The Soviet Procurator: Ombudsman or Monitor?

In Western literature on the Soviet prokuratura, reference has been made to its “ombudsman” function. First introduced in Sweden, the ombudsman is an official appointed by the parliament to investigate citizens' complaints against bureaucratic abuse. The ombudsman has been adopted widely as a means of facilitating citizens' redress against bureaucracy. However, in any administrative control mechanism there exist two functions—redress of citizens' grievances and monitoring and control of administrative behavior to facilitate efficient administration. The former activity has as its referent the interests of the aggrieved citizen and is referred to here as the “ombudsman function.” The latter activity has as its referent the interests of administrative and political leaders and is referred to as the “monitoring function.”

Both functions were implicit in the creation of the Swedish ombudsman and the Russian Procuracy. In 1713 King Charles XII of Sweden created an ombudsman to supervise royal officials. In so doing, he was merely responding to an immediate need for delegating his executive oversight function to a subordinate official in order to devote more attention to larger military and political concerns. In Russia, Peter the Great was facing a like need. In 1711 Peter I, recognizing the need to supervise administrative activity and eliminate abuses of power, created fiskals (legal advisers for treasury and legal matters) in all sections of the administrative apparatus. In 1722 the role of the fiskals was taken over by the newly created Procuracy. Procurators, from the procurator-general down to district procurators, were appointed within all governmental departments and courts. The purpose of the institution was to supervise the conduct of administrative officials who were acting in the name of the tsar, to protect citizens from officials encroaching on their rights and to facilitate the punishment of persons guilty of legal violations.

The tsarist Procuracy was abolished following the revolution in October, 1917. However, the Bolshevik leadership was quick to recognize the value of a centralized legal mechanism for supervising administrative activity. In a famous letter to Stalin in 1922, Lenin wrote, “The procurator has the right and obligation to do only one thing: to watch over the establishment in reality of a uniform conception of legality in the whole republic, notwithstanding local...

differences and in spite of local influences. . . . There is no doubt that we live in a sea of illegality and that local influences are one of the greatest, if not the greatest, obstacle to the establishment of legality and culture.”2 From the early days of the Soviet regime, the Procuracy was used to supplement the all-encompassing Party supervision as well as monitor administrative activity. During the collectivization campaigns of late 1920s procurators even were sent to the fields to supervise the proper harvesting of grain.

On the surface the similarities between the prototype Swedish ombudsman and the Procuracy are striking. Both the ombudsman and the procurator are appointed by the parliament, but operationally independent of it; both are autonomous and external to administration; and both are professionals with legal and/or administrative experience. In addition, both deal with illegal administrative actions; both act on citizens' complaints as well as on their own motion; both make recommendations concerning the desirability of new legislation to correct statutory deficiencies they have discovered; both protest and advise without the power to command administrators; both can report to the highest organs when they think their advice has been improperly rejected; both can make proposals for improved administrative methods in order to prevent further violations; both have special responsibility to review the complaints of prisoners and detainees; both engage in educational activities aimed at increasing public and administrative awareness of the law; and both can initiate criminal or disciplinary action against officials.

On the other hand, the Procuracy shares all the structural characteristics of Anthony Downs' model of a monitoring agency.3 The Procuracy is divided hierarchically to correspond to the administrative organs it supervises. The Procuracy is integrated with top-level administrative and political decision-making bodies through the office of the procurator-general. The Procuracy maintains a different incentive structure from that of administrative organs, rewarding procurators for uncovering administrative violations. The Procuracy attempts to limit “family relations” from developing between procurators and local administrative officials by restricting the contact between them. Finally, the Procuracy gathers feedback from citizens to help pinpoint administrative trouble areas.

Clearly then, the Procuracy exhibits structural similarities to both the ombudsman and monitoring agency models. But how does it function in practice? The recently ratified “Brezhnev Constitution,” like the Stalin Constitution before it, assigns to the Procuracy the responsibility for supervising the full and complete execution of laws by state administrative organs, state enter-