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BOOK REVIEWS

ENCYCLOPEDIA OF SOVIET LAW, Second Revised Edition, F.J.M. Feldbrugge, G.P. van den Berg and William B. Simons. Law in Eastern Europe No. 28. Dordrecht, Boston, Lancaster: Martinus Nijhoff Publishers: 1985, Pp. ix, 964.

Reviewed by Zigurds L. Zile*

This is a one-volume revised edition of the *Encyclopedia of Soviet Law* [*Encyclopedia*], which first appeared twelve years earlier as a set of two volumes. The change in form, however, is not reflected in reduced contents. In fact, the new compact model offers more contents than the original. Contrary to first impression, the single volume has 829 pages of entries as compared to the 741 pages in the noticeably thicker original set. This is because of the lighter weight paper. Additionally, there are more words per page because of smaller type and narrower margins. In other words, one who buys the second edition will not get a pocket-sized abridgment.

Assessment of the quality and utility of the *Encyclopedia* puts me in a rather awkward position. I wrote several articles for the original edition but, for reasons entirely unrelated to the nature of the project, I declined to take part in the preparation of the revision. To the extent that some of the observations I am about to make apply equally to both editions, my remarks may seem like round-about self-criticism. Nevertheless, I will do my best to review this work fairly.

A dictionary would define an encyclopedia as a summary of a branch of knowledge treated in separate articles. The encyclopedia under review, by treating Soviet law in 500 or so separate articles, seems to at least fall within such a narrow definition. Certainly, Soviet law is the branch of knowledge the present work treats. The *Encyclopedia*, however, has no single point of view as to what is worth knowing about Soviet law. Guidelines of some sort would seem to be particularly important when, as here, the contributors come from many cultural backgrounds and, consequently, lack a common understanding about what is important and what is not. For example, dichotomies such as "law in books" and "law in action," "formal law" and "living law," "law in theory" and "law in practice" are undoubtedly known to the three editors as well as the forty-nine other contributors. Yet, each

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of them is apt to have a distinct orientation toward these dichotomies and a commitment to his or her own brand of legal scholarship. Differences along these lines would be apparent with almost any non-Soviet literature on Soviet law, and the *Encyclopedia*, with its diverse approaches, styles and perspectives on a scholar's responsibilities, is no exception.

The author of the entry on "Constitution", for instance, tells us "the draftsman [of the USSR Constitution of 1977] sought to formulate in law themes enunciated throughout post-Stalin years: . . . (d) access by aggrieved persons to procedures designed to assure effective hearings of grievances against bureaucrats (Art. 58) [P]roposals raised in national discussion of a draft were frequently accepted for the final version fo the Constitution A bill of rights was given more prominence than in the 1936 Constitution by placing it further forward in the text."¹ The author's phrasing has substantive connotations which will not pass unchallenged. First, the term "draftsmen" suggests a group of legal technicians ("a drafting committee")² struggling with purely technical issues. Second, Article 58 of the 1977 Constitution says nothing about "effective hearings." Third, as far as "national discussion" goes, there is no "national discussion" of anything, including the weather, in the Soviet Union, unless "national discussion" is understood in a peculiar, qualified sense, which the author does not go into. His only cross-references³ to "Constitutional History"⁴ and "Councils of Ministers,"⁵ even if consulted, do not alert the reader that the phrase "national discussion" is somewhat deceptive. Finally, there is no "Bill of Rights" in the USSR Constitution in either name or substance. The particular language of the 1977 text quoted by the author should not be associated with anything even remotely resembling the specific meaning and connotation of the Anglo-American Bill of Rights.

In the third related entry "Constitutional Law," the author continues in the same mood:

Two fundamental principles have been declared the foundation of constitutional law: democratic centralism and socialist humanism. Under the first category, the authority of superior organs of power extends to the lowest levels, for there is no local autonomy, and, under the second, the maximum realization of

1. ENCYCLOPEDIA OF SOVIET LAW 158-59 (F. Feldbrugge, et. al. 2d rev. ed. 1985) [hereinafter ENCYCLOPEDIA].

2. *Id.*, at 162.

3. *Id.* at 158-59.

4. *Id.* at 159.

5. *Id.* at 202.

the individual's identity is to be sought. This search conforms to the principle propounded by Karl Marx, "Personal freedom is possible only in the collective" (*The German Ideology*). A balance is required between individual and community, the balance varying in each historical period as the threat to the community [read "the new ruling class;" Z.L.Z.] varies.⁶

The author also reports on the "leadership determination to eliminate legal inequalities among citizens in their relation to state institutions."⁷ This statement might be fairly accurate, if the author does not imply any legal reciprocity between the state and the citizens; and if the author does not intend to include within the meaning of "citizens" the party privileged.

Several entries by other authors, however, provide a counterpoint and welcome correction. An entry on "Civil Rights," referring to Article 58 of the USSR Constitution of 1977, notes that legal consequences of the new constitutional provision "have been rather meager, [up to] now." An "administrative procedure [that would amount to a] rule of law still does not exist." The citizen, whose rights the administration has infringed upon, "is granted formal legal remedies by way of exception only."⁸ Notwithstanding the image of the toiling masses scrutinizing the draft constitution in a coast-to-coast debate from Kola Peninsula to Magadan the author of the entry entitled "Freedom of Speech" notes that there are, indeed, "nationwide public discussions on important legislative projects" but immediately makes it clear that they are "initiated from the top" and that "suggestions from below" have little "chance of influencing legislative activity."⁹ The same author's remarks on "Freedom of the Press" detail the "party's total grip over the press" with a "system of control" that is "overwhelming."¹⁰ My earlier reference to "the new ruling class" in lieu of the euphemistic "community"¹¹ finds support in the entry entitled "Nomenklatura."¹²

Sometimes the message is in the writer's style. When a statement is stripped of directness, it becomes a different story. Apparently, because of the two Z's in my name, I got to write the entry on "Zoning" (which subsumed "urban planning") for the first edition. I wrote in the concluding paragraph:

6. *Id.* at 163.

7. *Id.*

8. *Id.* at 127.

9. *Id.* at 343-44.

10. *Id.* at 342-43.

11. *See supra* this page.

12. ENCYCLOPEDIA, *supra* note 1, at 537-40.

"Planning Discipline," that is, compliance with the approved plans and building regulations, is quite lax. Economic output targets are, as a rule, given a greater weight than the development and preservation of well-arranged urban communities. Industrial plants slated for removal are remodeled and expanded. Individual housing construction is allowed on land zoned for multiple dwellings. New plants and warehouses are sited along highways or in areas best suited for recreation. Sometimes, city plans are obsolete by the time they acquire legal force. This is due to uncontrolled development out-distancing the coordinators, drafters and reviewers.¹³

The corresponding paragraph in the second edition is almost a caricature of the former:

Urban plans, whatever their normative effect, cannot be enforced as ordinary Soviet legislation. Economic considerations have often outweighed other considerations in their implementation; coordination has proved to be very difficult; general priorities are often overtaken by specific ones. Environmental considerations are, however, increasingly being integrated into urban planning with beneficial effects.¹⁴

Many entries offer excellent surveys, yet some of these leave out information that could be of considerable interest to the reader. The entry on "Capital Punishment,"¹⁵ for example, gives no indication of the frequency of death sentences and actual executions. Reasonably accurate estimates are available.¹⁶ Similarly, the entries "Penitentiary Institutions"¹⁷ and "Corrective Labor"¹⁸ (articles dealing with "Forced Labor"¹⁹) give no figures on inmate population. This is not to say that the *Encyclopedia* excludes statistics all together for it indicates the number of emigrants and immigrants,²⁰ the number of law schools and law students,²¹ and some general crime statistics.²²

13. 2 ENCYCLOPEDIA OF SOVIET LAW 734, 735 (F. Feldbrugge ed. 1973).

14. ENCYCLOPEDIA *supra* note 1, at 828, 829. Cf. Schwarzschild, Book Review, 99 HARV. L. REV. 685, 694 n.55 and accompanying text (1986).

15. ENCYCLOPEDIA, *supra* note 1, at 95.

16. See, e.g., in the work of one of the editors of the Encyclopedia, Van Den Berg, *The Soviet Union and the Death Penalty*, 25 SOV. STUDIES 154 (1983); see also Simis, *Death Penalty Under Socialism*, 1 RUSSIA 23 (1981).

17. ENCYCLOPEDIA, *supra* note 1, at 568.

18. *Id.* at 200.

19. *Id.* at 323 (Cross-reference entry).

20. *Id.* at 276.

21. *Id.* at 451-54.

Criticism of the substance and style of the constituent parts of the *Encyclopedia* should be regarded as directed mainly at the individual contributors, not the editors. It takes some doing to assemble fifty-two contributors from a rather small group of people known for their scholarship on Soviet law. Second, editors who work with a large number of collaborators in a climate of intellectual freedom cannot be expected to produce a perfectly integrated product. Academics are an odd sort to begin with, and different perceptions of law, several cultural backgrounds and various circumstances in which each author became interested in the Soviet Union do not make things any easier for the editors.

By contrast, choices regarding topics and their scope, as well as cross-referencing and citation form for official and secondary sources, are in the province of the editors, and criticism of this aspect of the volume is addressed to the editors.

The preface to the Second Edition explains how the editors arrived at the topical coverage:

The list of subject headings of the first edition of the *Encyclopedia* was based on a selection from corresponding lists in the *Index to Foreign Legal Periodicals* and in Soviet legal encyclopedias (*Iuridicheskii Slovar'*, 1956, and *Entsiklopedicheskii Slovar' Pravovyykh Znanii*, 1965). A number of new headings have been added in this edition. We have attempted to avoid having too many small articles on specialized subjects, preferring instead, whenever possible, to deal with several related specialized subjects in a single, larger article. The present list of subject headings has been designed to include several hundreds of legal terms which are most familiar to Western lawyers, as well as terms which denote typically Soviet concepts or institutions (such as kolkhoz or Presidium of the Supreme Soviet).²³

This editorial policy has yielded an average length of about 700 words per entry. To say something worthwhile on a significant legal subject in 700 words, requires a certain amount of care.

The *Encyclopedia* succeeds with this format in some areas but fails in others depending on the subject. Some entries within the one-to-two-page range serve as good examples of careful structuring and conservation of language *e.g.*, "Abortion,"²⁴ "Codes and Codification,"²⁵

22. *Id.* at 226-27.

23. *Id.* at v (Preface to the Second Edition).

24. *Id.* at 1.

"Extradition,"²⁶ "Federation,"²⁷ "Kolkhoz Farm,"²⁸ "Ministry of Justice,"²⁹ "Nationalization (in the Soviet Union),"³⁰ "Private Enterprise,"³¹ "Traditional Crime,"³² and "Villages."³³ Moreover, these entries put current material into a concise historical context, which is particularly useful considering how close the Soviet present is to the Soviet past. Some considerably shorter entries, mostly on narrow, technical topics (e.g., "Bailiffs,"³⁴ "Clerks of the Court,"³⁵ "Receiving Stolen Goods"³⁶ and "Stray Cattle"³⁷) make room for the "single, larger articles" the Preface refers to. Some of these larger ones are also very good: (e.g. "Church and State,"³⁸ "Insurance,"³⁹ "Kolkhoz,"⁴⁰ "Nomenclatura,"⁴¹ "People's Control,"⁴² "Procuracy"⁴³ and others). The length of several of the entries, however, can be questioned. The entry on "Secret Police,"⁴⁴ for example, directs us to see the non-descriptive and vague "Security" on the following page in which the entire subject of Soviet secret police, from the Cheka to the KGB, is dealt with in one page.⁴⁵ The subject of "Monuments"⁴⁶ gets as much space and "Horticulture"⁴⁷ is allotted almost a page-and-a-half. Some other examples of disproportionate space allotment are a four-and-a-half page article on "Privacy"⁴⁸ and a staggering six-page piece on "Entertainment"⁴⁹ (perhaps unwittingly telling us that Soviet law can be a lot of laughs), yet there is no entry on "eavesdropping," "wiretapping," or "electronic

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25. *Id.* at 134.
 26. *Id.* at 306.
 27. *Id.* at 313.
 28. *Id.* at 422.
 29. *Id.* at 516.
 30. *Id.* at 531.
 31. *Id.* at 613.
 32. *Id.* at 780.
 33. *Id.* at 812.
 34. *Id.* at 76.
 35. *Id.* at 134.
 36. *Id.* at 658.
 37. *Id.* at 733.
 38. *Id.* at 103.
 39. *Id.* at 378.
 40. *Id.* at 418.
 41. *Id.* at 537.
 42. *Id.* at 575.
 43. *Id.* at 623.
 44. *Id.* at 686.
 45. *Id.* at 687.
 46. *Id.* at 521.
 47. *Id.* at 361.
 48. *Id.* at 608.
 49. *Id.* at 284.

surveillance." I, for one, would have preferred to see greater prominence given to "strikes" (only briefly treated in the entry on "Labor Disputes and Labor Arbitration")⁵⁰ than to "Elections"⁵¹ for the simple reason that the strikes, which take place in the Soviet "workers' state, are real; the elections are not. Thus, to save space for matters of greater significance, the separate subject "Elections" might have been eliminated with a reference to the entry on "Democracy"⁵² and briefly described therein.

The *Encyclopedia* commendably uses some global or functional topical headings like "Environmental Protection,"⁵³ "Personal Injuries,"⁵⁴ "Product Liability,"⁵⁵ etc. Although these headings often only refer to other entries, their presence facilitates access to the material. I would like to have seen, however, an entry on "professional liability" or "malpractice," and my search for something on "physician's liability" in particular was unsuccessful. There is no entry on "Physicians," "Medical Practice," or "Medicine." "Medical Jurisprudence"⁵⁶ seems promising, at first, but actually limits itself to "see Forensic Medicine," a title that does not hold out much hope for an account of Soviet medical malpractice. In any event, "Forensic Medicine" is nowhere to be found, and we must be satisfied with "Forensic Psychiatry"⁵⁷ as the closest thing. Continuation of the search for physician's liability into the fairly lengthy entry on "Health"⁵⁸ also failed to inform. Inferences that could be drawn from "Torts,"⁵⁹ "Liability of Employees"⁶⁰ and "Official Crimes"⁶¹ were too attenuated to be reliable. The section on "Health" in the selected bibliography in the back of the volume does, however, contain a reference to a 1970 Soviet title on *Criminal Liability of Medical Staff for Violation of Professional Duties*,⁶² which suggests that the topic belongs to the corresponding *Encyclopedia* entry.

Although the *Encyclopedia's* frequent cross-references will help researchers in general, occasionally, an additional cross-reference

50. *Id.* at 426, 733 (Gross reference entry).

51. *Id.* at 272.

52. *Id.* at 247.

53. *Id.* at 290.

54. *Id.* at 585.

55. *Id.* at 626.

56. *Id.* at 501.

57. *Id.* at 331.

58. *Id.* at 350.

59. *Id.* at 772.

60. *Id.* at 482.

61. *Id.* at 547.

62. *Id.* at 850.

would have proved helpful. For instance, "Product Liability"⁶³ refers only to "Standards" and "Tort," but not to "Warranty," although citation of articles 245 and 248 of the RSFSR Civil Code of 1964 and of an RSFSR Supreme Court decision of 1982 unmistakably point to warranty as the basis for rationalizing the seller's liability for product-related harm. One who consults "Standards"⁶⁴ will be directed to "Warranty"⁶⁵ from there.

Overall the entry on "Product Liability" sets a good example of what might have been done throughout the *Encyclopedia*. In referring to the RSFSR case that seems to resurrect and embrace the nineteenth-century English rule derived from *Winterbottom v. Wright*,⁶⁶ the author specifically cites the source, that is, the volume, issue and page of the Soviet case reporter. How helpful it would have been if, for instance, the author of the entry on "Animals"⁶⁷ had given some inkling of where to find the Veterinary Statute of the USSR. The *Encyclopedia* entries typically indicate the date of the statute, regulation or decision, but not its source. This is sufficient in some cases, but not in others. The source of the Decree of July 28, 1983⁶⁸ is easily tracked down in the Selected [Chronological] List of Statutory Materials also located at the back of the volume⁶⁹ next to the bibliography. But the source of an enactment that is not listed as, say, the Rules of July 22, 1980⁷⁰ remains hidden.

A few bibliographical notations at the end of each entry (other than minor "branch" entries), thoughtfully selected by the contributors, probably would be superior to the present end-of-the volume option. As an integral part of the entry, the references would not only be ultimately more convenient to the reader but also more effective in persuading the named contributor of the entry to choose the literature with care. Moreover, the proximity of cross-references in the entries (a feature not made part of the Selected Bibliography) would quickly lead the reader to related bibliographical notes. In this edition of the *Encyclopedia*, the bibliography on "Property"⁷¹ contains three items, all by the same Soviet author—R.O. Khalfina. Two deal with personal property and are the 1976 German and French translations of her Russian

63. *Id.* at 626.

64. *Id.* at 720.

65. *Id.* at 816.

66. 10 M. & W. 109, 152, Eng. Rep. 402 (1842).

67. *ENCYCLOPEDIA, supra* note 1, at 48.

68. *Id.* at 283.

69. *Id.* at 881, 957.

70. *Id.* at 284, 941-47.

71. *Id.* at 868.

work of the same date.⁷² The third concerns state property. The implication is that this is all the literature on property the reader will find in the volume. Far from it. There are also bibliographical notes, not cross-referenced, on "Land Law,"⁷³ "Personal Property,"⁷⁴ "Public Property,"⁷⁵ and "Real Property."⁷⁶ Although the notes include Soviet as well as non-Soviet sources, many of the choices seem ill-considered.

Whether it is worth quibbling over such matters depends on the nature of the primary audience the editors had in mind. I have made my comments as someone who works with Soviet law and intends to assess the *Encyclopedia* for its usefulness as another research tool. Overall, the second edition is an improvement over the first. Putting a work such as this together requires remarkable commitment and prodigious labor. The editors are to be commended for having undertaken the project in the first place.

The *Encyclopedia* is technically very well done. An occasional grammatical lapse like "This is why not civil law obligations arise from a bet" ⁷⁷ or a typographical error—"rort," ⁷⁸ "Mosvka," ⁷⁹ or "Bulter" ⁸⁰—does not appreciably detract from its fine appearance.

Equipped with the preceding admonitions, persons working in Soviet law and affairs, as well as those whose interests are associated with the study of international and comparative law in a broader sense, certainly should have access to the second revised edition of the *Encyclopedia of Soviet Law*.

72. R. KHALFINA, PRAVO LICHNOI SOBSTVENNOSTI V. SSSR (Law of Personal Property in the USSR) (1976).

73. ENCYCLOPEDIA, *supra* note 1, at 855.

74. *Id.* at 865.

75. *Id.* at 869.

76. *Id.*

77. *Id.* at 122.

78. *Id.* at 441.

79. *Id.* at 850.

80. *Id.* at 869.

THE LEGAL SYSTEM OF THE CHINESE SOVIET REPUBLIC 1931-34 Edited by W.E. Butler. New York: Transnational Publishers Inc., 1983. Pp. 212. \$35.00

Reviewed by Frankie Fook-lun Leung*

This 212 page publication contains ten papers delivered at a workshop on the legal system of the Chinese Soviet Republic held in 1982 under the auspices of the Center for the Study of Socialist Legal Systems of the Faculty of Laws of London University. The cast of participants is impressive. In addition to those workshop papers, there is an annex of translated legislation of the Chinese Soviet Republic, which, to this reviewer, is the more valuable and useful research reference tool.

Scholars who are trained primarily in Soviet law are predisposed to view the Chinese communist legislation, in any period, as a "simplification of Soviet Law."¹ To what extent such a view is tenable is, of course, a matter of academic debate. Indeed, as Professor Butler hastens to point out: "The legal system of the Chinese Soviet Republic . . . does not represent a carbon copy of that in the Soviet Union,"² and "the reception of law from that [i.e. Soviet] source was selective and Chinese reshaping was substantial."³ Those are balanced observations notwithstanding the contributor's self-confessed bias towards Soviet law.

The Jiangxi (Kiangsi) period of the People's Chinese Republic (1931-34) has been analysed in detail in other studies⁴ but not yet from a purely legal angle. To that extent, this book should have no rival. The book is, nevertheless, a disappointment to those who only main-

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1. THE LEGAL SYSTEM OF THE CHINESE SOVIET REPUBLIC 1931-34, at 1 (W.E. Butler ed. 1983) [hereinafter CHINESE SOVIET REPUBLIC]

2. *Id.* at 2.

3. *Id.* at 3.

4. See, e.g., D.J. WALKER, THE KIANGSI SOVIET REPUBLIC: MAO AND THE NATIONAL CONGRESSES OF 1931 AND 1934 (1973); T. LOVEIT, CHINESE COMMUNISM 1931-1934 (2d ed. 1979); T.L. HSIAO, POWER RELATIONS WITHIN THE CHINESE COMMUNIST MOVEMENT, 1930-1934: A STUDY OF DOCUMENTS (1961); S. SWARUP, A STUDY OF THE CHINESE COMMUNIST MOVEMENT, 1927-34 (1966).

tain a narrow interest in Chinese law, but it is certainly a bonus to others who are legal comparativists of Soviet Russian, Chinese and Yugoslavian laws. For instance, one learns little about China's criminal law in Professor Lapenna's chapter, misleadingly titled "Court Organization and Criminal Law in the Chinese Soviet Republic and Yugoslavia." Similarly, of the seventeen pages of Professor Butler's chapter on land reform, only five are devoted to the Chinese land reform, the rest to the Soviet Russian and Mongolian counterparts. The same criticism applies equally to Dr. Simon's chapter on "Reflections on State Administration in the Chinese Soviet Republic and the Soviet Union."

Professor Schram's paper is replete with historical information and he opines that the interpretation of events between 1931 and 1934 is far from clear. What is, however, in agreement among the scholars, is that there was an intense power struggle within the Communist Party between Mao and the pro-Soviet "Returned Students." At the same time, an ideological struggle was under way. By the summer of 1934, Mao was ousted and placed under house arrest; marking another lowpoint in his career of power-struggles. This contribution by Professor Schram, with all due respect, is more historical than legal in nature.

Professor Hazard's paper on constitutional law is, in this reviewer's opinion, the best of the lot. It actually deals with the institutional, substantive and procedural aspects of the legislation enacted within the relevant period. He illustrates how the four key concepts of Mao⁵ were displayed at work in the diverse legislation formulated. He not only compares and contrasts the Chinese with the Russian model, but he also delineates the changes which took place within the short time-span of 1931-34. Furthermore, he brings out the differences between the 1931 Constitution and the 1975 Constitution.

Professor Oda's paper on criminal law and procedure is the second best. His discussions on the structure of trial tribunals and their supporting organs, criminal procedure and criminal law are both concise and comprehensive. He succinctly summarizes and describes the creation and operation of the legal system of the Chinese Soviet Republic, which was a compromise of the Soviet influences with Chinese traditions.

Professor Meijer is, beyond dispute, a world-renowned authority on Chinese marriage law.⁶ His well-written chapter on family law begins with an introduction to the Chinese traditional family and the re-

5. They are: populism ("mass line"), voluntarism, peasant orientation and nationalism. CHINESE SOVIET REPUBLIC, *supra* note 1, at 21.

6. Professor Meijer is the author of the authoritative text, MARRIAGE LAW AND POLICY IN THE CHINESE PEOPLE'S REPUBLIC (1971).

form already introduced by the Kuomintang. The intention behind the communist legislation was the emancipation of women. Hence, the 1931 Marriage Legislation dealt with, *inter alia*, the age to marry; the conjugal parties' consent to marriage given freely from third party interference, be it parental or otherwise; the prohibition of marriage between close blood-relations and individuals with physical and mental handicaps; the registration of marriages; divorce; and the care and custody of children after divorce. Professor Meijer describes the sundry directives handed down in 1932 and 1933 respectively, particularly those that were pertinent to *t'ung-yang-hsi*.⁷ The Marriage Legislation was revised in 1934, but was not tested in practice owing to the demise of the Chinese Soviet Republic in that year. There is, of course, a comparison with the equivalent Soviet legislation.

Miss van der Sprenkel expresses the view that labor legislation represented the Communists' experimentation with a new, proletariat-managed society; one which aimed at providing maximum protection for employees.⁸ This included provisions, such as the collective negotiation of wages, the control of working hours, workers' safety, benefits, job security, the procedure for hiring, trade unions, labor exchanges, and mediation and arbitration.

Dr. van den Berg's paper on labor legislation is only two and one-half pages long. Suffice it to point out that, somewhat different from other jurisdictions, the Chinese labor law purported to regulate a tripartite relationship between the employer, the trade union and the worker.

Considering its price and the specialist nature of its contents, this book is one for library collection or the adept reader.

7. *T'ung-yang-hsi* means an infant daughter-in-law raised together with her future husband. In Chinese custom, a *t'ung-yang-hsi* who married during her infancy or teens could not revoke the nuptial arrangement, to which she had not consented, upon the attainment of adulthood, however incompatible she found the relationship.

8. CHINESE SOVIET REPUBLIC, *supra* note 1, at 110.

LAWYERS IN SOVIET WORK LIFE. By Louise I. Shelley. New Brunswick: Rutgers University Press, 1984. Pp. x, 175. \$25.00.

Reviewed by John N. Hazard*

Comparative lawyers concerned with Sovietology have been waiting for an in-depth survey of the activity of Soviet legally trained functionaries to throw light on Soviet law in action. Studies of Soviet law have proliferated in the West in recent years, but they have been based on the printed word: codes, statutes, judicial decisions. Now an American sociologist, trained in Soviet law and with two years of residence in Moscow, has methodically interviewed Soviet emigré lawyers in Israel and the United States. To narrow the study she has focused on juriskonsults (roughly comparable to corporation counsel in the West) and arbitrators (resolvers of contract disputes between Soviet government corporations). The result is not shown in a series of tables, but is woven into an account of Soviet economic law as illustrative material complementing the printed sources. The focus, therefore, is management, labor and corporation activity.

Shelley concludes that juriskonsults "personalize" the law to the advantage of both labor and management. They advise on, and sometimes apply the law, but "flexibly." This method provides a safety valve for a society that would otherwise be hampered in its performance of a national economic plan that is often unrealistic or unimaginatively administered by a ministerial bureaucracy to which factory management is subordinated. In addition, juriskonsults serve as social workers, in a sense, in that they provide rank and file workmen with legal advice in everything that concerns them, going far beyond the law of the workplace to help with problems of marriage, divorce, housing rights and domestic property disputes.

In recounting her findings, Shelley treats at some length corruption and Communist Party intervention in lawsuits. She concludes that although the judiciary and procuracy are, on occasion, influenced both by bribes from interested parties and by Party intervention on behalf of favorites, *these two destabilizing factors are less evident in the work of arbitrators, each of whom resolves an average of 1200 cases a year. She explains that this does not mean that there is no illegality in economic relationships, but it is introduced before the arbitration through gifts given to inspectors to certify that goods meet quality standards. Shelley concludes that the resolution of economic disputes is seen by*

* Nash Professor Emeritus of Law, Columbia University.

the Party to be of maximum benefit only if it is conducted honestly.

In disputes between management and labor over performance on the job, wage payment, vacations and the like, the juriskonsults were found by Shelley to be effective in pacifying irate workers who felt themselves wronged by management. Indeed, she finds that in resolving labor disputes in a manner that is thought by the public to be fair, those engaged in the process keep the general public pacified. Since the draconian laws on labor discipline which Stalin introduced have been repealed, the laws remaining are, in Shelley's findings, acceptable. Courts follow the law closely and this "reunifies citizen faith in the force of laws that govern their daily existence."

Shelley's study does not take her into cases of dissidents who express opinions on matters reserved for decision by the Communist Party's highest officers. She notes that these cases are in an area of a different genre. While noting this fact, which is generally accepted by Sovietologists, Shelley will not go so far as some to argue that Soviet law has two compartments: political cases and all the rest, with close attention to politics in the first and even-handed justice in the second. In her view, legal norms are violated in both categories, although in the second category the violations are stimulated by professional interests of the managerial elite rather than by attempts by party structures to maintain social control. The violations in the second category are not, therefore, reprehensible in the same sense as those relating to the cases of dissidents because they increase the flexibility of the Soviet economic system and make it possible to meet production deadlines, delivery schedules and enterprise plans.

This is a thought-provoking book indicating the advantages to be gained by an interdisciplinary approach to Soviet law. It goes far toward weakening the arguments of those who believe that Soviet society is seething with unrest because of the injustice perceived by the general public in the legal system. It cannot, however, throw light on public reaction to the Sakharov case, for that problem is beyond the experience of the juriskonsults who have no relationship to matters beyond the economy.