“Equally significant is the fact that after more than forty years of Soviet law, despite many basic differences between the Soviet and other legal systems, no basically new concepts or legal relationships have developed.”


Is Friedmann’s thesis still tenable after so many years, and if so to what extent? In attempting to answer these questions we shall confine ourselves to Soviet criminal law, although the conclusions reached may have wider validity.

What would have happened if in 1917 the Bolshevik party had been weak and without resolute leadership, but if at the same time there would have been a powerful and well-organized underworld in Russia? Suppose the all-Russian chaos prevailing at the time would have been exploited adroitly by the latter, resulting in the installation of a government dedicated only to its own enrichment and the preservation and expansion of its own power.

Among the men capable to pull off such a coup there would have been some sufficiently farsighted to realize that a regime resting simply on naked power would be inherently unstable, because it would be completely defenseless on an intellectual or moral level. To lower the system’s vulnerability to challenges and attacks in this respect, some semblance of justification would be needed. For purely practical purposes it would have been necessary to look around for an ideology. Considering the market situation for this commodity in Russia in 1917, I believe Marxism-Leninism would have been the best buy. Such a commercial judgment is based on the subsequent known performance of this doctrine in the USSR and other countries, where it has proved endlessly flexible and adaptable in explaining and legitimizing any activity which the ruling communist regimes deemed advantageous in furthering their interests.

At this stage of the argument an intriguing question interposes itself. How
are we to know whether the small clique which snatched state power in Russia in 1917 was not actually the gang of ambitious criminals referred to above, rather than the band of ideologically motivated revolutionaries, self-appointed to restructure the whole world? The results would not have been very different, and are we not to judge the tree by its fruit? Or is the riddle to be solved by admitting that both solutions are right? But this would lead to the contradictory conclusion that the ideology of Marxism-Leninism is simultaneously a genuine master plan and a hypocritical pretense. This contradiction can in its turn be explained away by realizing that different views may have been held by members of the same ruling clique, and that it is even possible for one and the same person to profess adherence to Marxism-Leninism with a certain amount of sincerity and at the same time be totally absorbed by the promotion of oneself, one's position and interests.

There is a widespread belief that the Soviet system should be viewed as the conscious materialization, the deliberate application in practice, of the ideas of Marxism-Leninism. This is an over-simplification, and indeed to such an extent, that without a number of major reservations, it confuses more than it elucidates. At least the following reservations should be added.

1. With regard to the actual decision-makers in the Soviet Union, Marxism-Leninism has ceased to be an effectively motivating force since Stalin. Power, the acquisition, preservation and extension of it, is all.

2. Among the earlier Soviet leaders, personal belief in what Marxism-Leninism stands for, was inextricably interwoven with personal ambitions and grievances. It is normally impossible to say whether they acted in order to promote some aspect of a perceived ideal society for the future, or out of hatred against the experienced past. Lenin, as well as Marx himself, are cases in point.

3. Marxism-Leninism was and is indispensable to the Soviet leaders as the principal legitimation of their position and the political status quo, even as nobody, including themselves, believes in it any longer.

4. As a consequence of this, Marxism-Leninism, being the most pervasive and dominant element of public rhetoric in the Soviet Union, retains a paramount linguistic function. Public debate in the Soviet Union, even by participants who explicitly reject Marxism-Leninism, is couched overwhelmingly in Marxist-Leninist terminology. In fact, Marxist-Leninist parlance has even acquired extensive currency in other parts of the world, as witnessed by the wide acceptance of such terms as "capitalism", "national liberation", etc.

5. Even if one assumes that certain leading personalities in the Soviet Union and other communist bloc states are genuine and convinced Marxist-Leninists, it should be borne in mind that they are also practicing politicians, rather than sophisticated ideologues. This probably means that the actual political values which motivate them, although they will be couched in the appropriate phraseology, are more traditional and down-to-earth: power, national prestige, economic wealth, etc., rather than determined by the finer points of Marxist dogma (as would be such objectives as "the creation of communist man", or "the replacement of the government of persons by the administration of af-