New Codification of Soviet Labour Law

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THE SOVIET UNION is at present codifying its basic labour legislation. This is the third occasion on which it has done so, the foundation having been laid on 15 July 1970, when the Supreme Soviet of the USSR adopted the Fundamental Principles governing the labour legislation of the USSR and the Union Republics.[2] These Principles, by providing additional safeguards for the social and economic rights and fundamental interests of the working population and laying the basis for the subsequent development of Soviet labour legislation generally, are of major concern to every wage and salary earner. Their influence will be felt not only in working conditions but also in labour matters generally, which are the starting point for economic and social relations between people.

The adoption of the Principles was followed by a period of intensive work on the preparation and adoption of Labour Codes in the various Union Republics. In December 1971 Labour Codes were adopted in the Azerbaijan, Uzbek and Ukrainian Soviet Socialist Republics and in the RSFSR [3]; the Latvian SSR followed in April 1972, the Byelorussian SSR in June 1972, the Estonian SSR in July 1972. By 1 January 1973, 13 of the 15 constituent republics of the Soviet Union had their own Labour Codes. The only exceptions were the Georgian and Moldavian Soviet Socialist Republics, where the new Labour Codes were still in course of preparation. In this way a whole series of basic texts changing the pattern of Soviet labour legislation and opening a new chapter in the statutory regulation of employment relations in the Soviet Union had been adopted by early 1973.

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[2] ILO: *Legislative Series*, 1970—USSR 1.

[3] Ibid., 1971—USSR 1.

Basic reasons for the codification: the link between legislation and ordinary life

One of the main factors in the progress of socialist society is the concordance between its legislation and the social and economic background to national development. It is obvious that the impact of a law is greatest if its provisions are fully in keeping with social and economic realities. Labour laws are no exception to this rule, because outdated legislation does not exactly help to improve the organisation of work or the development of labour relations and certainly does not contribute to better working conditions. Hence the Soviet Union's concern for bringing its labour legislation up to date.

There have been two occasions in earlier years when the labour laws have been codified. The first was in 1918, when the initial Soviet Labour Code was adopted. The second was in 1922, when a new Labour Code was adopted in the RSFSR and subsequently in the other Soviet Republics; these Codes have remained in force down to the present day. On each occasion the decision to issue a new Code was prompted by changing social and economic conditions.

The first Labour Code was adopted during the period of armed foreign intervention and the Civil War, against a background of War Communism at a time when the economic and political life of the country was organised to take account of the military needs of the moment. The special circumstances obtaining at that time explain why the Code contained a number of exceptional provisions. Once the Civil War was over and the country was able to devote itself to peaceful reconstruction, and particularly with the introduction of the New Economic Policy, the entire social and economic background changed, with a consequent need to recast labour legislation.

The RSFSR Labour Code of 1922 no longer contained the emergency provisions appearing in its predecessor and granted the workers extensive social and economic rights. It was drafted in full accordance with the conditions obtaining at that time and represented a major achievement of Soviet power. It also played an enormous part in improving the working conditions of wage and salary earners and in expanding the national economy.

In the mid-thirties, however, changes began to appear in the country's economic, political and cultural life. This marked the beginning of a new period in the development of Soviet society and the Soviet State—the period of the victory of socialism. Even more far-reaching changes occurred later. The land of the Soviets entered the period of the construction of communism. The 1922 Code remained in operation, despite the fact that many of its provisions had ceased to have any practical significance and were no longer applied.

During this period the progress of legislation was mainly achieved by the adoption of individual texts. As the years went by, there was a growing number of laws, orders, instructions, rules and interpretations relating in varying degrees to the work of wage and salary earners. The sheer profusion of these texts made it somewhat difficult to know what should be done and consequently how legislation was supposed to be applied in practice.

What was needed to overcome these difficulties was a single legislative text covering the whole of the Soviet Union and containing all the basic principles applying to the work of wage and salary earners. This was the text that came to be adopted as the Fundamental Principles governing the labour legislation of the USSR and the Union Republics.

The Principles, supplemented by the Labour Codes adopted in the various Republics, have taken over all that was best in the earlier legislation. They have retained the basic ideas embodied in the first Labour Codes, such as the right to work, the universality of work, the protection of labour, labour discipline, trade union rights and material security for the disabled. In one form or another these ideas have been retained at all stages in the development of the Soviet State and have stood the test of time.

This said, the Principles and Codes mark a further step forward in that they contain new ideas and new provisions evolved as a result of the day-to-day work of socialist and communist construction in the USSR. Account has been taken, in preparing this new codification of labour legislation, not only of present-day requirements but also, to some extent, of those that are likely to arise in future. The basic assumption behind the new codification is that the laws of a country should not be divorced from its life and that, while remaining stable, they should accurately reflect the processes taking place in Soviet society.

The place of the Fundamental Principles and Codes in Soviet labour legislation

The adoption of the Fundamental Principles introduced an extremely important new element into the system of Soviet labour legislation, since no text resembling the Principles had hitherto existed. Under this system, which is based on the Constitution of the USSR, all texts are classified according to their legal force. At present the system is like a pyramid, with the Principles as the apex. At a lower level there are the usual federal forms of labour legislation (Acts of the USSR and decrees of the Presidium of the Supreme Soviet of the USSR) and lower still the Labour Codes of the Union Republics and the various texts adopted by the individual Republics in the form of Acts and decrees.

The system includes subsidiary texts (those adopted by the Council of Ministers of the USSR, the State Labour and Wages Committee of the Council of Ministers of the USSR and the All-Union Central Council of Trade Unions, etc.) and texts setting local labour standards (and more particularly the mandatory provisions of collective agreements concluded at the level of the undertaking). Without texts of this kind it is impossible in practice to have any legal framework for labour matters. To ensure that labour legislation is properly administered, the State Labour and Wages Committee issues binding orders, rules and instructions which are of considerable importance in determining conditions of work; on major issues, it does so in conjunction with the All-Union Central Council of Trade Unions. The latter also issues instructions and rules, mainly on questions of social insurance and the protection of labour (occupational safety and health). The texts issued by the trade unions represent a significant group within the over-all range of legislative material.

The Fundamental Principles consequently take pride of place in the system of Soviet labour legislation, being the highest form of legal instrument in force throughout the USSR in the labour field. Since they form the basis for the preparation of other forms of labour legislation both for the USSR and the individual republics, they ensure the necessary unity of approach to the most important labour problems. All labour laws and subsidiary texts adopted in the USSR and the Union Republics, both now and in the future, must be in full accordance with the Principles, which take precedence and have to be applied by the courts and other responsible authorities in the event of any conflict of laws.[1]

The Labour Codes are the highest form of labour legislation in the Union Republics and take precedence over all the other forms. Normally, they contain all the provisions appearing in the Fundamental Principles, as well as provisions supplementing and elaborating on them in so far as the Union Republics are empowered to do so. All the Codes adopt the same approach to basic questions of principle, but they vary from one Republic to another in their structure, scope and even content on a number of specific points specifically related to the geographical and other features of the Union Republics concerned.

The explanation for this lies in the fact that, under the Constitution of the USSR and the Constitutions of the Union Republics, labour is a matter to be dealt with by the legislation of the USSR or by this legislation jointly with that of the Union Republics. In addition, since the Union Republics have their own sovereign rights and individual features,

[1] This is clear from the Constitution of the USSR (sections 14, 20 and 73), the Principles themselves (section 4) and a decree of the Presidium of the Supreme Soviet of the USSR, dated 30 November 1970, which made provision for the procedure to be followed in applying the Principles and stated that until such time as the legislation of the USSR and the Union Republics was brought into harmony with the Principles, all existing labour legislation of the USSR and the Labour Codes and other forms of labour legislation adopted by the Union Republics would apply, in so far as they were not at variance with the Principles.

a number of problems have been allotted to their exclusive jurisdiction. The dividing line between the powers of the USSR and those of the Union Republics is indicated in the Fundamental Principles.

The Principles and Codes not only reflect current legislation both of the USSR and of the Union Republics, but also jurisprudence in labour suits, trade union practice and the practice followed by undertakings in establishing and applying labour standards. Obviously, not all the current standards and practices were drawn upon; a selection was made and the only ones to be retained were those that had been confirmed by actual experience and were progressive and significant at the present stage of social development. Obsolete practices and standards were eliminated.

On the other hand, it was decided to revive certain useful provisions that had been current in earlier years but for one reason or another had been modified or been allowed to lapse entirely. The provisions relating to the legal inspectorates of labour run by the trade unions are a case in point (more of this will be said below).

The new codification and international labour standards

Naturally enough, as the USSR is a Member of the ILO, account was taken, during the preparation of the Fundamental Principles, of international labour standards, and especially those contained in the 40 Conventions that the Soviet Union has ratified.[1]

The Soviet Union's ratification of international labour Conventions is concrete evidence of its policy of giving every possible support to ILO action to improve international co-operation in furtherance of the workers' interests and the strengthening of peace among the peoples of the world. Some of this action takes the form of preparing international labour standards and, although there is no legal obligation to ratify a Convention, it is considered in the Soviet Union that a State, on joining the ILO, assumes a certain moral obligation. There is a close connection between the ratification of a Convention and its application.

When ratifying a Convention, the Soviet Union endeavours to ensure that it is effectively applied not only in substance but in form as well. This is one of the reasons for the wording adopted in the new legislation in connection, for example, with the questions covered at the international level by the Forty-Hour Week Convention, 1935 (No. 47), and the Holidays with Pay Convention, 1936 (No. 52). For instance the Principles and Codes, in giving effect to Convention No. 47, state that the normal

[1] These include the three on trade union rights (the Right of Association (Agriculture) Convention, 1921 (No. 11), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)), the Forced Labour Convention, 1930 (No. 29), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Equal Remuneration Convention, 1951 (No. 100), the Forty-Hour Week Convention, 1935 (No. 47), and the Holidays with Pay Convention, 1936 (No. 52).

hours of work for wage and salary earners employed in undertakings, institutions and organisations should not be more than 41 a week, but provide for the possibility of a reduction in the future; in fact, as soon as the necessary economic and other conditions are fulfilled, it is planned to introduce a shorter working week. As regards Convention No. 52, specific provision has been made in both the Principles and the Codes prohibiting the payment of cash compensation in lieu of leave, which in earlier years had been a common practice, an exception being made in the case of a wage or salary earner who is dismissed before taking his full leave entitlement.

Characteristic features of the new legislation

Both the Principles and the Codes lay down the basic rights and obligations of wage and salary earners in connection with their work. Apart from those already conferred by the Constitution of the USSR and the Constitutions of the Union Republics—the right to work and to a wage guaranteed by the State, the right to rest and leisure and to form trade unions, the right to free vocational training and advanced training and to material security at public expense under the state social insurance scheme—the Principles and Codes provide for other social and economic rights which had not hitherto been expressly stated in any law, although they were observed in practice, e.g. the right to safe and healthy working conditions and to share in the management of production.

At the same time, the Principles and Codes spell out certain obligations—to observe labour discipline, to treat public property with care, and to fulfil the output standards fixed by the State with the participation of the trade unions. In a socialist society all its able-bodied members are under an obligation to work and everyone is assured of an opportunity of working. The Soviet Union applies the principle of socialism: " From each according to his ability, to each according to his work ", and work is regarded as an obligation and moral duty for every able-bodied citizen, in accordance with the principle: " He who does not work, neither shall he eat ".

Since it is impossible within the framework of a single article to consider these basic rights in detail, attention is drawn below to some characteristic features of the new legislation.

Freedom of contract. The Principles and Codes regard a contract of employment as an essential preliminary to the establishment of the relationships that derive from work. On the other hand, they do not oblige anyone to engage in any particular form of socially useful work and every wage and salary earner is entirely at liberty to choose what he would like to do and where he would like to do it. Each person works because he has freely expressed his desire to do so and in so far as he has

voluntarily offered his services for the job in question. It is not lawful to refuse to engage anyone without a valid reason.

The provisions as to a person's choice of his place and type of work were part of the earlier legislation, but the provision making it unlawful to refuse to engage a person without a valid reason is an innovation, not merely for Soviet labour law but also, as far as the present writer is aware, for the labour laws of other countries, which are not known to contain any principle of this kind. For the first time, the Principles and Codes fully safeguard a worker's rights on his entering employment and make a genuine effort to protect him from any possible malpractices on the part of management. Admittedly, certain elements of these guarantees were evident in the earlier legislation of the USSR and are contained in the laws of various other countries. It was, and still is, unlawful to refuse to engage a woman because she is expecting or nursing a child (e.g. in the USSR and Hungary) or on grounds of trade union membership or trade union activity (e.g. in France). But there has never been an all-embracing provision guarding against all possible cases of unjustified refusal of employment.

Now that this principle has been introduced, the specialised literature in the Soviet Union has begun to discuss ways and means of applying it most effectively in practice. The discussion is centred on two questions: how a person can appeal against a refusal of this kind and what penalties should be applied.

At present, any citizen is entitled to appeal against what he feels to be an unjustified refusal to the public prosecutor's office or to the higher economic authority to which the management of the undertaking or institution is responsible. A number of experts in labour law consider that wider opportunities for appeal should be available. Some maintain that a person is also entitled to appeal to the trade union committee of the undertaking that he was hoping would employ him. This view is shared by the trade unions themselves. Others argue that a person should be entitled to apply directly to a court, which certainly seems logical enough.

As regards the second question, it has quite rightly been suggested that special penalties should be provided for in the event of an unwarranted refusal and that these penalties should be additional to those already instituted for breaches of labour legislation generally.

This far-reaching guarantee of being accepted for employment represents a further safeguard of a worker's freedom of contract. For management, it is a new factor limiting its exclusive competence in matters of recruitment and, as will be seen later, dismissal. There had already been signs that the exclusive competence of management was being whittled down; there has been a long-standing practice in undertakings to set aside what is known as a " youth quota ", whereby a certain number of vacancies (varying between 0.5 and 10 per cent of the total staff) is reserved for occupation by young persons and the management is

not allowed to recruit adult workers for these jobs. The purpose of fixing the quota is to facilitate the selection and placement of young people finishing their general schooling. The management's powers have also been restricted by the fact that certain grounds (including pregnancy, as was mentioned earlier) could not be invoked to justify a refusal to engage an applicant. Now there is the general prohibition on the refusal to engage a person without a valid reason. This is not quite the same as requiring the management to engage a given person but, in the writer's view, it does mean that the management no longer enjoys an unrestricted freedom of choice and can no longer decide whether or not to engage a person entirely at its own discretion.

Both the conclusion and the termination of a contract of employment are left for the worker to decide. The only condition required by law is that a worker wishing to leave an undertaking or institution should give the management two weeks' notice of the fact in writing. If, when the two weeks have expired, the management has not yet made out the papers confirming the worker's desire to terminate his contract, the worker is entitled not to report for work and to regard his contract with the undertaking as being terminated. The management, for its part, is obliged to settle his account.

Under the Labour Codes of the Union Republics, a contract of employment may be terminated by a worker even before the two weeks have expired; all that is needed in this case is that there should be agreement between the worker and the management.

This is the general rule. It applies to the most common type of contracts in the Soviet Union, namely those concluded for an unspecified period. But there are also fixed-term contracts, which are concluded for the completion of a given job or for a specified period not exceeding three years. These are also entered into at the individual worker's discretion and may be prematurely terminated by him in the event of sickness or disability, failure by the management to abide by the contract, the collective agreement or the provisions of labour law or for various other valid reasons.

The managers of undertakings in outlying parts of the country, and especially the Far North, have a special interest in fixed-term contracts because they are one way of ensuring a supply of labour for a given period of time. Such contracts also have an attraction for the workers, because they normally involve certain benefits and privileges. These are very often written into the contract by agreement between the parties, but those enjoyed by persons working in the Far North (such as appreciably higher wages and longer annual leave with pay) are, in fact, prescribed by law and consequently have to be granted in any event.

Stability of employment. When a worker starts a job, he would naturally like to keep it for some time or, in any event, until he feels the

need for a change. The new legislation makes for stability of employment by laying down standards limiting to a greater extent than previously the possibility of dismissal by the management and transfers to other jobs.

To take the case of dismissal first. There are three practical implications of the new texts. First the Principles and Codes contain a highly explicit list of the reasons for which the management can dismiss a worker from his job.[1] However, there are now fewer grounds than hitherto and some of them have been formulated to the greater advantage of wage and salary earners. For example, under the earlier legislation, they were liable to dismissal after two months if they failed to report for work as a result of temporary incapacity; this period has now been changed to four consecutive months.

Secondly, under both the Principles and the Codes, no worker may be dismissed by the management unless the works trade union committee has clearly given its consent. Otherwise the dismissal is unlawful and the worker is entitled to be reinstated in his job. In addition, he can apply for a court order for the payment of his average earnings for the period of enforced idleness following his dismissal (subject to a maximum of three months).

The requirement that the trade union committee should give its consent is not new. It already appeared in the 1958 Regulations governing the rights of factory, works and local trade union committees.[2] What is new is that any person in a position of authority who orders a worker to be unlawfully dismissed incurs an appreciable degree of material liability. If the dismissal occurred in manifest violation of the law or if the management does not immediately follow up the court order for the worker's reinstatement, the person responsible is required to make good the damage suffered by the undertaking as a result of its payment of the worker's wages for his period of enforced idleness.

This is an extremely important innovation, because various difficulties were encountered in applying the rule that the trade union committee's consent should be obtained; managements sometimes ordered dismissals without seeking the committee's approval before doing so. Since a direct link has now been established between the termination of a contract of employment by the management and the material liability of the person responsible for the decision, however, it will be considerably easier to overcome these difficulties. It came as no surprise in the Soviet

[1] Section 17 of the Principles, section 33 of the RSFSR Labour Code, section 40 of the Labour Code of the Ukrainian SSR, etc. This rule has always been upheld in practice by the courts. The Civil Division of the Supreme Court of the USSR, for example, emphasised in a ruling which it gave on 3 June 1971 in a case brought by a certain Bainazarov that a contract of employment may be terminated by the management only on grounds that have been specified by law.

[2] These have now been replaced by new Regulations adopted on 27 September 1971. Cf. *Legislative Series*, 1971—USSR 2.

Union when the Plenum of the Supreme Court of the USSR issued an order on 19 October 1971 dealing with the application of the Fundamental Principles in judicial practice and drawing the attention of the courts to the need for strict compliance with this new principle.

Thirdly, the existing guarantees afforded in the event of dismissals by the management in the special case of women and young persons have been re-affirmed. As the law now stands, expectant and nursing mothers and women with children up to 1 year old may not be dismissed unless the undertaking is entirely wound up, in which case the women concerned have to be found employment elsewhere. There is a further limitation in the case of young persons, whose dismissal is not only subject to the procedure described above but also requires the approval of the district or municipal committee on young people's affairs whenever the management decides to dismiss a worker under 18 years of age.[1] This means that the management has to obtain the consent of two authorities, i.e. the committee just mentioned and the works trade union committee. The grounds for the dismissal of young persons are identical in all the Codes adopted so far, but the Code in force in the Azerbaijan SSR, unlike the others, does not allow a young person to be dismissed because he has insufficient experience of the job.

The rules laid down for transfers to other work also contribute to stability of employment. They all derive from one idea, which is clearly expressed in the new legislation, namely that the management may not oblige a worker to do a job which is not implicit in his contract. As a general rule, therefore, a person's consent is necessary before he can be transferred to other work. Otherwise, he can only be transferred for a limited period of time (which must not exceed one month), normally in connection with production requirements or a stoppage of work. One of the distinctive features of the new legislation in this field is that it introduces the idea of " production requirements ", at the same time listing the cases in which the management is entitled to transfer a worker to another job without his consent. These include work required to prevent or cope with a natural disaster or a breakdown on a production line and jobs that need to be done to prevent an accident, stoppage of work or the loss or deterioration of government or public property. These are obviously exceptional cases and the earlier legislation made no mention of them, although it recognised the concept of " production requirements ". On the other hand, the lack of any reference to them enabled management at times to adopt an excessively broad interpretation, and labour disputes occurred as a result.

Stability of employment is also affected by another rule which did not appear in earlier legislation but which has now been incorporated in some of the Codes of the Union Republics. Under this rule the fact that

[1] The minimum age for admission to employment is 16 or, in exceptional cases, 15.

an undertaking is transferred from the jurisdiction of one economic authority to another does not imply any interruption of the workers' contracts of employment and, if they agree, their employment relationships continue unaffected by any merger, split or amalgamation of the undertakings concerned. Although this rule does not appear in the Fundamental Principles or in certain Labour Codes (e.g. those of the Azerbaijan and Estonian Soviet Socialist Republics), in the present writer's view this does not prevent its being observed in practice in the Republics concerned, e.g. through the medium of collective agreements.

Extension of trade union rights. Considerable care was taken in the preparation of the new legislation to provide further safeguards for trade union rights; the trade unions play an important part in Soviet society and represent the interests of wage and salary earners in questions of production, labour, welfare, living conditions and culture. The Fundamental Principles and Labour Codes lay down basic standards for the establishment and operation of trade unions, but, unlike the Principles, the Codes provide in some detail for the rights to be enjoyed by works trade union committees.

The various standards may be grouped into those concerning freedom of association and those concerning the right of trade unions to participate in the management of production.

Freedom of association is one of the basic rights enjoyed by wage and salary earners as a result of their employment and is proclaimed in the Constitution of the USSR. Provisions have accordingly been included in the Principles and Codes which, taken together, are designed to ensure that this right is effectively enjoyed. The most important of the provisions in this respect defines the relationship between the trade unions and the State, stipulating that the trade unions are to be run in accordance with the rules they have themselves adopted and are not to be subject to registration with the government authorities. The old provision requiring trade unions to be registered with " inter-union organisations " lapsed at the same time as the earlier Codes. The former Trade Union Rules of the USSR were repealed as far back as 1963 and, with them, the section requiring the rules of each trade union to be registered with the All-Union Central Council of Trade Unions, so that there is now no legislative or other text of any kind directly or indirectly obliging newly formed trade unions to register with any authority whatsoever. In fact the new legislation merely reflects a long-standing practice, since the trade unions have not for many years been liable to registration.

A similar approach has been adopted in connection with collective agreements. Under the earlier Codes they were subject to compulsory registration, but the new Codes are based on the principle that a collective agreement does not have to be registered to take effect. The clearest statement of this principle is to be found in the Labour Codes of the

Uzbek and Ukrainian Soviet Socialist Republics. As the former states in section 11, " a collective agreement is concluded in written form and is not subject to any registration whatsoever ". No mention of registration is made in the Codes of the other Union Republics, which merely state that a collective agreement comes into force on the date of its signature by the contracting parties. The same wording recurs in an order laying down the procedure to be followed in concluding collective agreements, which was made by the Presidium of the All-Union Central Council of Trade Unions and the State Labour and Wages Committee of the Council of Ministers of the USSR on 20 August 1971.[1]

One of the major elements in the Soviet trade union system is the works trade union committee, whose status and activity in many ways provides a key to the status and activity of the trade union itself. This being so, it is particularly interesting to see what provision has been made to facilitate the normal work of committee representatives and to protect them, where necessary, from arbitrary treatment by bureaucratically minded members of the management. Every member of a trade union committee must be certain that management dissatisfaction with his trade union activity will not lead to his dismissal, transfer to other work or disciplinary action.

The 1922 Labour Code of the RSFSR stated that members of a trade union committee could be dismissed, but only subject to the general rules governing the termination of contracts of employment and then only with the consent of the appropriate trade union. The ideas contained in this Code have been further developed in the new legislation, which provides for elected trade union officials to enjoy certain guarantees that are additional to those normally enjoyed by wage and salary earners generally.

Thus under the new Principles and Codes the chairmen and members of trade union committees who are not released from their production jobs may only be dismissed by the management if the normal dismissal procedures are complied with and then only with the consent of the higher trade union authorities. As was seen above, the main feature of the normal procedures is that a worker cannot be dismissed without the consent of the trade union committee. Consequently, if the management wishes to dismiss a committee member, it has to obtain the consent of the committee itself, followed by the consent of the higher trade union authorities.

The same pattern is followed in connection with the transfer of elected trade union officials to other jobs and their liability to disciplinary penalties. No wage or salary earner who is elected to office on a trade union committee without being released from his production work can be transferred to another job or have any disciplinary penalty imposed upon

[1] *Legislative Series*, 1971—USSR 3.

him without the prior consent of the works trade union committee itself and, in the case of the committee chairman, without the prior consent of the higher trade union authorities.

These provisions in the new legislation, as has been shown by experience, ensure that the trade unions enjoy considerable freedom of action at the level of the undertaking and that trade union committees can criticise the management more openly and consistently for mistakes that it has made, pursue their aims and purposes and represent the workers' interests more effectively.

The trade unions are the public associations by means of which workers participate in the management of production. According to the Principles and Codes, wage and salary earners are entitled to take part in the discussion and solution of production problems, make suggestions for improving the work of the undertaking, institution or organisation and offer comments on the amenities and welfare facilities provided for the workers' benefit. In all undertakings, institutions and organisations the management acts jointly or in consultation with the trade unions in fixing wages and working conditions, applying labour legislation and administering the social consumption funds. This means that many aspects of an undertaking's work are dealt with by the management and the trade union on an equal footing or may even be under trade union supervision. This is more particularly true of the grant of rewards for good work or achievements under the socialist competition scheme, the award of benefits and privileges (including promotion), the recruitment of young persons between 15 and 16 years of age, recourse to overtime and dismissals ordered by the management.

The new legislation not only lays down the right of wage and salary earners to take part in the management of production but also seriously requires the management to make it possible for them to do so. The new Model Work Rules adopted on 29 September 1972 in accordance with the Fundamental Principles spell out this obligation and require the management to encourage effective and positive thinking among the workers, to give every possible encouragement and support to initiative and creativity, to give prompt attention to criticisms by wage and salary earners and to announce what action has been taken in response to them.

Another novel feature of the new texts is that they grant the trade unions the right to initiate legislation (they have in fact been able to do so for the last ten years or so). It is worth noting in this connection that the draft of the Principles was submitted to the Soviet legislature by the Council of Ministers of the USSR and the All-Union Central Council of Trade Unions.

The right to initiate legislation at the federal level is vested in the All-Union Central Council of Trade Unions and at the level of the Union Republics in the council of trade unions for the Republic concerned. The RSFSR is an exception to this rule, since its Labour Code provides for

the right to initiate legislation to be enjoyed by the All-Union Central Council of Trade Unions as well.

Provision of safe and healthy working conditions. Legislative policy in the occupational safety and health field is stated in the preamble to the Principles and repeated in the Labour Codes of the Union Republics, as follows: " The protection of the workers' health, the provision of safe working conditions and the elimination of occupational diseases and employment accidents are among the main concerns of the Soviet State."

According to the Principles and Codes, all undertakings, institutions and organisations must provide safe and healthy working conditions, and arrangements have been made by law for the necessary funds and equipment to be available so that adequate programmes can be carried out in practice. One guarantee that these requirements will be met is that the law prohibits the funds and equipment to be used for any other purposes. A considerable amount of money has been earmarked in the national budget for the protection of labour and 5,400 million roubles were set aside for this specific purpose between 1969 and 1972. Every year an increasing amount of plant, machinery and equipment is produced with built-in safety devices and better forms of personal protective equipment are made available for the workers' use. Even so, occupational safety continues to present a problem, and the new legislation affords a solid legal basis for finding a solution to it.

Both the Principles and Codes assign considerable responsibility in this respect to management, requiring it to install the latest safety equipment for the prevention of employment accidents and to ensure healthy working conditions as a safeguard against occupational diseases.

While the main problems, of course, are encountered in ensuring that the workshops, equipment, tools and operations of existing undertakings meet the relevant health and safety standards, increasing importance is being attached to the need to make adequate provision for the protection of labour while plans are still on the drawing board. This is reflected in the Principles and Codes, which state that due account must be taken of safety and health standards when workshops and equipment are being designed, constructed and brought into service. There is no direct reference to technological processes involving new machinery and plant, but many specialists in the field of labour law consider that these are implicitly included—in other words, when a new technical operation or a piece of machinery or apparatus is designed, the relevant health and safety rules must be observed in exactly the same way as when plans are drawn up for production workshops or equipment. In the present writer's view, it is the intention of the Principles and Codes to institute a definite legal liability for anyone in charge of the design, manufacture, introduction, etc., of any machinery or equipment not meeting the relevant industrial safety standards.

It is unlawful, under the Principles and Codes, for any undertaking to be brought into service if it fails to make adequate provision for the protection of labour. Hitherto, the law required permission to be obtained before new undertakings could be brought into service, and in future this requirement will apply also to undertakings that have been reconstructed or transformed. The term " undertakings " is to be interpreted in the broadest sense as including workshops, departments and production processes.

The new legislation also refers to action to protect the individual worker's health, through the free issue of special clothing, footwear, soap, barrier creams, etc. Workers employed on harmful jobs are supplied with free milk and other products and those on particularly harmful jobs with special food for the treatment or prevention of disease. If they agree, workers in poor health are transferred to lighter jobs, and the law clearly defines the management's responsibility for ensuring that this is done. Where a worker is transferred in this way, he continues to draw his previous average earnings for two weeks; in certain cases he does so for as long as he is working in a lower-paid job or is granted benefits under the State social insurance scheme.

The law holds an undertaking materially liable if a worker suffers damage to his health in the course of his employment and, in principle, any failure by the management to comply with the relevant health and safety rules is a statutory offence.

The trade unions also have a part to play in the provision of safe and healthy working conditions, and each year the management concludes an agreement with the works trade union committee which not only lays down what action should be taken but also when and how. No plant is operated or raw material used for production purposes without the permission of the trade union technical inspectorate and the works trade union committee. This rule is an innovation, although the practice existed before the new codification was made. The fact that there is now a legal requirement will make it easier for the community of workers to ensure the adequate protection of labour at the level of the undertaking.

The contribution of the new legislation to a higher standard of efficiency at work. One of the purposes of the new legislation is to make for a higher standard of efficiency at work and to contribute to a steady rise in labour productivity throughout the national economy. Every law bears witness to the conditions in which it was adopted, and the present stage reached in the evolution of Soviet society calls for a major expansion of production; this is reflected in the Principles and Codes in the way they provide for the organisation of work, remuneration, moral and material incentives, labour discipline and so on.

Higher standards of efficiency at work are closely connected with technical and scientific progress, and the best way of achieving a rapid

increase in productivity is to take every possible opportunity of incorporating the latest discoveries of science and technology in actual production work.

This means doing two things: first, contributing to technical and scientific progress and, secondly, using the results to provide wage and salary earners with even better working conditions. The Principles and Codes lay a legal foundation on which this dual problem can be tackled.

A large number of their provisions are designed to improve the organisation of work, which is a field where a great deal can be done for the development of the national economy. Some of them are particularly important, since they require the management to make proper arrangements for the work, provide a suitable setting for higher productivity, enforce labour and production discipline, comply with labour legislation, pay attention to the workers' needs and improve their living and working conditions.

Other provisions that are closely connected with higher standards of efficiency are those dealing with vocational training and advanced training. Workers are becoming increasingly aware that better knowledge and skills are essential if they are to keep pace with progress in science and technology. Many workers follow correspondence courses at institutes, technical colleges and schools, thereby acquiring training while continuing with their work. The new legislation affords them considerable amenities for doing so, the most important of which is the right to vocational training and advanced training free of charge.

As a result of the rising standard of education, the new legislation stipulates that promotions and regradings must take account of the worker's record of on-the-job training, general education, vocational training and higher or specialised secondary education. It is consequently not only possible, but increasingly necessary, for a worker to improve his skills.

The moral and material incentives provided for in the Principles and Codes can play a particularly important part in raising the standard of efficiency. Moral incentives take the form of the socialist competition scheme, encouragements to do good work, expressions of gratitude and the award of prizes and diplomas. The new texts also institute material incentives in that wage and salary earners, in addition to their existing forms of remuneration, may qualify for an annual payment based on the results achieved by their undertaking over the previous year, the money being taken from the material incentives fund which is built up out of the undertaking's profits. On average, each worker receives a fortnight's pay at the end of the year; in particularly successful undertakings he may receive as much as three weeks' or even a month's pay. This additional remuneration gives each worker a stake in increasing the output of the group and the combination of moral and material incentives is one of the distinctive features of the socialist incentive system.

There is a direct relationship between the standard of efficiency and the extent to which a worker discharges his obligations towards society. These are set out in the new legislation in the provisions on labour discipline, and the management is entitled to impose a disciplinary penalty on anyone failing to comply with them.

At the same time, there are rewards for satisfactory work. For instance, wage and salary earners with a successful record have a prior claim to certain privileges and benefits from the welfare and housing services and other public amenities (accommodation in sanatoria and rest homes, better living conditions and so on). They also enjoy a prior claim to promotion. The Principles and Codes list a number of examples of rewards of this type, but others may be instituted by the work rules and translated into practice through the medium of collective agreements.

Labour discipline and efficiency at work depend on the relationships between the workers and the management. Where both sides treat each other with courtesy and consideration and where the management is not only concerned about production but also takes an interest in the workers' daily lives, there is every likelihood that the whole community will work easily together. The example set by the managerial and supervisory staff will greatly affect the standard of labour discipline among the workers as a whole. Everyone, from the manager to the lowest grade of operative, is subject to labour discipline and the Principles and Codes, in dealing with this question, make no distinction whatsoever between a minister and an ordinary workman and are equally applicable to both.

Supervision of compliance with labour legislation. It is now abundantly clear that the adoption of the Principles and Codes has had a positive influence on working conditions and has further consolidated the workers' social and economic rights. But for these results to have a real impact, the legislation has to be universally and rigorously applied. The report of the Central Committee of the Communist Party of the Soviet Union to the XXIVth Congress of the Party (1971) pointed out that no attempts to evade or circumvent the legislation, for whatever reason, would be tolerated, and nor would any encroachments on the rights or personal dignity of the individual.

This being so, the supervisory authorities are an important part of the machinery for the enforcement of labour legislation. Over-all responsibility for supervision of compliance with the labour legislation lies with the Public Prosecutor-General of the USSR. A right of supervision is also exercised by the soviets of working people's deputies and their executive and administrative authorities. Ministries and departments are responsible for supervising the undertakings, institutions and organisations within their respective fields.

In addition to the above-mentioned provisions on supervision contained in the Fundamental Principles, the Codes contain clauses dealing with the work of the state authorities responsible for supervising the protection of labour in industry and power stations and in matters of health. They also lay down rules for the trade union labour inspection services and describe the public supervision exercised by the trade unions.

It is worth noting at this point that the trade unions have for many years played a major part in supervising the enforcement of labour legislation. They began to do so in 1933, when they were entrusted with the supervisory duties hitherto performed by the People's Commissariat of Labour, which was disbanded in the same year. The XXIVth Congress of the Communist Party of the Soviet Union emphasised in a resolution that one of the trade unions' main tasks was to keep a closer check on labour legislation and on the rules and standards governing the protection of labour and occupational safety.

Up to now this has been done by the trade unions themselves and by the technical inspectorates for which they are responsible. However, the Principles and Codes provide for legal inspectorates of labour to be organised as well. In some respects this can be regarded as an innovation. Such inspectorates existed throughout the country until the Second World War but were then abolished. Now they have been set up as an experiment by six regional councils of trade unions; they have proved to be successful and won general recognition. Their job is to keep a constant check on the way managements of undertakings and the heads of economic authorities comply with labour legislation and the clauses of collective agreements dealing with conditions of work.

The trade unions' supervisory duties are made easier by the fact that they can effectively bring pressure to bear on offenders. Both the Principles and the Codes have given them the right to demand the dismissal or removal from office of any senior employee disregarding labour legislation, failing to carry out his obligations under the collective agreement, adopting a bureaucratic attitude or showing more regard for red tape than efficiency. This right is an effective means of strengthening the socialist rule of law in matters of employment and the trade unions frequently have recourse to it when other methods fail to produce the desired effect. For example, 559 persons were removed from their posts at the trade unions' request in Kazakhstan in the first half of 1972 for failing to comply with the rules and standards governing the protection of labour.

The Principles and Codes also contain general provisions defining the liability of persons in positions of authority who are guilty of breaches of labour and occupational safety legislation, fail to discharge their obligations under the collective agreement or the agreement on occupational safety and health or obstruct the trade unions in their activities. The Labour Codes of the Azerbaijan and Uzbek Soviet Socialist Republics

amplify the provisions on the subject contained in the Fundamental Principles, and deal separately and in greater detail with the various types of liability (disciplinary, administrative and penal). All these provisions are applied in practice, the basic assumption being that everyone should be convinced of the need to respect the law of the land. This applies particularly to persons in positions of authority.

Conclusions

The adoption of Labour Codes in the remaining two Union Republics will mark the end of the third codification of Soviet labour legislation, but is unlikely to mark the end of the legislative activity connected with the new texts and which to some extent has been generated by them. There still remains all the work of making consequential amendments to specific pieces of legislation that in one way or another are not in full accordance with the Principles. There is also the work of adopting new legislation in pursuance of the Principles. Some progress has already been made in this direction, as may be seen from the adoption of the new Regulations on the rights of factory, works and local trade union committees, the new Order of the Presidium of the All-Union Central Council of Trade Unions and the State Labour and Wages Committee of the Council of Ministers of the USSR on the procedure for the conclusion of collective agreements and the new model work rules. Legislation is also being prepared on the subject of leave, the material liability of wage and salary earners, and labour disputes. It is further intended to draft regulations on the trade union labour inspection services.

Labour law is nowadays evolving rapidly and is one of the most dynamic branches of law—perhaps even the most dynamic. It has to react quickly to the constantly growing needs of society resulting from economic and social development. The main task at present facing Soviet society and the Soviet State is to raise the material and cultural standard of living of the population on the basis of a high rate of growth of socialist production, increased efficiency, scientific and technical progress and a more rapid improvement in labour productivity. In the present author's view the future of Soviet labour legislation will be closely connected with the performance of this task.