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# UNIVERSITY <sup>of</sup> BRIDGEPORT LAW REVIEW

## ARTICLES

### LAW AND *Perestroika*

by Albert J. Schmidt\*

Communist Party General Secretary Mikhail Sergeevich Gorbachev's *perestroika*, nominally a restructuring of the country's economy, is really much more than that. With its appendages of *glasnost*' (openness), *demokratizatsiia* (democratization), and social justice, this economic restructuring bespeaks a revolution of the magnitude of that which Stalin launched six decades ago.<sup>1</sup>

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1. M. GORBACHEV, *Perestroika: NEW THINKING FOR OUR COUNTRY AND THE WORLD* (1987). "*Perestroika* is an urgent necessity arising from the profound processes of development in our socialist society . . . . Any delay in beginning *perestroika* could have led to an exacerbated internal situation in the near future, which, to put it bluntly, would have been fraught with serious social, economic and political crises." *Id.* at 17. See also Levgold, N.Y. Times, Dec. 13, 1987, Section 7 (Book Review), at 3. As reviewer Robert

This paper focuses on the legal dimensions of *perestroika* and *glasnost*' by considering their broader implications for the Soviet system and their role in the cycles of law reform which have shaped Soviet legal history to date. It also considers the contribution made to *perestroika* and *glasnost*' in Soviet legal history by an international symposium on "Law and *Perestroika*" at the University of Bridgeport School of Law in the autumn of 1987.

## I. THE IMPLICATIONS OF *Perestroika* FOR THE SOVIET SYSTEM

The four components of the Gorbachev program — restructuring, openness, democratization, and social justice — are not given equal weight. Restructuring the economy is clearly primary; the others are sweeteners, incentives. The question may well be whether these potentially explosive forces can be contained in this secondary role or whether they even have the motivational qualities ascribed to them for rehabilitating the economy.

Because the obstacles to genuine reform in the USSR today are staggering, Secretary Gorbachev's prospects for success are anything but assured. At the outset he must resolve the problems stemming from two historic legacies. First, he faces a massive and entrenched bureaucracy reminiscent of that which flourished in imperial Russia and which is now established as an essential of Marxist-Leninist dogma and reality.<sup>2</sup> Bureaucracy's dominance in Soviet life serves as an impediment to ventures into an unknown where pluralistic modes of governance may be lurking. Second, Gorbachev must deal with the nationalities is-

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### Legvold notes:

No Soviet leader has ever before written anything like it: a long, impassioned, self-justifying letter to the American people . . . Mr. Gorbachev is up to something enormously important within his own land, and, if we hear him out, we may begin to understand what drives him, and what is in it for us. Mr. Gorbachev believes deeply in the Soviet system, but he also knows that the system is in profound trouble, and he accepts the need for thoroughgoing change.

Legvold, N.Y. Times, Dec. 13, 1987, Section 7 (Book Review), at 3.

2. I am indebted to Alexander Dallin for some of the ideas in this section. See Dallin, N.Y. Times, April 24, 1988, Section 7 (Book Review), at 15-16, for Professor Dallin's review of M. LEWIN, *THE GORBACHEV PHENOMENON: A HISTORIC INTERPRETATION* (1988) and J. HOUGH, *RUSSIA AND THE WEST: GORBACHEV AND THE POLITICS OF REFORM* (1988).

sue — one which fragmented late Imperial Russia and similarly threatens the Soviet Union today. The Azerbaijani-Armenian crisis in the Caucasus and the Baltic Republics' movement for greater autonomy are only the most prominent examples. One can but wonder how long the central authorities will tolerate these activities which sorely test the limits of *glasnost*'.

Linked to these questions is the relationship of state to society. *Perestroika* assumes a societal autonomy from the state that would have been unacceptable to Lenin, not to mention Stalin. *Glasnost*' and democratization, if carried to their logical conclusion, would end the domination of state over society. Imagine the quandary of conservatives over this one!

As Gorbachev endeavors to extricate the Soviet economy from the Brezhnev morass of stagnation and corruption, he is confronted by a third problem: in bargaining with the intelligentsia, he has offered *glasnost*' in return for their support. *Glasnost*', however, as a harbinger of political and cultural pluralism, is anathema to partisans of the single-party Communist system. Gorbachev's differences with conservatives like Egor Ligachev and Victor Chebrikov arise from their worries about *glasnost*', not *perestroika*.

Whatever promise the Bolshevik Revolution held for social justice was sacrificed on the altar of necessity — first by Lenin, during War Communism, and subsequently by Stalin. The fact that this occurred revives those nagging problems stemming from tension between the system and the individual. What will it mean to Soviet ideology if Stalinist collectivist principles are breached to favor the individual? What will it mean to the Gorbachev program, on the other hand, if individual need and choice continues to be ignored as in the past? Presently, Soviet leaders are seeking credits from the West to foster consumer production.<sup>3</sup> Will the unprecedented move bring results in good time — or at all?

The regime strives to increase individual efficiency in the interests of *perestroika* and reduce privilege to serve the cause of social justice; but what of the bedeviling problem of incentives? Worker incentives may actually increase income disparities and thereby exacerbate inequalities. Worst of all, from the

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3. Schmemmann, *Chasing that Hot New Account in Moscow*, N.Y. Times, Oct. 30, 1988, at 1, col. 4.

Soviet perspective, the lifting of controls on individual initiative already invites greed in both the marketplace and the workplace. The matter will be further complicated should Secretary Gorbachev remove the historic security blankets of housing, food, and transportation subsidies.

These matters call to account, finally, the wisdom of rigid adherence to an ideology that is at odds with reality. While it may be good sport to dispense with or circumvent inconvenient Marxist-Leninist dogma, the authorities seem little disposed to discard it. What, then, is the Soviet leadership to do with burdensome ideological baggage that is neither inspirational nor believable?

These issues reiterate that *perestroika* and *glasnost*, the latter more than the former, constitute the most momentous development on the Russian scene since the Stalin Revolution, and the effects may be irreversible. Like all revolutions, Gorbachev's has broad implications for the law.<sup>4</sup> We may wonder sometimes whether lawyer Gorbachev was listening to Justice Holmes' charge to his students: "Your business as lawyers is to see the relation between your particular fact and the whole frame of the universe."<sup>5</sup>

## II. *Perestroika* AND THE CYCLES OF LAW REFORM IN SOVIET HISTORY

What do *perestroika*, *glasnost*, and *demokratizatsiia* mean in the long view of Soviet law reform? While the answer to this question is not readily apparent, few doubt that the legislation of *perestroika* and the ethos which it has created, apart from any cataclysmic happening, will combine to form a critical epoch in Soviet legal history. Here the intent is to suggest how it relates to cycles of law reform dating from the establishment of the Soviet Russian state, noting particularly how *glasnost*' chal-

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4. See, e.g., H. BERMAN, *LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION* (1983). Berman suggests that six western revolutions "produced a new or greatly revised system of law, in the context of what was conceived as a total social transformation. Indeed, the extent to which its purpose was eventually embodied in new law marks the success of the revolution." *Id.* at 20.

5. *Id.* at vii. Berman added that "[b]ehind that statement lay Holmes' tragic vision of life, born of the Civil War. He knew that without a universal context particular facts are wholly precarious." *Id.*

lenges an earlier consensus concerning periodization.<sup>6</sup>

Law reform in the USSR has had a notable impact on Soviet legal history and has been a constant in governing its periodization. The Bolsheviks began the cycle when they created a new law and system — notwithstanding retention of tsarist/Romanist elements — a socialist system distinct from any that had existed in either Russia or Western Europe. The revolutionary perception of law was a cynical one — an exploitive tool of capitalists for their market economy or, to quote Lenin: “[It] is a political instrument; it is politics.”<sup>7</sup>

The Bolsheviks opened a new chapter of Western legal history through several specific innovations. They injected the Communist Party into the law as a paramount entity. “Law was seen,” John Hazard has noted, “as a flexible instrument of social engineering, to be used after a proletarian revolution to move society toward the goal of abundance and self-discipline set forth by Marx and Engels in their *Communist Manifesto* of 1848.”<sup>8</sup> Coupled with flexibility, Lenin offered “simplicity and popularity,” particularly when he altered the court system in November 1917. His new “people’s courts” embodied this popularity and informality: professionalism was out. If the state were to wither away, it would only be a matter of time before law would also wither. Although Lenin changed his mind about this prospect, a substantial school of legal nihilists held fast to it.

Soviet Russia’s economic collapse during the frightful period of War Communism required adjustment with capitalism, or so Lenin deemed. His solution, the New Economic Policy (NEP), lasted through most of the 1920s, and in its legal dimension it reinstated essentials of the law and legal system only recently abolished. It is significant that NEP, which has, over the decades, been treated with disdain by Soviet historians, has suddenly, during *perestroika*, been accorded high marks. The

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6. See, e.g., Tolz, ‘Blank Spots’ in Soviet History, RADIO LIBERTY RESEARCH, RL 119/88 (Mar. 21, 1988). See Wise, *In the Eye of the Beholder: Soviet Citizens’ Views of Glasnost’*, RADIO LIBERTY RESEARCH, RL 104/88 (Mar. 15, 1988) (Soviet citizens’ views of *glasnost’*).

7. J. HAZARD, COMMUNISTS AND THEIR LAW: A SEARCH FOR THE COMMON CORE OF THE LEGAL SYSTEMS OF THE MARXIAN SOCIALIST STATES 69 (1969) [hereinafter COMMUNISTS AND THEIR LAW]. See also, *How Rule of Law has Fared in USSR*, 39 No. 32 CURRENT DIGEST OF THE SOVIET PRESS 7-9 (1987) (Soviet appraisal of law in the USSR).

8. J. HAZARD, COMMUNISTS AND THEIR LAW, *supra* note 7, at 69-70.

similarities between NEP and *perestroika* are, of course, unmistakable.

*Glasnost*, meanwhile, has raised troublesome questions about the periodization consensus. One of the most painful has to do with the Leninist regime and Lenin himself. In the USSR today Stalin's villainy and illegalities are widely, though at times grudgingly, acknowledged. Lenin, on the other hand, is uniformly praised. What of Lenin's dictatorship? What of his employment of terror and his illegalities? ("The court should not be a substitute for terror; . . . it should substantiate and legalize it.")<sup>9</sup> Finally there was Lenin's policy toward the church — not harsher than Stalin's or Khrushchev's, but not gentle either.

That the roots of Stalinism had been implanted in Lenin's Russia by no means diminishes Stalin's infamy; it does, however, place it in perspective. Stalin destroyed NEP, but he fooled those legal nihilists — Pashukanis, Stuchka, and Krylenko — who thought they saw in Stalin a kindred purist whom they could manipulate to liquidate both law and its system. They were themselves liquidated. The Stalinist-planned economy with its ministerial bureaucracy, the one against which General Secretary Gorbachev has unleashed *perestroika*, carried in its baggage a system of lawlessness coated with only the appearance of legality. Stalin's self-contrived famine in the Ukraine, the horrors of forced collectivization, overflowing labor camps, and liquidation of the old Bolsheviki were monuments to his criminality.

Yet undertakings like the Constitution of 1936, the promulgation of diverse legislation and law codes, and systemization of the courts did indicate a rejection of legal nihilism and established the building blocks of significant reform. Andrei Vyshinsky's *Sovetskoe gosudarstvennoe pravo* (1938),<sup>10</sup> although obscuring gross violations of legality which occurred during his procuracy, gave theoretical sanction to a stricter adherence to the law and its procedures, especially by placing a cap on the

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9. Tolz, 'Blank Spots' in Soviet History, RADIO LIBERTY RESEARCH, RL 119/88 (Mar. 21, 1988) quoted from 45 V. LENIN, COLLECTED WORKS 190-91 (n.d.). See A. SOLZHENITSYN, THE GULAG ARCHIPELAGO, 1918-1956: AN EXPERIMENT IN LITERARY INVESTIGATION, Part I, chs. 2, 8 (1973) (discussion of Lenin's justification of terror). For Lenin as an antecedent of the Stalinist totalitarian state, see "Putting the Lid on Leninism: Opposition and Dissent in the Communist One-Party States," in L. SCHAPIRO, POLITICAL OPPOSITION IN ONE-PARTY STATES 33-57 (1974).

10. Translated in English in 1948 as *The Law of the Soviet State*.

much abused "doctrine of analogy."

The Khrushchev period is often perceived in the West as one of Soviet liberalism. While reality belies this interpretation, the regime was doubtless less sinister than its predecessor. Khrushchev's campaign of de-Stalinization and cultural "thaw," coupled with his folksy kitchen and cornfield discourses with Nixon and Farmer Garst, have somehow obscured his brutal anti-clericalism and his crushing of the Hungarian revolt. It is notable, too, that Nikita Sergeevich's image was badly tarnished after his ouster. Labeled a "clown" for his "hair-brained schemes," he suddenly, like NEP, has found apologists among Gorbachev's men.

Westerners who devise constructs for Soviet legal history generally concede the importance of the Khrushchev years for re-establishing legality, despite notable lapses, and for wide-ranging legal reform. Harold Berman's catalog of Khrushchev's achievements a quarter century ago still holds: "tendencies" toward ending terror, liberalizing both the substance and procedure of the law, systematizing and rationalizing the legal system, creating a decentralized and more democratic means of decision-making, introducing forms of participatory justice, and promoting a new theory of state and law. All of these efforts are remarkably akin to the ideas underlying *perestroika* and *glasnost*.<sup>11</sup> On the debit side of Khrushchevian justice lay the insidious "parasite laws," retroactive establishment of the death penalty for economic crimes, and a vicious anti-religious policy.

That Khrushchev was virtually a non-person during the Brezhnev decades suggests a period of legal stagnation, but that was not exactly the case. Legislation, diverse new codes, and even an embellished Constitution in 1977 gave the Brezhnev years a tinge of legal reformism despite the hounding of dissidents and the gross show of privilege — both contradictions to the verbiage of "mature socialism," "socialist legality," and social justice which reverberated through the statutes and Constitution. In the final analysis Brezhnev was no reformer; at most he sought stability. Pervasive corruption, even within his own family, and a stagnant economy especially branded the late Brezhnev era an unjust society, making it the object of unspar-

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11. See H. BERMAN, *JUSTICE IN THE USSR: AN INTERPRETATION OF SOVIET LAW* 66-96 (1963).



ing criticism by the *perestroika* people.

That Soviet legal history is segmented into the "reigns" of its leaders is an inevitable consequence of the power or "cult of personality" inherent in the office of general secretary. If *perestroika* and *glasnost*' successfully generate legal reform, General Secretary Gorbachev, by the force of his personality and office, will have been largely responsible. In turn, it is the perception of the present Soviet leadership that law is the means by which reform is generated. Consider the statement of Andrei Gromyko, President of the USSR Supreme Soviet until the reshuffling of the Politburo on September 30, 1988: "*Perestroika* is an irreversible process . . . . It is with the help of law, of legislation that we translate into the concrete language of practice . . . the expansion of *glasnost*', the underpinning of a citizen's status."<sup>12</sup> Or ponder the words of Gorbachev: "We still have to underpin [*glasnost*' and democratization] with a proper legal foundation. We must unleash people's best creative forces."<sup>13</sup>

### III. LAW AND *Perestroika*: THE GORBACHEV PROGRAM AND THE BRIDGEPORT SYMPOSIUM

The University of Bridgeport Law School Symposium addressed the problems, possibilities, and antecedents of "Restructuring through Law." The belief in *perestroika*'s historic importance and the perceived need for an early discourse on its legal components were the compelling reasons for organizing the conference. The symposium, conceived by the author in the autumn of 1986, became a reality November 12-15, 1987.<sup>14</sup>

The symposium was a retrospective and prospective analysis of the interaction of Soviet society and law from the adoption of the USSR Constitution in 1977 through 1990. Specifically, the conference focused on 38 pieces of legislation projected in the

12. P. Juviler, *Law and Individual Rights*, at 1 (unpublished symposium paper).

13. *Id.*

14. The author is presently editing the symposium proceedings as *Law and Perestroika* for the *Law in Eastern Europe* series, the University of Leiden, The Netherlands. The general editor of this series is F.J.M. Feldbrugge of the Leiden Faculty of Law. At the time of this writing the only work known to the author on law and *perestroika* is a Soviet one: S.S. ALEKSEEV, *PRAVO I perestroika* (1987). For a Soviet commentary on the symposium, see *Sovetskoe pravo i perestroika*, 6 SOVETSKOE GOSUDARSTVO I PRAVO 135-37 (1988).

"Plan for the Preparation of Legislative Act of the USSR: Decrees of the USSR Government and Proposals for Improving USSR Legislation during the Years 1986-1990."<sup>15</sup> This plan, adopted by the USSR Supreme Soviet<sup>16</sup> in August, 1986, and designed to facilitate Secretary Mikhail Gorbachev's program of Restructuring, is reminiscent of the widely publicized and discussed subsidiary legislation of the USSR Constitution more than a decade ago.

Some of the symposium presentations were very general and historical. Some analyzed existing statutes, while others speculated about legislation yet to come.<sup>17</sup> In the general historical category were Harold Berman's paper and critiques of it offered by Peter Solomon and Susan Heuman.

Berman, who with John Hazard pioneered the study of Soviet law in this country, was the keynote speaker for the symposium.<sup>18</sup> In giving *perestroika* a historical context, he suggested that we consider "in what historical perspectives . . . the Soviet leadership view[s] the current law reform movement, and, second, in what historical perspectives should *we* view it?"<sup>19</sup> While admitting the validity of political, economic, cultural, and technical-structural perspectives in the first category, Berman established four historical perspectives in his paper, including:

[T]he revolutionary perspective in which Gorbachev and his supporters themselves view . . . *perestroika* . . . the perspective of the past seventy years of Soviet history . . . . The second revolutionary perspective is to view the course of the Russian Revolution from the outside and to compare it with the course taken by other great na-

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15. See Appendix A for a summary of the proposed legislation.

16. *Vedomosti Verkhovnogo Soveta SSSR*, no. 37 [2371], 10 Sept. 1986, item 782, at 729-36; *Postanovlenie Prezidiuma Verkhovnogo Soveta SSSR i Soveta Ministrov SSSR*, no. 31, item 162, at 554-63. This legislation is reprinted and translated in 38 *CURRENT DIGEST OF THE SOVIET PRESS* 41 (1986). See also Schmemmann, *Soviet to Codify Gorbachev Overhaul*, N.Y. Times, Oct. 7, 1986, § A, at 21, col. 4. (first U.S. Press comment seen by this author).

17. See Appendix B for a list of participants and distinguished guests.

18. Berman's recent interests divide among Soviet law, law and religion, and law and revolution in Western legal history. His present research continues into the modern era with *Law and Revolution: The Formation of the Western Legal Tradition* (unpublished manuscript).

19. Berman, *Gorbachev's Law Reform in Historical Perspective* (unpublished paper) (emphasis in original).

tional revolutions of Western history.<sup>20</sup>

Berman's third and fourth perspectives "are to view Russian history as a whole, from Kievan Rus' until today: first, as that history has traditionally been viewed in Russia and second, as it has traditionally been viewed in the West."<sup>21</sup> Berman concluded that "this is surely an exciting time to be studying Soviet law . . . . There is hardly a sphere of Soviet law that is not now undergoing substantial rethinking."<sup>22</sup> He warned those who take historical perspectives lightly that the present Gorbachev program is embedded in the Russian/Soviet past, not something which "has sprung full-blown from the head of Mr. Gorbachev."<sup>23</sup>

Susan Heuman's comment on Berman, "Transforming Subjects into Citizens," recalled turn-of-the-century liberal lawyers who fostered reform and in whom "there was an important legal tradition in Russia which had been overlooked."<sup>24</sup> She emphasized particularly Bogdan Kistiakovskii and Sergius Hessen, whose liberalism "meant rule-of-the-law socialism."<sup>25</sup>

Peter Solomon's critique of Berman, touching on judicial reform in historical perspective, noted especially the unprecedented initiative taken by the press, not the state, in seeking reform. Solomon concluded that:

[H]ow far the reform of law, the administration of justice, and the role of legality in public life will proceed depend first and foremost on the course of economic and political reforms. The experience of 1864 serves as precedent. The adoption of a great judicial reform happened because of its connection with other reforms . . . . The Judicial Report of 1864 also reminds us that the implementation of legal reforms depends at least in part upon the success of the economic and political reforms to which they are related. At least in the Russian tradition law, rarely treated as an end in itself, has served as a means to other ends.<sup>26</sup>

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20. *Id.* at 5-6.

21. *Id.* at 6.

22. *Id.* at 21.

23. *Id.*

24. S. Heuman, *Transforming Subjects into Citizens: A Historical Perspective on the Gorbachev Legal Reform*, at 4-5.

25. *Id.* at 5.

26. P. Solomon, *Judicial Reform under Gorbachev and in Russian History*, at 11.

Several symposium participants had the good fortune to have existing legislation before them. One was Hiroshi Oda who, speaking on "Judicial Review of Administration in the USSR," observed that this concept, which is now incorporated in Soviet law, first won approval late in the Imperial period. It suffered initial setbacks after the Bolshevik Revolution; but, mainly through the efforts of old-line constitutionalists, it received hearings in 1919 and again in 1922. Possibly because of these bourgeois antecedents, it was viewed with suspicion by both legal nihilists and Stalin, who simply left matters of supervision of justice to the procuracy.

Reaction to Stalin's excesses led to a partial resurrection of the issue in the 1950s and even more serious discussion of judicial control of the administration in the next decade; but "the awareness of the insufficiency of the existing devices in safeguarding individual rights . . . led to extensive discussion" in the 1970s. Article 58 of the 1977 Constitution stated that:

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

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

The Gorbachev legislation, which Oda summarized, went further, stating that:

A citizen is entitled to have recourse to the court when he thinks that his rights have been infringed by an unlawful act of a government official. Only acts which have been performed individually (*edinolichno*) by an official are subject to appeal. The act may have been performed in his name, or in the name of the agency which he represents.<sup>27</sup>

Unlawful acts include cases where a citizen has been deprived of the opportunity, fully or partly, to exercise his rights which were granted to him by law or other normative acts, as well as cases where certain obligations have been illegally imposed by a citizen.<sup>28</sup>

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27. 1977 CONSTITUTION, Art. I.

28. 1977 CONSTITUTION, Art. II, at 9-10.

Oda, having analyzed the text of the new legislation, noted critical opinion of it; he suggested reviewing similar laws in other East European countries and studying the record of Soviet courts — all in assessing the prospects for the legislation's making a difference. He concluded that Soviet lawyers themselves are uncertain about the nature of future cases and how many there might be. It "is understandable that a system of extensive judicial review cannot be introduced in one go . . . . Therefore, changes have to take place slowly."<sup>29</sup>

Peter Maggs spoke about the Statute on the USSR State Committee on Science and Technology. Scheduled for late 1986, it actually appeared in the summer of 1987 as part of the package of decrees designed to implement the State Enterprise Statute. Even though not, technically speaking, a statute, it included essentially the coverage of the 1966 Statute of the State Committee on Science and Technology.

Maggs believed the role of the State Committee has been elevated in two ways: (1) "It has been put in the position of coordinating the research work of the Academy of Sciences and the Ministry of Higher Education;"<sup>30</sup> and (2) "It has been given new powers with respect to production association and enterprises engaged in economic research, the scientific information systems, and the State Committee on Matters of Inventions and Discoveries."<sup>31</sup> Maggs wondered whether implementing the new degree will in any way encroach on enterprise independence.<sup>32</sup>

Maggs spoke about the history and structure of the State Committee; its relationship to the Party; and its horizontal coordination function, *i.e.*, among the USSR Academy of Sciences, the All-Union Academy of Agriculture Sciences, the USSR Academy of Medical Sciences, the Ministry of Higher and Specialized Secondary Education of the USSR, and others. He also discussed its role in post-graduate education and supervising and financing research and development; overseeing inventions; and facilitating scientific and technical information-gathering "through a centralized, computerized scientific information

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29. Oda, *Judicial Review of Administration in the USSR*, at 22-24.

30. P. Maggs, *The 1987 Decree on the USSR State Committee on Science and Technology*, at 2.

31. *Id.* at 3.

32. *Id.*

system.”<sup>33</sup>

Maggs concluded that:

[S]ince the 1920s, committees for the coordination of science policy have been a feature of Soviet government. The repeated search for better forms of organization of science coordination suggests the difficulty of the task . . . . Operating under the 1987 decree, the State Committee on Science and Technology will encounter not only the problems it faced before, but also new challenges created by restructuring of the Soviet Economy . . . . Until a new incentive scheme is in place, operating entities may remain reluctant to spend funds on research and on introduction of new technology. The new enterprise statute indeed may make the job of the State Committee more difficult, by limiting the power of central authority to give orders to operating enterprises. The task before the Committee will be the creation of new economic and legal mechanisms that will use a “carrot” rather than a “stick” to encourage technical progress.<sup>34</sup>

The state enterprise, so crucial to the future of the Soviet economy, was the subject of John Hazard’s paper.<sup>35</sup> His “Gorbachev’s Vision for the State Enterprise,” which analyzed the statute that became effective January 1, 1988, was far-ranging. It provided historical context and compared it with the Yugoslav model (once perceived as a betrayal of socialism) and the Weirton employee-owned industry model in the United States. He further considered the 1983 statute on the labor collective, sampled the spirited discussion generated by the draft legislation among Soviet specialists on the draft statute, and, finally, dissected the new Soviet statute itself.

Hazard noted that “for decades Soviet public administrators have been calling for reduction in tutelage by Ministries over the state enterprise. Gorbachev, soon after installation as Secretary General of the Communist Party of the Soviet Union, expressed his determination to achieve a decoupling of the decision-making process.”<sup>36</sup> Because the 1983 statute failed as an economic stimulus (“Even Gorbachev seems to have lost hope

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33. *Id.* at 10.

34. *Id.* at 12-13.

35. J. Hazard, Gorbachev’s Visions of the State Enterprise (unpublished paper). Professor Hazard, unable to attend the symposium, was nonetheless the first to submit a paper for it.

36. *Id.* at 1.

that the labor collective would help in his drive for productivity . . ."<sup>37</sup>), Hazard suggested that:

[I]n light of this history of unsuccessful attempts to improve the operations of enterprises the 1987 draft statute must be seen as a new beginning, or at least as experimentation in restructuring of an old machine. The entire enterprise staff, incorporating both management and line workers, is given by the new draft the right to elect an executive council, thus rectifying the error . . . in the 1983 law. Further, the labor collective is given the right enjoyed by the Yugoslav self-management group for years, namely the right to influence the choice of, if not name, the enterprise director. The director is no longer to be appointed solely by the Ministry to which the enterprise is subordinate, as he or she has been appointed since the introduction of the one-man management [*edinonachalie*] in the 1920s.<sup>38</sup>

After analyzing key sections of the statute, Hazard concluded that:

Students of Soviet public administration with long memories will recall that much of the policy reflected in this statute has had its genesis in prior decades of experimentation. The pillars of Soviet socialism remain, and Gorbachev has stated that there can be no departure from state ownership of the primary means of production, although concession can be made on cooperatives and artisan type private enterprise. Further, he has reaffirmed his faith in the guiding role of a vanguard Communist party. To this analyst, some of Ryzhkov's [Chairman of the Council of Ministers or, in effect, the Soviet prime minister] speech reads like that of a team in panic. There is a reshuffling of institutions which have entered and left the stage in earlier decades in an effort to improve productivity. Organization charts are being redrafted, but the institutions are not new. They have appeared in history, although in different configurations. Practice may show that the perfect chart has now been drafted, and the perfect balance between center and operating level may have been established. Outsiders can only wait for developments.<sup>39</sup>

Some symposium participants, who were handicapped by the delayed appearance of new statutes, conjectured on what the Soviets will eventually enact into law. In his paper on "*Glasnost*' as an Issue of Law on the Future USSR Law on Press and Infor-

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37. *Id.* at 6.

38. *Id.* at 16.

39. *Id.* at 23.

mation," Dietrich A. Loeber observed that "the most dramatic and visible changes in the Soviet Union of today are taking place in the area of the press and information. However, that country is without a law which could serve as a basis for the new approach." That the anticipated legislation has not appeared "suggests that the spectacular turn in the Soviet media is a matter of policy rather than law. The new policy is called *glasnost*'."<sup>40</sup>

Loeber, noting that the legislation was scheduled for late 1986, is not surprised "that Soviet legislators have difficulties in agreeing on the substance of the act. After all, this is an important and sensitive piece of legislation with potentially far-reaching consequences."<sup>41</sup> In organizing his presentation around *partiinost*' (party-principle), party guidance, government control, access to information, and independent publishing, Loeber showed how each played a role in the state's management of information.

Donald Barry, like Loeber, was limited to speculation about his subject — that of "A Law on Atomic Energy." This statute, scheduled for early 1987, has yet to appear. Barry noted that even before Chernobyl the decision was to enact the statute and that ten agencies "were charged with participating in the effort, a fact which testifies to the complexity of the tasks involved and perhaps explains in part why completion of the law has been delayed."<sup>42</sup> Barry believed that the legislation would be comprehensive:

. . . covering general legal problems associated with the whole nuclear fuel cycle, including: the organization of nuclear activities; their licensing and supervision; safety standards for the acquisition, use and disposal of nuclear fuels and other radioactive substances; and sanction, both criminal and civil, for violations of relevant legal provisions. Such a statute might well have international law components as well, covering, for instance, the import, export, and international transportation of nuclear substances, as well as transnational civil liability for nuclear damage.<sup>43</sup>

In the context of future legislation, Barry discussed the pre-

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40. D. Loeber, *Glasnost*' as an Issue of Law on the Future USSR Law on Press and Information, at 1.

41. *Id.*

42. D. Barry, A Law on Atomic Energy: Preliminary Observations, at 2.

43. *Id.* at 3.



sent law on nuclear activities, the organization of nuclear activities, recent activities relevant to the development of nuclear law, state and administrative law, and civil, criminal, and international law.

Zigurds Zile, speculating on the proposed legislation on output quality, noted that "although the overall objective independently deserves the legislator's attention, attainment of output quality would depend on factors which a single law cannot adequately address or enlist . . . [and it] has a lot to do with the organization and performance of the Soviet economy as a whole."<sup>44</sup> Apparently this fact escaped those formulating the plan for legislation.

Zile discussed terminology, an "anatomy of the quest for output quality," the role of law in this process, and "the present Soviet law of output quality in text and practice." Finally, he predicted that the proposed law "will be limited in scope and stay close to the familiar."<sup>45</sup> Implementation will depend on other economic legislation. Direct regulation for product quality is so deeply entrenched in Soviet governance by bureaucratic command that curtailment is unlikely.

Nor is the law likely to pull back from the perennial insistence on iron discipline reemphasized in the most recent decrees. With iron discipline affirmed, the law can be expected to enumerate sanctions for individuals considered in breach. Chances are that the law will also address positive incentives by according a degree of permanence to certain honors and prizes and by referring to some specific occasions for augmenting incentive funds set up by other laws. In sum, the new law, if and when adopted, most probably will lend a more pleasing form to the body of the present overlapping and sometimes contradictory laws, but leave the core of the existing legislation unchanged.<sup>46</sup>

We conclude by extracting some of the ideas from Peter Juviler's paper, "Law and Individual Rights: the Shifting Political Ground," which captured the dilemma of the reformers:

So far, the "curbs on the human potential" have lifted *de facto* more

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44. Z. Zile, *By Command, Bribe, and Cajolery: Soviet Law on Output Quality*, at 1.

45. *Id.* at 21.

46. *Id.* at 22.

than *de jure*; possibilities outrun rights. Actual reforms in the law of individual rights are out-paced by government calls for guaranteed rights, the rethinking of constitutional principles, the realities of freedoms asserted and tolerated, and the security vouchsafed.<sup>47</sup>

Juviler wondered about the success of *perestroika* but had few doubts about the consequences of *glasnost*. *Perestroika* "has changed the law the most in the sphere of socio-economic rights, where behavior has changed the least, and the least in the sphere of political rights, where behavior has far outstripped law and the provisions of the relatively limited 1986 legislative program."<sup>48</sup>

#### IV. CONCLUSION

What did the University of Bridgeport Law School Symposium signify? Certainly — occurring, as it did on the occasion of the seventieth anniversary of the Bolshevik Revolution, on the eve of the third Reagan-Gorbachev summit, and in the midst of both *perestroika* euphoria and tension from the Eltsin episode — it was unusually timely and drew one of the largest and most diverse gatherings of Soviet legal scholars ever assembled. Illustrating clearly the *glasnost* mood, for the first time scholars from the Soviet Union — Professor Svetlana Polenina and Dr. Vladimir Entin of the Institute of State and Law of the Academy of Sciences of the USSR — participated with those from the West. Academician V.N. Kudriavtsev, director of the Institute of State and Law in Moscow, although unable to come to the symposium, was nonetheless responsible for Soviet participation in it.

The Bridgeport symposium and the publication resulting from it have laid the groundwork for establishing *perestroika* as an important epoch in Soviet legal history. The symposium agenda was really Secretary Gorbachev's — his legislative blueprint. Although this program is behind schedule, the absence of new statutes hardly inhibited discourse.

In focusing early on *perestroika*, the symposium provided a forum for preliminary appraisals and promoted the prospect of

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47. P. Juviler, *Law and Individual Rights: The Shifting Political Ground*, at 26 (unpublished).

48. *Id.* at 28.

future meetings to continue discussions on the topic. Any suggestion that this symposium was premature assumes that the Gorbachev reform movement began with Gorbachev or with the legislation of late 1986. Such is not the reality. The symposium theme encompassed the decade since the drafting of the Brezhnev Constitution in 1977, as illustrated by Professor Polenina's paper. Recent scholarship, albeit not that in the Soviet law field and, therefore, not a part of the symposium, has shown that the germination of *perestroika* preceded Secretary Gorbachev, originating during the Brezhnev era.<sup>49</sup> Assuming this premise is true, the Gorbachev reforms have already acquired sufficient historical perspective to avoid the pitfalls of hasty analysis.

The 38 points do not constitute Secretary Gorbachev's entire legislative reform program. Present policy toward the church appears to be easing: one hears of the prospect of new legislation affecting the state's relationship with religious bodies.<sup>50</sup> Egor Ligachev had promoted reforms in education, but his

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49. See, e.g., Moses, *Worker Self-Management and the Reformist Alternative in Soviet Labour Policy, 1979-85*, 39 SOVIET STUDIES 205 (1987). Moses has shown, by returning to the history of the late 1970s, that "the most innovative and politically controversial reforms proposed in the Soviet Union over the past decade have been ones which would allow Soviet workers both to choose their own administrative superiors and participate in decision making at various levels of their production units through newly constituted economic or labour councils." *Id.* These reforms, Moses suggests, bear significantly on Mr. Gorbachev's present democratization.

Elsewhere Moses has noted how *Sovetskoe gosudarstvo i pravo*, the organ of the USSR Institute of State and Law in the Academy of Sciences (IGPAN), and *Ekonomika i organizatsiia promyshlennogo proizvodstva* (EKO), the Journal of the Institute for the Economics and Organization of Industrial Production in Novosibirsk, have been strong advocates of reform for at least a decade. In other words, Mr. Gorbachev did not have to go to China, Prague, or Warsaw for cues on reform; they had been awaiting him for some time. See Moses, *The Political Implications of Reform — the View from IGPAN, 1978-86*, (unpublished paper), delivered at the annual meeting of the American Political Science Association, Sept. 3-7, 1987, Chicago; and *Gorbachev and the Democratization Issue* (unpublished paper), delivered at the annual meeting of the American Association for the Advancement of Slavic Studies, Nov. 5-8, 1987, Boston; see also D. Slider, *Experimentation as a Reform Strategy in the Soviet Union* (unpublished paper), delivered at the annual meeting of the American Association for the Advancement of Slavic Studies, Nov. 5-8, 1987, Boston; and G. Schroeder, *Gorbachev: Radically Implementing Brezhnev's Reforms*, 2 No. 4 *Soviet Economy* 289-301 (1986).

50. See, e.g., Antic, *Government Policy Towards the Official Churches in the USSR in 1987*, RADIO LIBERTY RESEARCH RL 54/88 (Feb. 8, 1988); *First Publication of Official Statistics on Churches in the USSR*, RADIO LIBERTY RESEARCH RL 9/88 (Jan. 11, 1988); *Religious Policy under Gorbachev*, RADIO LIBERTY RESEARCH RL 381/87 (Sept. 28, 1987); Tolz, *Church-State Relations under Gorbachev*, RADIO LIBERTY RESEARCH RL

shift to the Politburo agricultural post in late September 1988 creates uncertainty.<sup>51</sup> The same pertains to judicial reform now that former KGB head Victor Chebrikov has responsibility for both it and political reform in the Politburo.<sup>52</sup> Legislation enlarging the co-op movement recently appeared as a supplement to the 38 points.<sup>53</sup> The highly controversial emigration legislation was not included in symposium considerations.<sup>54</sup> Most important are the new constitutional changes slated for the November 29, 1988 agenda of the Supreme Soviet.

The 38-point blueprint, if not all-inclusive, at least appears central in articulating goals for the next decade. What is certain is that Secretary Gorbachev doggedly adheres to the notion that *perestroika* will be achieved through law:

The measures which we are adopting in the field of legislation and law are becoming a support in the restructuring process. We are doing this work in the context of reforms in the economic, social and cultural spheres, considering the wishes of the working people, and the results of public opinion polls.<sup>55</sup>

Time will tell whether these changes undertaken in the late 1980s were the stuff of successful legislative reform as proposed in the blueprint, or whether they failed to surmount the obstacles created by conservative ideologues, vested bureaucratic in-

360/87 (Sept. 11, 1987); Boiter, *Law and Religion in the Soviet Union*, 35 AM. J. OF COMP. L. 97 (1987); *Holy Russia's Millennium: The Church is Risen Indeed*, THE ECONOMIST 17 (Apr. 2, 1988).

51. See Voronitsyn, *The Central Committee Plenum: Ligachev's Blueprint for Soviet Education*, RADIO LIBERTY RESEARCH RL 66/88 (Feb. 22, 1988).

52. One wonders about Chebrikov's new role in light of the recent Party Conference resolutions on *glasnost'* (a draft law on *glasnost'* is in process) and democratization and political reform. See Tolz, *The Party Conference Resolution on Glasnost'*, RADIO LIBERTY RESEARCH, RL 305/88 (July 7, 1988); and Mann, *The Party Conference Resolution on Democratization and Political Reform*, RADIO LIBERTY RESEARCH, RL 301/88 (July 6, 1988).

53. See Hanson *The Draft Law on Cooperatives: An Assessment*, RADIO LIBERTY RESEARCH RL 111/88 (Mar. 15, 1988); *The Cooperative System Develops Abuses*, 39 NO. 48 CURRENT DIGEST OF THE SOVIET PRESS 9-10 (Dec. 30, 1987).

54. See *USSR Spells Out Rules on Emigration*, 39 NO. 2 CURRENT DIGEST OF THE SOVIET PRESS 13-14 (1987). Feldbrugge, *The New Soviet Law on Emigration*, 17 NO. 1 SOVIET JEWISH AFFAIRS 9-24 (Spring, 1987); Cotler, *The Right to Leave and to Family Reunification*, 28 LES CAHIERS DE DROIT 625-47 (Spring, 1987).

55. M. GORBACHEV, *Perestroika: New Thinking for our Country and the World* 107 (1987).

terests, uncontrolled nationalist movements, and, most recently, the specter of budget deficits.<sup>56</sup>

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56. See Pear, *Soviets Understate Deficit, U.S. Specialists Say*, N.Y. Times, Oct. 30, 1988, at 14, col. 1.

### Appendix A

Sections of the proposed legislation which had a commentator in the symposium are marked by an asterisk (\*)

#### I. LEGISLATION ON THE FURTHER DEVELOPMENT OF SOCIALIST DEMOCRACY, SOCIALIST SELF-MANAGEMENT AND CITIZENS' RIGHTS AND FREEDOMS<sup>57</sup>

- \* 1. A USSR law on the procedure for public discussion and voting on major issues of national life and on the public discussion of draft decisions by local Soviets. 1987.<sup>58</sup> (Fincke).
- \* 2. A USSR law on press and information. Second quarter of 1986.<sup>59</sup> (Loeber: "Glasnost' as an Issue of Law on the Future USSR Law on Press and Information" and Entin: "Law-Making and Mass Media in the Period of Restructuring").
- \* 3. Normative acts on enhancing the role of workers' and office employees' meetings, expanding the range of issues on which labor collectives' decisions are final, creating labor collectives' councils at the enterprise level and gradually expanding the extent to which certain categories of enterprise managers are elected. Second quarter of 1987. (Fincke).
- \* 4. Normative acts on expanding the range of issues that can be decided by state agencies only with the participation or preliminary consent of appropriate public organizations and on granting these organizations rights in a number of instances to halt the implementation of administrative decisions. 1986-1987. (Ajani: "Perestroika and Social Organizations: Past Problems and Future Trends").

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57. I have used the CURRENT DIGEST OF THE SOVIET PRESS translation throughout. The dates indicate the Soviet schedule for passage of this legislation.

58. Although Dr. Fincke was ill and could not attend the symposium, he expects to contribute to its proceedings. See, e.g., *Law on Public Discussion of Major Issues*, 39 No. 28 CURRENT DIGEST OF THE SOVIET PRESS 13-14 (1987). See also Teague, *Soviet Union Experiments with Electoral Reform*, RADIO LIBERTY RESEARCH RL 69/87 (Feb. 18, 1987).

For the reader's convenience, relevant documents and commentary from easily available sources, principally CURRENT DIGEST OF THE SOVIET PRESS and RADIO LIBERTY RESEARCH, are cited when they have appeared since the symposium.

59. See Yasmann, *Drafting a Press Law: Glasnost' as an Alternative to the Free Flow of Information*, RADIO LIBERTY RESEARCH RL 14/87 (Jan. 8, 1987); *Soviet Jurists Discuss Draft Press Law*, RADIO LIBERTY RESEARCH RL 208/87 (June 1, 1987). See also Tolz, *Moscow News — The Cutting Edge of Glasnost'*, RADIO LIBERTY RESEARCH RL 54/87 (Feb. 4, 1987).

\* 5. A USSR law on individual labor activity. Second half of 1986.<sup>60</sup> (Pomorski: "Law on Individual Labor Activity").

\* 6. A USSR law on the procedure for protesting to the courts for relief from illegal actions by officials in violation of citizens' rights. First quarter of 1987.<sup>61</sup> (Oda: "Judicial Review of Administration in the USSR").

\* 7. Proposals for changing legislation with respect to housing allocation and to making rent contingent on the amount and quality of the space occupied. 1987.<sup>62</sup> (Morton).

## II. LEGISLATION ON IMPROVING THE ECONOMIC MECHANISM AND ECONOMIC MANAGEMENT

\* 8. A USSR law on the socialist enterprise (association). Second half of 1986.<sup>63</sup> (Hazard: "Gorbachev's Vision of the State Enterprise").

\* 9. A USSR law on atomic energy. First half of 1987. (Barry: "A Law on Atomic Energy: Preliminary Observations").

10. Proposals for changing legislation with a view to improving the system for supplying materials and equipment and increasing the role and responsibility of the USSR State Supply Committee and its local agencies for the uninterrupted supply of material resources to the economy and for their effective use. Fourth quarter of 1986.

11. Proposals for improving legislation on the utilization of recycled resources in the economy. First quarter of 1987.

12. Proposals for changing legislation with a view to improving

60. See *The Law on Individual Enterprise*, 38 No. 46 CURRENT DIGEST OF THE SOVIET PRESS 6-8 (1986).

61. See *Law on Appealing Officials' Illegal Actions*, 39 No. 29 CURRENT DIGEST OF THE SOVIET PRESS 12-13 (1987). Anonymous denunciations, however, are unacceptable. See Wisnevsky, *Soviet Government Refuses to Entertain Anonymous Denunciations*, RADIO LIBERTY RESEARCH RL 52/88 (Feb. 3, 1988).

62. This legislation has been delayed. The CPSU Politburo did, however, issue a decree on individual housing in February, 1988. See Trehub, *Decree on Individual Housing in the USSR*, RADIO LIBERTY RESEARCH RL 83/88 (Feb. 25, 1988); Trehub, *The USSR Supreme Soviet Looks at Housing: Background*, RADIO LIBERTY RESEARCH RL 217/88 (May 24, 1988).

63. See *The Law on the State Enterprise — I*, 39 No. 30 CURRENT DIGEST OF THE SOVIET PRESS 8-13, 24 (1987); *The Law on the State Enterprise — II*, 39 No. 31 (1987); CURRENT DIGEST OF THE SOVIET PRESS 10-17, 28. This is the text from *Pravda* and *Izvestiia*, July 1, 1988; the draft law had appeared in both *Pravda* and *Izvestiia* on Feb. 8, 1987. See *Economists Skeptical about New Law on State Enterprise*, RADIO LIBERTY RESEARCH RL 13/88 (Jan. 8, 1988).

statistics. First quarter of 1987.

13. Proposals for legislation providing for a systematic restructuring of the price system in light of the directives of the 27th CPSU Congress. Fourth quarter of 1986.

14. A general statute of USSR ministries. Fourth quarter of 1986.

15. A general statute on USSR state committees. Second half of 1987.

16. A statute on inter-branch production associations and production-and-trade associations for the manufacture and sale of light-industry goods. Second half of 1986.

17. Proposals for improving legislation with a view to further introducing economic management methods; substantially expanding the independence of collective farms and state farms and enhancing their interest in and responsibility for economic results; and developing the collective contract on a broad scale, on the basis of true economic accountability, with the ultimate goal of putting all enterprises of the agro-industrial complex, on a self-supporting and self-financing basis.<sup>64</sup> 1986 and 1987.

\* 18. A legislative act on amending and adding to the Basic Principles of Civil Legislation of the USSR and of the Union-republics. First half of 1990. (Levitsky: "Changes in the Fundamental Principles of USSR Civil Legislation Part IV: Copyright").

19. Normative acts specifying relations between consumer-service organizations and clients, industrial and trade enterprises and other branches of the economy. Second half of 1987.

### III. LEGISLATION ON ACCELERATING SCIENTIFIC AND TECHNICAL PROGRESS

\* 20. A USSR law on output quality. First quarter of 1987. (Zile: "By Command, Bribe, and Cajolery: Soviet Law on Output Quality").

\* 21. A USSR law on discoveries, inventions and licenses. Second half of 1987. (Armstrong: "Invention and Innovation").

\* 22. A statute on the USSR State Committee for Science and

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64. See Waedekin, *The New Kolkhoz Statute: A Codification of Restructuring on the Farm*, RADIO LIBERTY RESEARCH RL 36/88 (Jan. 28, 1988); and Tenson, *On the Eve of Great Changes in Soviet Agriculture*, RADIO LIBERTY RESEARCH RL 61/88. (Feb. 15, 1988).



Technology. Fourth quarter of 1986. (Maggs: "The 1987 Decree on the USSR State Committee on Science and Technology").

#### IV. LEGISLATION ON CAPITAL CONSTRUCTION

23. A USSR Council of Ministers' resolution on the procedure for planning capital investments and confirming approved lists of construction projects. Fourth quarter of 1989.

24. Regulations governing construction financing and credit. First quarter of 1988.

25. Regulations governing contractual agreements on capital construction. Fourth quarter of 1986.

26. Regulations governing contractual agreements on capital repair of buildings and structures. Fourth quarter of 1988.

#### V. LEGISLATION ON TRANSPORTATION AND COMMUNICATIONS

27. Proposals for changes in legislation aimed at improving management of the transport branches, improving the coordination of all types of transport and creating a uniform legal system and rate policy. Third quarter of 1986.

28. A USSR Statute on Communications. First half of 1988.

#### VI. LEGISLATION ON ENVIRONMENTAL PROTECTION AND THE RATIONAL UTILIZATION OF NATURAL RESOURCES

29. Proposals for improving legislation with a view to further strengthening environmental protection in the country. Third quarter of 1987.

#### VII. LEGISLATION ON SOCIAL DEVELOPMENT AND CULTURE

30. A normative act on the periodic certification of responsible officials of Soviet and public organizations and economic managers and specialists. 1986.

\* 31. A USSR Council of Ministers' resolution on holding more than one job. Fourth quarter of 1986. (van den Berg: "Developments in Soviet Labor under Gorbachev").

\* 32. A statute on liability for disciplinary action, based on lines of subordination. Second half of 1986. (van den Berg).

\* 33. A normative act on giving pensioners additional incentives

for participating in social production. 1986.<sup>65</sup> (van den Berg).

\* 34. A USSR law on the USSR State Archival Fund. Fourth quarter of 1987.

### VIII. LEGISLATION ON OTHER ISSUES

\* 35. A USSR law on USSR state security. 1990.<sup>66</sup> (Feldbrugge: "The Legal Status of the KGB").

\* 36. A USSR Council of Ministers' resolution confirming the Statute on the USSR State Committee on Foreign Economic Relations. Fourth quarter of 1986.<sup>67</sup> (Simons: "Changes in Soviet Foreign Trade Policy?").

\* 37. A USSR Customs code (updated version). Fourth quarter of 1987. (Timmermans: "Article 37: A New USSR Customs Code").

\* 38. A decree of the Presidium of the USSR Supreme Soviet on carrying out the decisions of foreign courts. First half of 1988. (Ginsburgs: "Execution of Foreign Arbitration Awards: The Heritage of Domestic Legislation, Bilateral Treaties, and Intra-COMECON Ententes").

Additional papers treating different aspects of "Law and Perestroika" were as follows: "Gorbachev's Law Reforms in Historical Perspective" (Berman); "Judicial Reform under Gorbachev and in Russian History" (Solomon); "Transforming Subjects into Citizens: A Historical Perspective on the Gorbachev Legal Reform" (Heuman); "Law and Individual Rights"<sup>68</sup> (Juviler); "Development of Soviet Legislation Based

65. See Voronitsyn, *New Law on Pensions Being Drafted in the Soviet Union*, RADIO LIBERTY RESEARCH RL 387/86 (Oct. 10, 1986).

66. See Rahr, *Restructuring the KGB*, RADIO LIBERTY RESEARCH RL 226/87 (June 15, 1987) and Yasmann, *Reform of the Soviet Political System: The KGB Calls for a Law on State Security*, Radio Liberty Research RL 358/88 (Aug. 5, 1988).

67. See *Rules for Joint Enterprises Published*, 39 No. 6 CURRENT DIGEST OF THE SOVIET PRESS 15-16, 23 (1987); Hanson, *Foreign Trade: the Restructuring of the Restructuring*, RADIO LIBERTY RESEARCH RL 58/88 (Feb. 9, 1988). Soviet budget deficits have prompted an alteration in joint venue schemes: henceforth foreigners will be allowed a controlling interest. See, Keller, *Deficits in Soviet Budgets are Disclosed by Kremlin*, N.Y. Times, Oct. 28, 1988, at 1; *Soviet Call to West: Money for Rebuilding*, N.Y. Times, Oct. 29, 1988; Jonathan Fuerbringer, *Soviet Shift on Joint Ventures Studies*, N.Y. Times, Oct. 29, 1988, at 3.

68. See also *Call to Liberalize Laws on Human Rights*, 39 No. 42 CURRENT DIGEST OF THE SOVIET PRESS 6-7 (1987); Trehub, *Human Rights in the Soviet Union: Recent Developments*, RADIO LIBERTY RESEARCH RL 67/88 (Feb. 11, 1988); Wishevsky, *Burlat-sky on Goals of Soviet Human-Rights Commission*, RADIO LIBERTY RESEARCH RL 68/88

on the 1977 Constitution: Tendencies and Prospects" (Polenina); "Modern Patterns of Law Reform in the U.S.S.R." (Butler); "New Legislation on the Bar and Criminal Procedure: The Role and Opportunities of Defense Counsel in the Criminal Process"<sup>69</sup> (Luryi); "Economic Reform in the Soviet Union — Why a Need for Checks and Balances" (Goldman); and "Soviet Legislation for Protection of Architectural Monuments: Background" (Schmidt).

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(Feb. 17, 1988).

69. See, e.g., *Does the Judicial System Need Reform?* 38 No. 42 CURRENT DIGEST OF THE SOVIET PRESS 1-7, 19 (1986); *Terebilov Backs Some Judicial Reforms*, CURRENT DIGEST OF THE SOVIET PRESS 5-6 (1986); *A Bigger Role for Defense Lawyers Asked*, 39 No. 12 CURRENT DIGEST OF SOVIET PRESS 7 (1987); Quigley, *The Soviet Bar in Search of a New Role* (unpublished review essay); Shelley, *Soviet Defense Counsel: Past as Prologue*, 1987 AM. B. FOUND. RES. J. 835-48; Wishnevsky, *The USSR Supreme Court Comes Under Scrutiny*, RADIO LIBERTY RESEARCH RL 235/88 (June 7, 1988); Wishnevsky, *Legal Reform Debated in Literaturnaya Gazeta*, RADIO LIBERTY RESEARCH RL 355/88 (June 15, 1988); Wishnevsky, *The Party Conference Resolution on Legal Reform*, RADIO LIBERTY RESEARCH RL 302/88 (July 7, 1988).

## Appendix B

The following is a complete list of participants:

Giamaria Ajani, Faculty of Law, University of Trento, Italy

George Armstrong, Associate Professor of Law, Louisiana State University School of Law

Donald Barry, Distinguished Professor of Political Science, Lehigh University

Ger van den Berg, Senior Research Officer, Documentation Office of East European Law, University of Leiden Faculty of Law

Harold Berman, Woodruff Professor of Law, Emory University School of Law and James Barr Ames Professor Emeritus of Law, Harvard University Law School

William E. Butler, Professor of Comparative Law in the University of London

Gabriele Crespi Reghizzi, Professor of Comparative Law and Deputy Rector, University of Pavia, Italy

Vladimir Entin, Institute of State and Law of the USSR Academy of Sciences, Moscow

F.J.M. Feldbrugge, Professor of Law, University of Leiden Faculty of Law and Director of the Documentation Office for East European Law, the University of Leiden, The Netherlands; 1987-89, Sovietologist-in-Residence, NATO

Martin Fincke, Professor of Law, University of Passau, Federal Republic of Germany

George Ginsburgs, Distinguished Professor of Law, The Rutgers School of Law, Camden, New Jersey

Marshall Goldman, Class of 1919 Professor of Economics, Wellesley College and Associate Director of the Russian Research Center, Harvard University

John N. Hazard, Nash Professor Emeritus of Law, Columbia University School of Law

Susan Heuman, Adjunct Professor of History, Baruch College, CUNY

Thomas W. Hoya, Administrative Law Judge, U.S. Department of Commerce, Washington, D.C.

Peter H. Juviler, Professor of Political Science, Barnard College

Serge L. Levitsky, University of Leiden Faculty of Law

Leon Lipson, Henry R. Luce Professor of Law, Yale University School of Law

Dietrich A. Loeber, Professor of Law and Dean of the Faculty of Laws, University of Kiel, Federal Republic of Germany

Yuri Luryi, Professor of Law, University of Western Ontario and York University, Canada; Research Associate Center of Russian and East European Studies, University of Toronto; Visiting Fellow, Center of Criminology, University of Toronto

Peter Maggs, Professor of Law, University of Illinois School of Law

Henry Morton, Professor of Political Science, The Queens University of City University of New York

Hiroshi Oda, Associate Professor of Law, University of Tokyo Faculty of Law

Svetlana Polenina, Institute of State and Law of the USSR Academy of Sciences, Moscow

Stanislaw Pomorski, Distinguished Professor of Law, The Rutgers University School of Law, Camden, New Jersey

John Quigley, Professor of Law, The Ohio State University College of Law

Albert J. Schmidt, Professor Emeritus of Law, University of Bridgeport School of Law; Arnold Bernhard Professor Emeritus of History.

Robert Sharlet, Professor of Political Science, Union College, Schenectady, New York

Louise I. Shelley, Professor in the School of Justice and the School of International Service, The American University, Washington, D.C.

William Simons, counsel for the Fike Corporation, Independence, Missouri; formerly of the University of Leiden Faculty of

**Law**

Peter Solomon, Professor of Government, University of Toronto

Wim Timmermans, Research Officer, Documentation Office for East European Law, University of Leiden

Zigurds Zile, Foley and Lardner-Bascom Professor of Law, University of Wisconsin School of Law

*Distinguished Guests*

Randy Bergman, International Law Institute, Washington, D.C. and Adjunct Professor of Soviet Law, Georgetown University Law School

Albert Boiter, Georgetown University School of Law

Susan Finder, East-Asian Legal Studies Program, Harvard Law School

Christine Genis, U. S. Embassy, Moscow

Jane Giddings, Center for European Law, King's College, University of London

Malcolm L. Russell-Einhorn, Adjunct Professor of Soviet Law, Boston College of Law

Christopher Senie, Senie, Stock and LaChance, Westport, Connecticut

Alan B. Sherr, Director of Project on Soviet Foreign Economic Policy and International Security, Brown University

Stanislaw Soltysinski, Professor of Law, University of Cracow, Poland and Visiting Professor of Law, University of Pennsylvania School of Law

Lowry Wyman, Assistant Dean DePaul University College of Law, Chicago

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