some extent began to play the role of representatives of the economic interests of their members, especially those working at non-state enterprises. This did not exclude the emergence of collective labor disputes, as well as the use of strikes as an argument in these disputes. Accordingly, the institution of the collective bargaining agreement was revived, and in fact collective bargaining agreements could be concluded both within an enterprise (local) and at the level of the branch of the economy or a certain territory or in the whole country (general).

As for the state, in the conditions of a pluralistic economy it ceased to exercise the function of direct control over the movement of the labor force over the country and the branches of economic activity, and returned to the task of ensuring a guaranteed minimum of the workers' rights in labor relations and, in addition, mediating the functions between the actors in the labor market, as well as resolving labor disputes between the employer and the employee.

In particular, since the deficit in the labor force, which took place in the period of "military communism," turned into a surplus, the state restored the system of labor exchanges and took a number of measures to optimize their work.

In order to ensure an adequate standard of living for the employees, a guaranteed minimum wage was introduced, and a mechanism was created to determine the size of this minimum and revise it. The state body specifically created for these purposes, i.e. the tariff chamber,<sup>14</sup> carried out monthly revision of the minimum wage (later, in the process of stabilizing the consumer market, this revision took place every two months); the size of this minimum was determined on the basis of the price index for the goods that make up the consumer basket, and to more accurately establish the value of such an index the country's territory was divided into so-called tariff

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<sup>14</sup> Положение о тарифной камере при Народном комиссариате труда, утвержденное декретом СНК от 28 ноября 1922 г., СУ, 1922, № 79, ст. 999 [Regulations on the Tariff Chamber under the People's Commissariat of Labor, approved by Decree of the Council of People's Commissars of 28 November 1922, Legislation Bulletin, 1922, No. 79, Art. 999].

belts. Let us note by the way that there is no such mechanism in modern Russia, which is quite regrettable.

The mechanism of labor disputes resolution was reorganized. However, it would be more precise to say that it was actually created, because such a mechanism had never existed in the Russian Empire or in Soviet Russia. For the consideration of individual labor disputes, two stages were established: a pre-judicial stage and a judicial stage. In courts, the disputes were subject to review by special labor chambers of the people's courts. It should be noted, however, that administrative justice (which existed in the Russian Empire and was specialized in the disputes between employers and state labor inspectorates) was not recreated in this system of dispute settlement bodies.

From all the foregoing it could be concluded that Russian authorities in the era of NEP established a model of legal regulation of labor, which is akin to the one that exists to this day in the countries with a pluralistic economy. It is the model that is based on the ideology of social partnership and the social rule of law state. We should note that there are external reasons for such a statement, especially since high-level specialists who worked in Russia at that time were carefully studying the new trends in the social and economic policies of the developed countries of the West and, as necessary, transferring their experience onto Russian soil.

Nevertheless, such a conclusion would be erroneous. The fact is that despite all the "market innovations," including those in the sphere of labor, the political regime that existed in the country, which defined itself as "the dictatorship of the proletariat," was not going to change at all. As applied to the economy as a whole, it was customary in official Soviet historiography to say proudly that all the so-called "commanding heights in the economy" were preserved for the Soviet state. As for the sphere of labor, here the dominance of the public element manifested itself in many different ways.

For example, the fact of creating a system of collective-contractual regulation seems to evidence that the well-known model of social partnership (social dialogue) was emerging in the area of labor. However, this conclusion will turn out to be erroneous for reasons of essential nature, for even after the transition to the NEP, the nature of the trade unions operating under the conditions of the "proletarian state" remained unclear.

Perhaps the simplest way of how this problem was solved was in the area taken by enterprises of non-state forms of ownership: here the trade unions, in full accordance with Marxist doctrine, represented the proletariat in opposition to "capital" and, therefore, they could, in this confrontation, use to the fullest extent the set of measures that they had tested in "class battles" during the period of the domination of capitalist relations – including collective bargaining, strikes, and collective agreements. As far as it follows from the numerous party directives on that matter, and during the NEP period in this field of relations, the conclusion of

collective agreements was viewed as one of the moments of the “class struggle,” i.e. carried out by relatively peaceful means of the war aimed at the destruction of the opposing side (“capital”).

But completely unresolvable was the problem of the role of trade unions in enterprises of the socialized sector of the economy: the trade union is a representative of workers and, at the same time, the enterprise (nominally) also belongs to the workers. What, under such conditions, can some collective representatives (trade unions) negotiate within the framework of a collective agreement to be entered into with other workers’ representatives (the administration of a state enterprise)? No satisfactory answer to this question has been found throughout the entire course of Soviet history.

With all that has been said, it is possible, with a very high degree of conventionalism, to speak of the “social partnership” as an element of the collective-contractual method of regulation. As applied to private-sector entities, it was not the social partnership that was proclaimed here, but class struggle, i.e. the war on destruction, and, given the socio-economic context, it is quite clear who was to be destroyed. With regard to the socialized economy, the idea of “social partnership” should have seemed no less illusory, for, in fact, one cannot enter into partnership with oneself.

Thus, the idea of collective-contractual regulation, for objective reasons, was emasculated from the very beginning, for it had no real content. However, during the NEP period, the illusory nature of this idea was not yet obvious and, apparently, it worked.

Something similar can be said about and applied to the policy of the Soviet state. The public authority, which treats itself as the “proletarian state,” was inevitably forced to pursue a double policy.

On the one hand, it had to implement the policy of the “proletarian dictatorship” in relation to those economic entities that, within this paradigm, were regarded as “class enemies,” i.e. private business entities-employers. Of course, under the conditions of the pluralistic economy legitimized by the state, this class suppression could not be directly oriented towards their physical destruction; in the field of labor, it was to be expressed in the increased social and legal protection of the wage workers, the “proletarians.”

On the other hand, the state power, being “proletarian,” could not remove itself from the task of pursuing a policy aimed at building the socialist society in the country, therefore, acting on behalf of the proletariat as a whole, it had to take measures to discipline each individual worker, the “proletarian,” employed at enterprises of the socialized sector of the economy. As we see, this element of the policy of the Soviet state, which triumphed in the era of “military communism,” did not go away anywhere during the NEP.

Thus, in the state’s labor policy there were two functions coexisting: the economic (industrial) one, where the state, acting as the owner, controls all factors of production,

including labor, and the protective one. In the future, with the elimination of the “capitalist” elements in the economy and the transformation of the socialist state into a single and sole economic entity, these two competing functions, carried out by the mechanism of the legal regulation of labor, were hierarchized: the function of organizing labor by means of labor law, the protective function was in second place (the rights of the employee were protected and protected to the extent that it did not contradict the general interests; however, the very range of such rights was wholly determined by the state).

The economic policy of the state with respect to the sphere of labor found its expression in a large normative array. The main ideological role, if not regulative, in this array was called into play by the new Code of Labor Laws, adopted in late 1922 (KZoT of 1922).<sup>15</sup>

The main feature that characterizes the ideology of the Labor Code is the restoration of the contractual method of attracting workers and regulating the conditions of labor. Accordingly, the Code applied to all persons working for hire, i.e. under an employment contract, and was mandatory for all enterprises, institutions and farms, regardless of the form of ownership, as well as to individuals who used the “wage labor for reward” (Art. 1). As we can see, the new Code was significantly different from the previously functioning KZoT of 1918; in essence, it was very close to the pre-revolutionary (imperial) labor legislation, as well as the draft law on the employment contract developed under the Provisional Government (which operated after the overthrow of the tsarist regime right up to the Bolshevik coup in October 1917). Moreover, it seems that the Labor Code of 1922 coincides with the previous legislation and the draft law not only in spirit, but also often textually.

By stipulating the labor contract as the main regulator of individual labor relations, the Labor Code treats labor duty exclusively in a narrow sense, i.e. as a measure of an extraordinary nature, which can only be used in exceptional cases and in a strictly defined order (Chapter III).

At the same time, the Labor Code initially established that “provision of jobs to the citizens of the RSFSR within the framework of voluntary employment” was to be carried out, as a rule, through the specialized bodies of the People’s Commissariat of Labor (Art. 5). One can only presumably judge the reasons that led to such a legislative decision. It is perhaps that the state wanted at least somehow to limit the “anarchy” of the labor market and to give the movement of the labor force a planned character. In any case, this system soon showed its complete inefficiency, since it proved inconvenient for all interested parties (it excluded the possibility for the unemployed and for the employers to interact in the field of employment outside the

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<sup>15</sup> Кодекс законов о труде РСФСР, утвержденный IV сессией ВЦИК IX созыва 9 ноября 1922 г., СУ, 1922, № 70, ст. 903 [Code of Labor Laws of the RSFSR, approved at the IV Session of the All-Russian Central Executive Committee of the IX Convocation on 9 November 1922, Legislation Bulletin, 1922, No. 70, Art. 903].

official labor exchange; in its turn, the work of the labor exchange proved ineffective in view of the large masses of the unemployed and of the employers, most of whom, in fact, had already found each other). Therefore, already in 1925, this system was abolished. However, it was restored again only to be finally abolished in 1931, but already in quite different socio-economic conditions.

The Labor Code legitimized the institution of the collective bargaining agreement (Chapter IV) and defined the legal status of trade unions (Chapter XV).

Thus, a mechanism of the legal regulation of labor was established based on a combination of three methods: individual-contractual regulation, collective-contractual regulation, and state regulation. Accordingly, it was necessary to determine the hierarchy of normative sources for such regulation, and this task was solved in the Code of 1922. Article 28 thereof made invalid the terms of the employment contract that worsen the status of the worker as compared with the conditions established by labor laws, the collective agreement or internal regulations, as well as the conditions "that tend to limit the political and general civil rights of the worker". In turn, Art. 19 of the Labor Code makes invalid those articles of collective agreements that worsen the working conditions in comparison with the conditions established by the Code and other applicable laws and regulations on labor. Finally, according to Art. 4 of the Labor Code, all contracts and labor agreements that worsen working conditions as compared with the provisions of the Code are null and void.

As we see, the listed articles of the Labor Code provide for a kind of imperative-dispositive principle of the operation of the three main regulators of the conditions for the employment of wage labor: working conditions established in the order of individual contractual regulation cannot be worse than those provided for by the collective agreement and labor legislation, while those established by the collective agreement cannot be worse than those guaranteed by law. It is clear, therefore, that a significant part of the norms of the Labor Code of 1922 was of imperative-dispositive character (that is, guaranteeing the employee a certain minimum level of rights in the field of labor); accordingly, the working conditions of the employee could be improved within collective-contractual and individual-contractual regulation. These are the chapters of the Code that deal with the norms of production (Chapter VII), remuneration (Chapter VIII), guarantees and compensation (Chapter IX), working time (Chapter X) and time of rest (Chapter XI), and labor of women and minors (Chapter XIII). Articles of other chapters of the Code had a different subject matter, and therefore were in the main part formulated as imperative rules. Among them are the rules on internal regulations (Chapter VI), apprenticeship (Chapter XII), labor safety (Chapter XIV), trade unions and their bodies at enterprises, institutions and farms (Chapter XV), conflict resolution and violations of labor laws (Chapter XVI), and social insurance (Chapter XVII).

The most important place in the structure of the Labor Code is occupied by the norms on the employment contract (Chapter V). Let us note by the way that it is in

this part that the Code reproduces the content of pre-revolutionary labor legislation and the draft law of the Provisional Government on the employment contract to the greatest extent.

The rules of Chapter V of the KZoT formulate the definition of the concept of the employment contract, its form, the features of the parties thereof (it is noteworthy that the Code, in particular, constructed a model that is very similar to the currently fashionable topic of "outstaffing"), types of employment contracts depending on the terms of validity, transfers for another job and, finally, the grounds and procedure for termination of an employment contract. Not being able to disclose here the content of the above norms in detail, let us briefly dwell on those innovations that appeared in them in comparison with the previous labor legislation.

The easiest is to compare it with the Labor Code of 1918: in this Code the rules on employment contract are just absent, because, as it already stated, this Code legalized the economic model based on the idea of total state management of the economy, including management of labor.

As for the pre-revolutionary legislation, there is an impression that the Labor Code of 1922 was much less liberal in comparison with it, limiting the freedom of the labor contract, mostly in the part related to the employer. This restriction was carried out by consolidating the control powers over the public structures operating in the enterprises (trade unions and the so-called conflict settlement commissions), but mainly through the expansion of the sphere of imperative state regulation.

The first thing to discuss is the termination of an employment contract. The pre-revolutionary legislation, guided by the principle of freedom of contract, proceeded from the fact that an employment contract concluded for an indefinite period of time could be terminated based on the initiative of either party provided that the other party was warned two weeks in advance. Other rules would apply in the event of early termination based on the initiative of either party in a fixed-term employment contract: since this referred to a condition in a contract (term of employment), early termination of the contract would violate this condition and, accordingly, violate the general principle of contractual law, i.e. *pacta sunt servanda*. Therefore, the termination of a labor contract in this case could be carried out only in exceptional cases, an exhaustive list of which was provided for in the law.

The Labor Code of 1922 introduced quite substantial changes in these rules. On the one hand, the employee retained the right at any time to terminate the employment contract concluded for an indefinite period of time, with the prior notice given to the employer within the time period established by law (from one to seven days); and only the early termination of the fixed-term employment contract at his initiative could be carried out based on the reason specified in the law (Arts. 46, 48). On the other hand, from that moment and thereafter the termination of an employment contract at the initiative of the employer, regardless of the type of the employment contract, could be carried out only on the basis of a reason that

is specified in the law (Art. 47), provided that such dismissal is carried out under the control of the conflict settlement commission. It should be noted that this solution to the issue remains the same today with the only clarification that now the right of an employee to resign of his own will at any time does not depend on the type of employment contract, and the employer's decision to dismiss the employee based on the ground specified in the law is taken by the employer alone.

Concluding this section, we would note that, with all the imperfections of the legal technique that are present in the Labor Code of 1922, this law seems to have great merits, so that in some cases it looks more advantageous even in comparison with the current labor laws of Russia.

#### **4. Governance of Labor after the “Great Break”**

The term “Great Break” was coined by I.V. Stalin to determine a relatively special episode in Soviet history, when the qualitative successes were achieved in the forced collectivization of the peasantry. However, in fact, this precise term has a much broader meaning, since it denotes a qualitative transition from the economic model defined by the general term “New Economic Policy” to a significant other model – the socialist order.

By the end of the 1920s, the New Economic Policy had sputtered out.

First of all, the NEP, was not, in fact, socialism, it was as theorists and, above all, V.I. Lenin defined it, “state capitalism.” Accordingly, within the movement to the main goal – socialism – the NEP had a temporary and transitional character, and this made it possible to discuss the moment when the NEP was to be abandoned. Stalin, with his inherent clarity in wording, expressed this idea as follows: in fact, when the NEP was initiated, Lenin said that the NEP was “a serious move to be maintained for a long time”; however, Lenin never asserted anywhere that the NEP had been established once and forever. This period, according to the party-state leadership, came to an end just prior to the start of the 1920s.

The reasons to abandon the New Economic Policy were at least twofold, but both are connected with the definition of the socialist perspective of the country.

Firstly, in the second half of the 1920s, there were obvious complications in the sphere of commodity exchange between the cities and villages: the agrarian sector that had been restored for the several years of the NEP held sufficient stocks of marketable grain, but the peasants preferred to hold on to this in anticipation of a more favorable market situation. The political leadership of the country had different views as to how to solve the problem. A part of the party and government figures, headed by N.I. Bukharin, proposed to follow the path of further development of the market, applying mainly economic measures for its regulation (in particular, resorting to grain competition, among other measures), and in any case refraining from the application of purely police measures, which, in the opinion of Bukharin,

would damage the market and aggravate the situation. Another part, headed by Stalin, guided by the visible advantages of the police measures (thinking that the problem of “harvesting” the bread could be solved quickly (here and now) and at minimal cost) and having, to put it mildly, a very approximate understanding of economic theory, was inclined to employ precisely this type of measures. Bukharin and his supporters, as it is well known, lost.

Secondly, the rejection of the NEP was dictated by purely political reasons, and these were the main reasons. It was a question of the socialist prospects of the “dictatorship of the proletariat,” or, more precisely, of the retention of power by the Bolshevik Party, and even in this area, Stalin was by no means a layman. Stalin formulated his position with extreme clarity as early as December of 1926, when, while describing the position of the party oppositionists, he accused them all of denying “the possibility of victorious construction of socialism,” which “leads to the prospect of the degeneration of the party, and the prospect of this degeneration, in turn, leads to a withdrawal from power and to the question as to the birth of another party.” There can be no doubt, he stated, that if we cannot build socialism and the revolution in other countries is delayed, while the capital grows in our economy just as our economy is getting “merged” with the world capitalist economy, then, from the point of view of the opposition, there are only two options:

a) either remain in power and pursue the policy of bourgeois democracy, participate in a bourgeois government...;

b) or withdraw from power in order to regenerate, and to form a new party along with the official party.

In other words,

The question stands as follows: if we cannot build a socialist economy, then the dictatorship of the proletariat, by making more and more serious concessions to the bourgeoisie, will have to get reborn and trailed behind the bourgeois democrats.

Can the Communists agree to conduct bourgeois politics under the degenerating dictatorship of the proletariat?

No, they cannot and should not.

Hence the way out: to withdraw from power and create a new party, clearing the way for restoring capitalism.<sup>16</sup>

Here it is necessary to explain that in this case Stalin is talking about another (“left”) opposition, led by L.D. Trotsky. The supporters of this wing of opposition questioned

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<sup>16</sup> Сталин И.В. Заключительное слово на VII расширенном Пленуме ИККИ 13 декабря 1926 г. [Joseph V. Stalin, *Concluding Remarks at the Seventh Extended Plenum of the Executive Committee of the Communist International on 13 December 1926*] in Сталин И.В. Полное собрание сочинений. Т. 9 [Joseph V. Stalin, *Complete Edition. Vol. 9*] 143–144 (Moscow: Gospolitizdat, 1952).

the possibility of building socialism in one particular country, believing that socialism is possible only in the conditions of the world communist revolution. But the logic of Stalin's speech is quite obvious, and it can be addressed both to the "Trotskyists" and to the "Bukharinites": in the absence of the immediate prospects of a world socialist revolution, the New Economic Policy, allowing, albeit with certain limitations, the pluralism of the forms of ownership and of economic activity, objectively entails changes in the social structure of society, and in turn leads to the formation of new social groups requiring their own political representation, i.e. there is a threat of restoration of the "bourgeois" liberal-democratic political regime, which poses a threat to the "dictatorship of the proletariat" regime and to the Communist Party's monopoly in the political system of society. It is more than obvious that for the overwhelming majority of the party leaders, including, in all probability, the leaders of the "opposition" (both "left" and "right"), this prospect was absolutely unacceptable.

The transition to the "single state syndicate" model at the turn of the 1920s and 1930s was perhaps more global than in 1918–1921, as it covered the national economy as a whole, including the agrarian sector.

The XVI Congress of the RCP(b) that was held in June–July 1930 instructed the Central Control Commission of the Proletarians and Peasants Inspectorate

to carry out a decisive liquidation of institutions and forms of government as uncritically borrowed from capitalism, although they were important in the first years of Soviet power, but subsequently they lost their meaning in conditions of predominance of socialist elements in the economy of the country.<sup>17</sup>

Although here, as it seems, we are talking only about the institutions and forms of government, in fact, there is much more in mind. The very same resolution mentions such forms that were subject to destruction as "a plurality of taxes and tariffs, joint-stock companies, etc."

Carrying out this kind of administrative work to "clean" the existing organizational and legal forms of management is quite logical within the overall work of unification and simplification of the economic mechanism, based on the idea of direct government management of all economic processes within the "vertical" structure: from the top to the bottom. In these conditions, all other organizational and legal forms of management, especially a corporate type, become not just superfluous, but directly impossible.

Unification of forms of economic activity was total and was carried out on the basis of nationalization of all sectors of the economy, including industry and

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<sup>17</sup> ВКП(б) в резолюциях и решениях съездов, конференций и пленумов ЦК. Ч. II [*RCP(b) in Resolutions and Decisions of Congresses, Conferences and Plenums of the Central Committee. Part II*] 405–406 (Moscow: Gospolitizdat, 1941).

transport, trade, and agriculture. As was stated at the XVI Party Congress, by the beginning of the 1930s,

The role of private capital fell very sharply and its further depression was taking place. The planning and regulating role of the Soviet state in the entire national economy of the country is becoming definitely stronger, embracing more and more not only industry, but also agriculture.<sup>18</sup>

Somewhat later, when summarizing the results of the five-year plan, it was noted that the reconstruction of industry led to the elimination of the capitalist elements in industry and trade. Of the five socio-economic systems only two remained, of which the small-scale production that covered the majority of the country's population during the earlier years of the NEP, afterwards was pushed back to a secondary position, while socialist management became the dominant force in the entire national economy. The Leninist question "Who, whom?" was completely and irrevocably resolved against capitalism and in favor of socialism both in the city and in the countryside.<sup>19</sup>

Under these conditions, such forms of management as various kinds of corporations (primarily joint-stock companies, as well as various economic partnerships, such as full and limited partnerships), then being in the spotlight of the civil legislation that was in force, were doomed to lose their importance. All individual private entrepreneurship was to be inevitably liquidated in all spheres of economic activity, while individual peasant farming was relegated far to the periphery of economic life. Strictly speaking, only two legal forms of economic entities survived and preserved their way for development: socialist state-owned manufacturing enterprises and various production cooperatives (cartels). And in fact, the latter form could be called co-operatives only with a great deal of conventionality, since they were for the most part under direct government control.

This restoration of the single and systematically controlled economy, of course, could not but affect the area of labor law. The changes that were ongoing in this area are well known to us from the 1918–1921 experience: it is an extremely strong role of state administration of labor coupled with the actual dismantling of the system of means of contractual regulation.

The state, firstly, fully assumed the functions of selection, accounting, professional training of personnel, as well as the redistribution of labor across the territory and by occupation. Accordingly, on the one hand, the compulsory transfer of workers ("flows") from one enterprise to another, including those situated in another locality, as well as placements of qualified personnel after they have graduated from relevant

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<sup>18</sup> *RCP(b) in Resolutions and Decisions of Congresses, supra* note 17, at 398.

<sup>19</sup> *Id.* at 488, 536–537.

state educational institutions came into common use. On the other hand, the state aspired to limit as much as possible the possibility of uncontrolled movement of labor. The apotheosis of this kind of policy was the adoption in 1940 of a series of decrees by the supreme legislative body of the country (the Presidium of the Supreme Soviet of the USSR) that prohibited “unauthorized leave” from work by the employees of state enterprises and institutions under the threat of criminal responsibility, and the possibility of exclusion of collective farm members by their collective farms was also abandoned.

Secondly, the state sought to take total control over the conditions for the use of labor, and this aspiration encompassed the work of not only the employees of state enterprises, but also the members of cooperatives (which were formally privately owned), primarily the work of collective farm members.

All these measures were accompanied by the establishment and strengthening of public liability for committing purely disciplinary offenses. First of all, along with the responsibility for “unauthorized leave,” the concept of absenteeism was also toughened and became a criminal offense.

It is clear that as the importance of state regulation in the sphere of labor intensified, the role of both collective-contractual and individual-contractual regulation decreased.

As already noted, the functions of trade unions under the conditions of the “dictatorship of the proletariat” were defined with a sufficient degree of clarity even during the relatively pluralistic economy of the NEP period. With the “Great Break,” these functions became significantly more specific: the trade unions became one of the conductors of state policy in the area of labor. In this regard, it seems most remarkable that the Decree of the Presidium of the Supreme Soviet of the USSR of 26 June 1940<sup>20</sup> (the primary one in a series of the aforementioned decrees), which essentially restricted the rights of workers, was adopted at the initiative of the trade unions. The transformation of trade unions into a subdivision of the apparatus of state power was carried out in the early 1930s, when they were assigned the functions of the liquidated People’s Commissariat of Labor.

It is clear that under such conditions the institution of the collective bargaining agreement is simply unnecessary. And in fact, in the 1930s collective bargaining agreements in the country ceased to be used (although, it seems, there is no normative instrument, at least published, on this matter, or in any case we were not able to detect it).

The institution of labor contract underwent a similar evolution. Among its functions, the labor contract indeed serves, first of all, as a source of labor rights and obligations of the parties thereto, and secondly, it is a legal fact that causes

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<sup>20</sup> Ведомости Верховного Совета СССР, 1940, № 20 [Bulletin of the Supreme Council of the USSR, 1940, No. 20].

legal consequences. Needless to say, under the new conditions of management, the labor contract completely lost its initial function. The role of this contract as a law-establishing legal fact also significantly decreased, due to the increase in the role of the state carrying out planned redistribution of labor, i.e. without any regard for the will of individual workers.

Under such conditions it is impossible not to notice very significant features both in those external forms of the state's legislative process and in its content.

On the level of content, the norms of labor legislation over time acquired an exclusively imperative character. And they indeed could not be different in the framework of the emerging economic model. Those few exceptions to the general rule (dispositive norms) were either non-binding declarations, or treated as an anachronism to be eliminated sooner or later. An illustrative example of this kind is Art. 28 of the Labor Code of 1922. In a work published two decades after the reform had started, the outstanding Soviet scholar N.G. Aleksandrov stated quite correctly:

Article 28 of the Labor Code (as of 1922) speaks only of the invalidity of the terms of the labor contract that would worsen the status of an employee in comparison with what is established in the labor law, in a collective bargaining agreement or in internal regulations. But the wording of this article is clearly outdated, because it was based on the earlier NEP-era predominance of those norms of labor law that fixed only the mandatory minimum of legal guarantees for the employee.

Now, when the economic life of the country is carried out based on the plan, the norms of labor law mostly establish the firm guarantees and terms of salary for labor. It would be against the principles of the socialist planning, if, for example, the wage rates would be established at the discretion of individual enterprise managers by agreement with individual workers.<sup>21</sup>

We shall note that exactly the same could be said on the relationship between the law and the collective bargaining agreement (if the latter existed at all). So, from then on in the sphere of social labor, the overwhelming part of the rules of law, if not all, acquired an imperative and peremptory character: only what is prescribed is allowed.

From the point of view of legal formality, such a form of legal instrument as the law is not at all denied. Moreover, the law continues to be interpreted as an instrument of supreme legal force. However, one cannot help but notice that the law over time becomes only an element in the system of other normative sources, and, in fact, by no means the most significant. The most important role is taken by

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<sup>21</sup> Александров Н.Г. Трудовое правоотношение [Nikolay G. Aleksandrov, *Labor Law Relationship*] 237 (Moscow: Ministry of Justice of the USSR Publishing House, 1948).

the executive bodies of the government. In this sense, the priority of the system of executive authorities can be seen in two most important aspects.

First of all, the system of public administration of labor has, with ever-increasing speed, generated more and more normative regulations that not only outstripped the content of a particular law, but also served as a kind of indication for making relevant changes and additions to this content. Formally being subordinate to the laws, these normative regulations of the supreme bodies of public administration actually became a legal source determining the content of subsequent legislative activity. The significance of such acts was even stronger when they were adopted jointly by the government and the supreme party organ (the Central Committee of the Party).

Secondly, it is clear that the system of administration is functioning on the basis of expediency. However, under normal conditions of social life, any number of effective, i.e. expedient, administrative decisions can be implemented only if they are taken within the framework of a current law. The situation changed when a new economic-social model was adopted: within this model, the economic expediency itself becomes the supreme law. The well-known interpretation of the relationship between the plan and the law can serve as a good illustration of what has been said: the plan is the main law for the executive body, therefore, when there was an alternative before such a body whether to fulfill the planned task, but violate the norms of the law (as a rule, this was the case with the legislation on overtime work), this body would not hesitate and opt for the planned task. So in fact there was no real alternative.

An unpleasant effect of this model was a rapid growth in the number of normative regulations on different levels: laws and, in particular, bylaws, that were adopted on any more or less significant issue, which is understandable, since there are no other legal regulators in place. It is difficult even for a specialist to get through a huge array of normative material, but this is not the main issue: in the presence of highly differentiated legislation, it is hardly possible to ensure unity in legal regulation, especially since socialist reality often does not give any definite criteria by which this unity could be ensured. A typical example of this kind is the administration of wages (which is carried out by the state based on unconditional and imperative rules). In fact, by what criteria should we determine the value of, say, a carpenter's labor? And, further, for what reasons do carpenters receive higher wages than elementary class teachers in schools?

The answers to most of these kinds of questions in a market economy were given without any reference to the authority of the state. But after eliminating the market economy, the state power was thereby forced to solve all these immense and, moreover, quite concrete questions.

It is well-known that the main drawback of the family of Anglo-Saxon (precedent) legal system is their casuistic and, accordingly, very disordered, unsystematic character. However, we must admit that the state-normative system of socialist law that functioned in the conditions of a fundamentally non-market economy had in

fact the same shortcomings, and we are not going to judge which of the two systems is worse. In any case, with regard to the economy, even if one does not take into account the opportunities of contractual regulation, it seems obvious that in the case law, the path from the need for legal regulation of any issue to its settlement by a precedent is shorter, and, therefore, the case law is more rapid, and therefore a more effective instrument of legal regulation.

The economic model formed over more than two decades was perfect in its own way; in any case, it fully embodied all those features which, according to the most authoritative ideologists, should characterize the economy of a socialist society (we would note here that we do not discuss the economic effectiveness of such a model or its moral dimension). It is indeed so that what was created was an economic system in which there was no private property whatsoever, where the planning dominated and where, consequently, no movement in the economy would be carried out without an appropriate command from the centralized, single, vertical management structure.

We will not consider here the positive and negative aspects of this model of administration and will limit ourselves to only the most general statements. Undoubtedly, such a model had obvious positive sides: full concentration in one hand of all available resources, including labor, provided an opportunity to solve global problems. However, this model had a number of shortcomings. The main disadvantage among them was, firstly, the fact that it allowed solving global problems, but only a few (such as the development of nuclear weapons and nuclear power), and it was organically incapable of coping with the abundance of various diverse tasks that, strictly speaking, constitute the life of any developing society; secondly, the fact that this model proved to be tremendously inefficient economically (for the sake of comparison, it can probably be said that the efficiency of this economic model was hardly higher than that of a locomotive). In this sense, socialism (unlike the country) was lucky: it was established in an economically thriving country, which was incredibly rich with resources, both natural and human. It seems, therefore, that if socialism had won in a less rich country, it would hardly have survived for so many years as it held out in Russia.

## **5. The Evolution of the Economic Mechanism in the 1950s–1980s**

So, we believe, by the 1950s, the socio-economic and even the political model of socialism had reached its completion. Therefore, all subsequent attempts to reform Soviet socialism, which were undertaken with a view to improving it, actually led to deformation, and ultimately created the prerequisites for its complete dismantling.

The 1950s were spent under the slogan of liberalization and democratization of the system of state management of the economy. At first, this was expressed in

attempts to decentralize this system by transferring managerial powers to a lower level of government (union republics and further down), and also by expanding the competence of ministries specialized in the management of certain branches of the economy. Then, in 1957, radical measures were taken to reorganize the entire economic management system: the branch (ministerial) management system was replaced by the territorial system.<sup>22</sup> The country was divided into administrative economic regions, which were to be managed by the corresponding territorial administrative bodies – the councils of the national economy. Initially, the reform had a significant economic effect, but very soon it got stuck in its own contradictions, we must say, quite expected ones. The fact is that no one wanted to abandon the idea of centralized and systematic management of the economy. Therefore, after the reform, it turned out that instead of a single center of economic management, many territorial units appeared. Accordingly, on the one hand, certain economic regions increased their independence from the others, which resulted in numerous economic and organizational costs; on the other hand, it turned out to be extremely difficult to implement unified planning of economic activities on a national scale, if not impossible, and to conduct common technical and socio-economic policies. Eventually, after the resignation of the then party and state leader N.S. Khrushchev, who was the chief ideologue of the reform, the new leadership restored the former centralized management model, i.e. management of the economy branch-wise, which is based on a system of relevant sectoral ministries. Note that such a “restoration” of the previous (“pre-Khrushchev”) system was indeed not a revolutionary event, since this model was still maintained even under the system of territorial management.

After the failure of these attempts to improve the economic efficiency of the national economy by reforming the vertical management structure “from the top down,” it was decided in the mid-1960s to change the direction of the reforms, in an attempt to solve the problem by reforming the lower-level link of production, i.e. an industrial enterprise. The economic reform of 1965 arose out of the need to recognize the enterprise as the main link in industrial productivity.<sup>23</sup> It was supposed to give

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<sup>22</sup> Закон СССР от 10 мая 1957 г. “О дальнейшем совершенствовании организации управления промышленностью и строительством,” Ведомости Верховного Совета СССР, 1957, № 11, ст. 275 [Law of the USSR of 10 May 1957. On Further Improvement of the Organization of Management over the Industry and Construction, Bulletin of the Supreme Council of the USSR, 1957, No. 11, Art. 275].

<sup>23</sup> Постановление ЦК КПСС и Совета Министров СССР от 4 октября 1965 г. “О совершенствовании планирования и усилении экономического стимулирования промышленного производства,” СП СССР, 1965, № 19–20, ст. 153 [Decree of the Central Committee of the Communist Party and the Council of Ministers of the USSR of 4 October 1965. On the Improvement of Planning and Strengthening of the Economic Incentives for Industrial Production, Collected Resolutions of the USSR, 1965, Nos. 19–20, Art. 153]; Положение о социалистическом государственном производственном предприятии, утвержденное Постановлением Совета Министров СССР от 4 октября 1965 г., СП СССР, 1965, № 19–20, ст. 155 [Regulations on the Socialist State Production Enterprise, approved by Decree of the Council of Ministers of the USSR of 4 October 1965, Collected Resolutions of the USSR, 1965, Nos. 19–20, Art. 155].

quality to the enterprise as a relatively independent economic entity, a so-called socialist producer. To this end, the extent of both organizational and economic freedom of the enterprise is expanded, and both in internal production processes and in external relationships a new economic category is introduced such as the profit, a part of which the enterprise could use (according to established standards) to reward the members of its work collective in order to stimulate their interest in the high end results of the enterprise. Accordingly, the number of planned targets brought to the enterprise from above decreases, the remaining indicators get enlarged, and the proposal is made to expand the practice of using such a legal instrument as an economic contract.

The period from 1970 to the 1980s was contemptuously called by subsequent Russian liberal critics the “era of stagnation.” This definition is not entirely accurate.

On the one hand, it is impossible not to pay attention to the active reform activity that the country’s leadership exercised during this period. In particular, it was in the 1970s when the government created the industrial associations for each industry, then scientific and production associations, and restructured the system of state administration over the economy. In the same period, measures were taken aimed at developing collective (brigade) forms of organization and remuneration of labor, as well as strengthening the role of labor collectives in production and labor management. In short, the problems as to how to improve the economic mechanism were always on the agenda of the leadership of the party and the state, which is evidenced by the huge array of normative regulations adopted in this regard. It cannot be denied that during this period impressive results were achieved in the field of economic and social development: in terms of its quantitative indicators, the Soviet economy became the second economy of the world.

On the other hand, it is difficult not to notice the decline in the level of qualitative indicators of economic development, which is obviously costly. “The economy must be economical,” – this statement that L.I. Brezhnev, at the time the country’s party and state leader, made at one of the Party congresses, sounds almost like a cry of despair.

The final point in the struggle to improve the effectiveness of the economic mechanism of real socialism was set, as we know, by reforms implemented in the second half of the 1980s. Insufficiently thought out in their fundamentals, they, as a result of their implementation, led to the imbalance and degradation of the socialist economy. As an illustration, let us confine ourselves to one example: within the framework of the reforms, the task was set to ensure the so-called “economic responsibility” of economic entities and, at the same time, to carry out the principle of electivity of their leaders throughout the vertical management structure. Thus, what was borne in mind was something like a production cooperative, but at the same time functioning on the basis of a state (public) form of ownership. In other words, the government meant something even less effective than the economy of the “market socialism” of Yugoslavia, or, to some extent, of the Hungarian pattern

(and this despite the fact that this pattern was already in crisis, and the most sober-minded Yugoslavs and Hungarian economists warned about that to the initiators of reforms in the USSR).

Needless to say, the labor collectives failed to elect the most efficient leaders, while to invoke their (collectives') "economic responsibility" in terms of public ownership meant roughly the same as, figuratively, a person trying to bring to account some separate parts of his own body: because in any case, the whole organism will suffer.

In short, in the framework of all the reforms that were implemented in the Soviet era (and there were reforms practically throughout the historical period during and after the "Great Break"), the reformers tried to combine fundamentally incompatible things of two kinds: the state policy plan and the economic contract, the centralized state management and economic and organizational independence of economic entities. In the "Stalin era," the side that attempted to win and eventually won the latter side, which seems quite logical and reasonable. In the subsequent period, the attempt to ensure the maximum organizational and economic freedom of industrial entities while maintaining the invariability of a fundamentally monistically organized economic mechanism ultimately led the Soviet economy to collapse. It should be noted that against this background, the New Economic Policy, the transition to which had been carried out since 1921, looks quite promising: being the convinced "anti-marketers," Bolsheviks did not hesitate for a second to carry out their market-oriented reforms: and they allowed pluralism of forms of ownership and economic activity in the economy, as well as the emergence of primary (commodity) and secondary (production factors) markets, including the labor market.

It was quite important, undoubtedly, when a rather controversial, to put it mildly, decision was taken at the turn of the 1950s and 1960s to start construction of a communist society in the USSR. This decision had practical consequences for the whole economy, but it had an especially serious impact on the existing mechanism of the legal regulation of labor.

Paradoxical as it may seem, the formulation of the communist perspective as a direct practical task had not only negative but also positive consequences. As is known, the communist society, according to Marxist theory, is a stateless society functioning on the principles of public self-government; therefore, the decision to go to communism immediately led to the adoption of a number of measures aimed at the development of various forms of social initiatives, and above all, of course, in the area of labor. In this regard, the institution of comrades' courts, devised by Lenin, was re-established and measures taken to increase the role of public opinion, in particular, in resolving the issues of labor discipline. To the same end, measures were taken to enhance the authority of trade unions, including in the area of collective bargaining agreements (it should be mentioned that the practice of concluding collective bargaining agreements was restored during the "Stalin era," in 1947).

With all this in mind, one might gain the impression of the formation in the USSR of a specific communist model of the rule of law and of the civil society. Moreover, to put it strictly logically, it is in this direction that the system of government under the real communist perspective should be developing: if communism is the society without the state, then as this society is being built, the state should gradually be limited in its capabilities, consistently leaving various areas of public life, and these areas should be filled with the relevant bodies of civil society. In fact, everything looked quite different: according to this bizarre communist dialectical logic, the state had to “die” through its all-round triumph, and the activities of self-governing social institutions should be subject to total control by the Communist Party.

But much more significant, however, were the negative consequences of the decision to start the transition to communism. Let us point out the most obvious. Communism, as we know, involves not only formal (legal), but also actual equality of the members of the communist society, and, consequently, it requires the homogeneous nature of the structure of this society. As soon as the transition to communism became a concrete practical task, it became necessary to ensure such a transition; therefore, measures had to be taken to equalize the actual state of affairs among Soviet citizens. For this purpose, in industry and construction, in particular, the authorities restrained the growth of wages of high-paid categories of workers and instead increased the wages of low-paid categories. In the agrarian sector, measures were being taken to eliminate family farms: Soviet citizens should have only one, legal (i.e. state-authorized) source of income.

The consequences of this kind of policy had both short-term and long-term consequences. In the long term, its effect was the destruction of people’s motivation for conscientious highly skilled and complex work; the immediate result was permanent food shortages in the country, so that subsequent generations of Soviet leaders had to constantly deal with the food problem, and this problem was never solved until the end of the Soviet era.

As for the mechanism of the legal regulation of labor, the main direction of its evolution, starting from the 1950s, in general was within the boundaries of the entire economic mechanism: liberalization of the conditions for the application of labor. During this decade, by a number of consecutive actions, criminal liability for “unauthorized leave” and for absenteeism was, firstly, mitigated and then completely abolished. Accordingly, citizens were allowed to decide where to work and which enterprise to choose; at the same time, the powers of the heads of enterprises were expanded in the areas both of starting and of ending labor relations, and in the area of maintaining labor discipline.

As already noted, the socialist model reached its completeness by the end of the “Stalinist” era, and the subsequent part of Soviet history was the time of voluntary or involuntary degradation of this model until its total dismantling.

A visible illustration of this statement can be found in the sphere of labor.

First, in fact, it is difficult to argue that it was an unconditional benefit that the workers were released from heavy criminal liability for purely disciplinary offenses, and even more so for the acts that cannot even be called an offense (unless, of course, these workers are not slaves or serfs). However, at the same time, it is clear that the liquidation of criminal liability and allowing citizens freely to decide as to their employment and dismissal from work had to create a fissure in the monolithic model of real socialism: the sphere of state planned management was largely based on the most important economic resource, i.e. the labor force. This means that the measures to ensure the freedom of individuals in the area of labor inevitably had to be half-hearted and very limited. In fact, all of the Soviet constitutions imposed a duty of labor on all able-bodied citizens. However, it was at the turn of the 1950s and 1960s when the legal content of this duty found its concrete detail: the legislation was adopted that established various types of legal liability, including criminal liability, for carrying out a “parasitic way of life.”<sup>24</sup> In the early 1960s, under this legislation, many “parasites” were convicted, and among them, incidentally, was one future Nobel laureate in literature.

The emergence of this legislation was not accidental at all, it was most directly connected with the measures to liberalize the movement of the labor force: in the previous era, there was no need for such laws, since the workforce was completely under state control. However, afterwards the need for such measures found its place; even at the time of the last General Secretary of the Central Committee of the Communist Party, M.S. Gorbachev, who is considered to be a liberal, Soviet authorities issued new legislation to combat “unearned income”<sup>25</sup> (which, just as expected, produced nothing but harm).

Secondly, this labor liberalization, which was, as we see, very relative, could only cover the movement of the labor force, but not the content of the labor relationship. In this area, state imperative regulation continued to dominate, practically excluding not only individual contractual but also collective-contractual regulation: the state did not lose its ambition to govern all labor conditions without exception. Therefore, the “socialist” labor contract, as before, continued to play its sole role of a legal fact

<sup>24</sup> Указ Президиума Верховного Совета РСФСР от 4 мая 1961 г. “Об усилении борьбы с лицами, уклоняющимися от общественно полезного труда и ведущими антиобщественный паразитический образ жизни,” Ведомости Верховного Совета РСФСР, 1961, № 18, ст. 273 [Decree of the Presidium of the Supreme Council of the RSFSR of 4 May 1961. On Strengthening the Struggle Against Persons Evading Socially Beneficial Labor and Maintaining Antisocial Parasitic Way of Life, Bulletin of the Supreme Council of the RSFSR, 1961, No. 18, Art. 273].

<sup>25</sup> Постановление ЦК КПСС от 15 мая 1986 г. “О мерах по усилению борьбы с нетрудовыми доходами,” СП СССР, 1986, № 21, ст. 119 [Resolution of the Central Committee of the Communist Party of 15 May 1986. On Measures to Strengthen the Fight Against Unearned Incomes, Collected Resolutions of the USSR, 1986, No. 21, Art. 119]; Постановление Совета Министров СССР от 15 мая 1986 г. “О мерах по усилению борьбы с нетрудовыми доходами,” СП СССР, 1986, № 21, ст. 121 [Decree of the Council of Ministers of the USSR of 15 May 1986. On Measures to Strengthen the Fight Against Unearned Incomes, Collected Resolutions of the USSR, 1986, No. 21, Art. 121].

(thus, as the Soviet jurists correctly stated, being fundamentally different from the “capitalist” contract of personal hiring), and the collective agreement was an absolutely unnecessary institution of labor law.

Thirdly, despite the measures to strengthen the independence of the main economic entity (enterprise), undertaken in the mid-1960s, it continued to remain in the status of a special economic organ of the socialist state, and consequently its labor personality as an “employer” remained highly doubtful.

All these issues one way or another had to be taken into account when implementing the new codification of the Soviet labor legislation.

In the material aspect, the task was rather ambiguous. On the one hand, in view of the emergence of a new vector of state labor policy, it was necessary to “rehabilitate” the Labor Code of 1922 that was formally effective but essentially buried by a huge array of bylaws and virtually inaccessible to the broad masses. On the other hand, the aforementioned vector, as we have seen, did not mean a return to the New Economic Policy of the early 1920s, based on which the Labor Code of 1922 was established. According to our observations, this problem was solved by means of extreme activation of, first, litigation and, secondly, the doctrinal interpretation. These two specific factors made it possible to codify Soviet labor legislation, which was implemented in the early 1970s.

In terms of legislative technology, we will make a certain general digression. The process of codification of legislation of different sectoral affiliations in the country started at the turn of the 1950s and 1960s, but at first it was necessary to develop a concept of codification, especially given the federal structure of the country. When this concept was developing, an account was taken of the measures that were in place at that time to decentralize the state mechanism and transfer a significant number of managerial powers to the level of the subjects of the federation (union republics). Accordingly, the governing idea was that, as a rule, the Union would adopt the laws of the most general, fundamental nature (the Fundamentals of Legislation), and the union republics would issue more specific (and voluminous) codes. At the beginning of the 1960s, the Fundamentals and the Codes (civil, criminal, civil procedural, and criminal procedural legislation) already operated in the country. The Fundamentals of Legislation of the USSR and the Union Republics on labor were adopted in 1970,<sup>26</sup> while the republican codes were drafted and put into effect during 1971–1973. The Russian Labor Code was adopted on 9 December 1971,<sup>27</sup> and became effective in 1972.

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<sup>26</sup> Закон СССР от 15 июля 1970 г. “Об утверждении Основ законодательства Союза ССР и союзных республик о труде,” Ведомости Верховного Совета СССР, 1970, № 29, ст. 265 [Law of the USSR of 15 July 1970. On Approval of the Fundamentals of the Legislation of the USSR and the Union Republics on Labor, Bulletin of the Supreme Council of the USSR, 1970, No. 29, Art. 265].

<sup>27</sup> Ведомости Верховного Совета РСФСР, 1971, № 50, ст. 1007 [Bulletin of the Supreme Council of the RSFSR, 1971, No. 50, Art. 1007].

Both the Fundamentals and the Labor Code of the RSFSR of 1971 quite adequately formulated the mechanism of the legal regulation of labor that had been worked out throughout the 1950s and 1960s. This mechanism, of course, preserved the traditional (almost absolute) prevalence of the imperative regulation of labor relations carried out by the socialist state, however, this mechanism was liberalized by introducing some contractual elements in labor law. To some extent, the new labor legislation reproduced the norms of the former Labor Code (1922), but of course it was much less liberal, for it is understandable that the economic reforms of the 1950s and the 1980s, with varying degrees of radicalism, did not at all affect the main thing, i.e. the monistic organization of the economy, organized and managed by the state. This was the source of the almost exclusively imperative nature of the overwhelming part of the rules of the new labor legislation, if not all, regardless of whether it is an employment contract, work time, rest time, etc. The essence of the new legislation is shown in Art. 5 of the Labor Code of the RSFSR of 1971, by virtue of which the terms of labor contracts that would worsen the status of workers in comparison with the labor legislation or otherwise contradicting this legislation were to be invalid. It is clear that the last part of the referenced article completely excludes any means of regulation, other than those that are created by the state.

The newly created labor law almost immediately began to undergo changes and revisions. At the same time, a certain complexity arose that was produced by the two-tier structure of Soviet legislation. The fact is that law-making at the Union level did not stop, so after the appearance of acts of union legislation, it was necessary to introduce changes into the republican codes. In particular, at the all-Union level, the new acts regulating the procedure for resolving labor disputes (1974), material and disciplinary liability (1976, 1979), the legal status of labor collectives (1983), etc., were consistently issued. The main problem, which called into question the very existence of the effective Labor Code of the RSFSR of 1971, was reduced to social upheavals in the early 1990s, as a result of which the USSR ceased to exist, and Russia changed its economic system dramatically, extremely quickly and painfully.

### **Conclusion**

So, let us repeat, that the Great October Socialist Revolution in Russia was of world-historical significance, of which there is no doubt. But, the question is whether the Soviet experience influenced other countries, and if it did, then in what way and to what extent, within such a relatively narrow area as the legal regulation of social labor, and whether this experience has any relevance now, when the “real socialism” in Russia has ceased to exist?

It goes without saying that the mechanism of the legal regulation of labor (more precisely, of labor management) has been reproduced in all of its essential features in the countries of the so-called socialist camp, and many third world countries tried

to introduce it too. But it is much more difficult to answer this question in relation to countries with long traditions of the market (capitalist) economy.

In the USSR and, to a large extent, in modern Russia, there is an opinion that labor law as a branch of law both in our country and in foreign countries began to form only after October 1917. Meanwhile, as already mentioned, this legal area, in Russia too, had actually started more than half a century earlier, based on objective reasons (which we will not discuss here) and, accordingly, without any external influence, especially in the form of the October Revolution in Russia. So, even without the Revolution, we believe, we would have had exactly the same labor law at present that exists in different countries worldwide, from Japan to the U.S.

For instance, as an example of the influence in the sphere of the legal regulation of labor by the Russian Revolution, authors cite the Decree of the Council of People's Commissars on the 8-hour working day of 29 October 1917. Moreover they also cite Lenin, who, speaking on 31 October 1922, at the IV Session of the All-Russian Central Executive Committee of the 9<sup>th</sup> Convocation (adopting a new Labor Code), said:

This is a tremendous achievement of the Soviet power, that at a time when all countries are allied to the working class, we are issuing a code that firmly establishes the basis of working legislation, which is an 8-hour work day.<sup>28</sup>

Indeed, this working time regulation was established by the decree, and this was the first law in Europe that limited the duration of the working day to eight hours.<sup>29</sup> However, a year later, all the countries that signed the Treaty of Versailles recognized the establishment of an 8-hour working day or a 48-hour working week as one of the basic principles of labor law requiring urgent implementation. The Labor Code of 1922, therefore, is in this sense the latest of all legislative acts in Europe, confirming the principle of an 8-hour working day<sup>30</sup> and, accordingly, it could not disregard the already available experience of normalizing working time accumulated in European countries, as well as the emergence of the new trends in such a limitation. The main thing, however, is different. In all the countries of Europe, including Russia, the process of limitation of length of working time had begun long before October 1917, and the issue was not in the principle (limit or not), but in the quantity (the standard of working hours). The same can be said about other institutions of modern labor law.

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<sup>28</sup> Ленин В.И. Речь на IV сессии ВЦИК IX созыва 31 октября 1922 г. [Vladimir I. Lenin, *Speech at the IV Session of VTsIK of IX Convocation on 31 October 1922*] in Ленин В.И. Полное собрание сочинений. Т. 45 [Vladimir I. Lenin, *Complete Edition. Vol. 45*] 246 (Moscow: Politizdat, 1969).

<sup>29</sup> In New Zealand, labor was limited for adult men to 48 hours a week and for women and teenagers to 45 hours long before World War I.

<sup>30</sup> Варшавский К.М. Трудовой договор по КЗоТ 1922 г. [Konstantin M. Varshavsky, *Labor Contract of the Labor Code of 1922*] 49–50 (St. Petersburg, 1923).

But still we can find some elements of the influence of Soviet labor legislation on the legal regulation of labor in other countries, as well as on international labor law. These factors can be divided into two groups: negative ones and positive ones.

The former force public authorities, having before their eyes the Soviet realities, to develop the measures to prevent the same in their own country. It seems that, to a large extent, it was the influence of this factor in capitalist countries that, if not created, still enhanced the processes of development of industrial democracy (the expansion of the role of trade unions, and in particular the formation of various systems of employees' participation in the employers' affairs, in the form of sharing profits, property, and management).

Among the latter, we would mention, as the most striking examples, the legislation on the time of rest for the employees (paid holidays), and in particular on the benefits in the sphere of labor for women in connection with pregnancy, childbirth, and also for the persons performing family duties.

Nevertheless, when interpreting the influence of the Soviet experience in the legal regulation of labor, especially from the point of view of the prospects for the further development of the current legal mechanisms, one must always keep in mind one main point: when we speak of labor law "under socialism" and "under capitalism" we are not dealing with the successive development of one based on the other or with the convergence between them, rather we are talking about two fundamentally different phenomena. The classics of Soviet theoretical jurisprudence, including those specialized in the field of labor law, were not at all wrong or exaggerating when they spoke of the radical opposition between the socialist and the capitalist economic systems, the socialist and the capitalist mechanisms of the legal regulation of labor.

With this in mind, one would need to be very thoughtful as to the ideas of continuity, i.e. inclusion in the modern legal life of some seemingly very attractive components of the former socialist labor law. For example, in the literature there is often enough suggestion to establish the positive right to work in legislation and to re-create a system of benefits for workers combining the work with education, etc.

Meanwhile, it is necessary to realize that the practical realization, say, of the right to work is either impossible (this right will become a simple declaration), or it will require the restoration of the entire socialist economic system, in all of its elements (including the universal duty to work, and with a consistent application of public law liability for committing offenses in the area of labor law).

Of course, given the heterogeneity of Soviet economic history, many of its components can at least be analyzed from the point of view of application in modern conditions. Primarily, we would mention the NEP: it seems to us that the current reformers in the system of public power (and, we hope, there are some) do completely ignore this experience, in particular, as we have already noted, in the field of determining the minimum wage.

However, in general, we would reiterate, the opportunities of using the former Soviet experience in modern conditions should be evaluated with the utmost care. For even our country would hardly stand a second edition of socialism.

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