Legal Regulation of Agricultural Private Enterprise in the People’s Republic of China and the Soviet Union

Susan A. Finder
Member of the District of Columbia Bar, Washington, DC

Approximately 100 million Soviet collective farm members and 700 million Chinese people’s commune members legally are involved in agricultural private enterprise by growing crops, raising animals, and engaging in handicrafts. This private enterprise is hard to reconcile with the Marxist ideologies of the Soviet Union and the People’s Republic of China. The legal regimes of both countries limit and encourage agricultural private enterprise in many similar, but some different ways. This paper focuses on the legal systems that regulate millions of people’s commune and collective farm (kolkhoz) members and examines the ways in which the legal regimes of both countries limit and encourage private enterprise. I shall attempt to explain why similarities and differences in legal regulation exist, and speculate on whether, in the future, such regulation is likely to become more similar.

1. Background

1.1. Soviet Economic History

The Bolsheviks expropriated land belonging to the former “ruling classes” the day after they came to power to win over the predominantly rural population of Russia. Thereafter, individual peasants, some previously landless, took over land abandoned by or confiscated from large landowners. The civil war that followed the revolution caused terrible destruction. The economy, nationalized during the war, virtually collapsed. In 1921 Lenin decided that a “retreat” from socialism was necessary to revive the economy and country. This “New Economic Policy” allowed private enterprise in manufacturing and retail trade. Although peasants could not own land, they could treat their holdings as their own by leasing their land and hiring labor. They could sell their produce on the free market after paying an agricultural tax. The peasants cultivated their land and governed themselves using traditional systems.

The Soviet authorities perceived the agricultural situation as a threat to their power. To bring the rural population under tighter governmental control, to
eliminate the capitalism—which was both an irritant and a threat—to foster industrial development,\textsuperscript{11} and to ensure his personal power, Stalin decided to collectivize agriculture in a very short time.\textsuperscript{12} As late as 1928, 97.3\% of the sown area was cultivated by individual peasants. Starting in late 1929, the peasants were forced to join collective farms, and the richest of the peasants, called \textit{kulaks}, were “liquidated as a class”.\textsuperscript{13} The peasants reacted by slaughtering their livestock and refusing to cultivate the collective fields.\textsuperscript{14} In early 1930, after initial excesses, Stalin announced the slowing down of the coercion of peasants into collective farms through an article, “Dizzy with Success”.\textsuperscript{15} To appease the peasants, he also allowed private food growing within the collective farms.

In 1935, the right of the peasants to a small private plot was incorporated in the Model Artel (Collective Farm) Charter. Because of the low price of grain or other staple crops which the government compelled the farms to sell to state procuring organizations, peasant income derived from the collective sector was very low. In order to survive, peasants had to grow crops both to eat and to sell on the open market.\textsuperscript{16} During World War II, peasants were able to engage more freely in private enterprise, because food growing was so important.\textsuperscript{17} After the war was over, taxes imposed on the private plots increased greatly, reducing private cultivation and livestock ownership, as well as demoralizing collective farm members.\textsuperscript{18} “[I]t... [was] as if Stalin was determined to make the peasants pay for the necessary post-war reconstruction.”\textsuperscript{19}

After Khrushchev came to power, he changed the method of taxation of the private plots, and reduced compulsory deliveries from the plots.\textsuperscript{20} This policy of encouragement did not last through Khrushchev’s tenure in office; in 1956 he cracked down on the plots by promulgating legislation allowing kolkhozes to adjust plot sizes according to the labor participation of able-bodied members of the household, and by pressuring collective farmers to sell private livestock to the kolkhozes.\textsuperscript{21} Because he made a variety of improvements to the collective sector, Khrushchev abolished compulsory purchasing from the private plots in 1958.\textsuperscript{22} Since Khrushchev’s overthrow in 1964, the policy of the Brezhnev regime has generally been favorable to the private plots of collective farm members; it seems to have come to terms with the existence of private plots in socialized agriculture.

Privately produced food, sold through marketing cooperatives or on kolkhoz markets, forms a substantial part of overall agricultural output.\textsuperscript{23} Although peasant income from the collective sector has risen since Stalin’s time,\textsuperscript{24} “it is obvious that the centuries-old habit of personal farming will die hard among the Russian peasantry.”\textsuperscript{25} However, sociological changes,\textsuperscript{26} new residential construction,\textsuperscript{27} and most importantly, lack of feed for private livestock,\textsuperscript{28} have caused a decrease in private food production\textsuperscript{29} bemoaned by Soviet authorities at the highest levels.\textsuperscript{30} Still, the role of private farming remains substantial, especially in the southern republics.\textsuperscript{31}