

## ECONOMIC CRIME AND PUNISHMENT

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This chapter analyzes the efforts of Soviet authorities to deter and prosecute “illegal” economic activities in the 1930s through the party’s top control commission. Major economic positions were filled by the Politburo itself, where appointments dominated its agenda. Party members were supposed to be a new type of *homo soveticus*, dedicated to building socialism. According to official Soviet descriptions of the planned economy, all exchanges were planned, managers were loyal, and everyone was motivated by the goal of building socialism. There was no room for economic crimes and misdemeanors. We show, to the contrary, that economic agents, most of them party members, regularly broke the rules of the leadership, in spite of the real threat of punishment. Why would a planned economy managed by party members be so prone to violations of economic rules and laws?

The opening of the Soviet state and party archives provides an opportunity to study the “unofficial” behavior of the managers of the economy’s resources; namely, factory managers, industrial ministry officials, and regional authorities. Such “managers of production” (*khoziaistvenniki*) were judged by concrete economic results—production, adherence to labor plans, fulfillment of pro-

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duction assortments, cost reduction plans, and the like. Their goal was to fulfill their plans, using any means at their disposal, even if that meant violating rules and laws. The pioneering work of Joseph Berliner (1957) provided the first conclusive insights into the real life of Soviet managers. Using interviews with former Soviet managers to pierce the veil of official secrecy, Berliner found routine falsification, the use of unofficial resources, and the trading of resources by enterprise “pushers” (*tolkachi*)—all of which violated Soviet law.<sup>1</sup>

The Soviet system used, among other organizations, centralized control commissions to detect and punish party-member managers. This chapter draws primarily upon the formerly secret archives of the Party Control Commission (KPK) in the period 1934–1939 located in the archives of the Hoover Institution.<sup>2</sup> KPK had the extraordinary right to interrogate officials of rank up to minister and of all branches of industry and administration including the secret police (OGPU). Regular law enforcement agencies such as the courts or militia had narrower ranges of operation. Accordingly, KPK files provide extraordinary insights into the illicit economic behavior even at high levels.

### THE SOVIET LEGAL SYSTEM

The logic of the Soviet administrative-command system (described in the chapters by Rees, Davies, and Gregory) was for the party to set general objectives and intervene in specific cases, while Gosplan and other functional committees set targets for industrial ministries and regional authorities. A whole range of agencies monitored plan fulfillment ranging from the party itself, to military inspectors, and to Gosplan. Yet in spite of the multi-

1. Joseph Berliner, *Factory and Manager in the USSR* (Cambridge, Mass.: Harvard University Press, 1957).

2. Hoover Institution for War, Revolution and Peace, and Rosarkhiv, Documents of the Communist Party and the Soviet State. Party Control Commission. Originals are held in RGANI (former archive of the Central Committee of the Communist Party of the Soviet Union), Moscow.

tude of controls, substantial discretion by managers of production could not be avoided; actual transactions among sellers and buyers, other than for a few key commodities, could not be planned from the center. Industrial ministries and their administrations managed most of the operational planning and resource distributions. The temptation was strong for managers to deal directly with one another out of sight of planners.

In market economies, constitutions, commercial laws, customs, and other generally accepted practices define the legal rules of the game. Although the Soviet Union of the 1930s had formal civil and criminal laws, codified laws played little role, and court independence was limited. Each Soviet republic had its own criminal code, many adopted before the creation of the Union of Soviet Socialist Republics in 1924, but the criminal justice system was mainly directed from Moscow. Throughout the 1920s and 1930s, criminal laws were frequently updated and modified by government and party decrees, and the number of activities designated as economic crimes expanded.<sup>3</sup>

The criminalization of economic offenses was a logical consequence of state ownership. Economic plans approved by the state and party were *the law*; therefore, failure to fulfill plans represented a violation of basic law. Managers of production had to “fulfill their plans” or else be branded as criminals. However, plan obligations were multidimensional, calling for fulfilling production targets, cost reductions, capital investment plans, delivery plans, and the like. Activities that took place outside the formal planning system were automatic violations of the law; there was virtually no room for free business activities. The “plan-law” changed every quarter or even more frequently when party officials intervened. With multidimensional planning, it was not clear

3. For example, on November 23, 1929, the government declared low-quality production a criminal offense, punishable by a minimum (!) of five years of imprisonment; *Sobranie Zakonov SSSR*, no. 2, 1930. In 1934, the government made cheating of customers in retail stores an offense punishable by a maximum of ten years of imprisonment; *Sobranie Zakonov SSSR*, no. 4, 1934.

who had failed to meet their plan obligations. Production managers, confronted with delivery failures, construction delays, and worker shortages, had to decide what plans to fulfill. When they appealed to higher authorities, they were usually told to make do with less. The Soviet archives brim with petitions, pleas, threats, complaints, and claims, designed to prove that any plan failure was someone else's fault. In this confusing environment, the dividing line between doing what was right to fulfill the plan and operating for personal gain was blurred. Both honest and dishonest managers had to go outside the formal planning system, but the honest manager did so for the benefit of the enterprise, the dishonest manager to line his pockets. Under Soviet law, both have potentially committed crimes.

### **CONTROL COMMISSIONS**

The framers of the Soviet system separated planning from enforcement and punishment. Although the top leadership meted out high-level punishment at times, more routine investigations and punishments were the purview of the courts and control commissions, the latter headed by top party leaders. The Bolsheviks inherited their first control agency from the tsarist government, which became in May 1918 the People's Commissariat of State Control. From 1923 to 1934, the major control commission was the People's Commissariat of Worker-Peasant Inspection, the much-feared Rabkrin (TsKK-NKRKI).<sup>4</sup> The XVII Party Congress in 1934 split Rabkrin into two new commissions: the State Commission of Soviet Control (KSK), and the Commission of Party Control (KPK), which reported directly to the Central Party Com-

4. The organization was at the same time the Communist Party Central Committee Control Department (TsKK) and the People's Commissariat of Workers' and Peasants' Inspection, or NKRKI. On this subject, see more in E.A. Rees, *State Control in Soviet Russia: The Rise and Fall of the Workers' and Peasants' Inspectorate, 1920-1934* (London: Macmillan, 1987), and J. Arch Getty, *The Origins of the Great Purges: The Soviet Communist Party Reconsidered, 1933-1938* (Cambridge: Cambridge University Press, 1985).

mittee and was vested with the power to discipline party members. The secretary of the Central Committee of the party, L. M. Kaganovich, was appointed the first chairman of KPK. N. I. Ezhov, who later became the main operator of the Great Terror, became the deputy chairman; the two secretaries of KPK's Collegium were M. F. Shkiriatov and E. Yaroslavsky.<sup>5</sup>

The main objectives of KPK were to ensure fulfillment of party-state decrees and to protect the "purity" and discipline of party ranks. In contrast to the state control commission, KPK plenipotentiaries were independent of regional party leaders, providing the central party apparatus with an avenue for investigating the powerful local party organizations, and KPK also included industrial groups (usually composed of two or three members) and regional plenipotentiaries (each assisted by several dozen of staff). Staff members were recruited from the best workers of the former regional Rabkrin committees.<sup>6</sup> Selected members of local party collegiums, approved by Kaganovich and Ezhov, were to serve KPK.<sup>7</sup>

Throughout the 1930s, for a number of reasons, KPK became increasingly involved in economic wrongdoing cases. First, most managers were party members and had to be disciplined by the party itself. Under the party slogan "Cadres are all important," economic problems became personnel matters and vice versa. Only the party had the right to punish its own members. In cases where a party member was convicted in a court proceeding, party expulsion followed almost automatically, but the initiative of turning the case over to the courts was left to the discretion of party control commissions. Party membership brought with it advantages and privileges that could be abused. As Shkiriatov ex-

5. The leaders of the new commissions, both KPK and KSK, were the former members of TsKK-NKRKI.

6. Industrial groups corresponded to industrial ministries: the Ministry of Heavy Industry, Light Industry, Railroad Transport, Timber Industry, etc. Additional administrative KPK groups were also created: the group of local government, finance, housing and municipal services, etc.

7. RGANI, f. 6, op. 1, d. 23, l. 22.

pressed it in 1936: “Having a party card (*partbilet*) provides admission everywhere and anytime. He can enter any office—he is a communist, they’ll let him in anywhere. Where a non-party official cannot go, he can.”<sup>8</sup> The economic value of partbilets can be seen in an active market in the sale of such uncovered by various KPK investigations. A Kazakhstan KPK commissioner declared in a 1934 meeting: “In this party organization, somewhere in the neighborhood of 20,000 partbilets have been lost. We have a huge number of facts about trade in and sale of partbilets, and . . . the loss of partbilets, actually not loss but speculation in partbilets.”<sup>9</sup>

Second, KPK had to monitor the interactions of managers of production. If their careers were to flourish and if they were to avoid punishment, party-member managers had to produce results, even if they had to act against higher interests. As industrial managers, party members could grant or withhold favors. As regional leaders, they controlled local materials, scarce housing, and vacation privileges. As controllers of resources, they had something to offer other controllers of resources, creating a fertile ground for deals and exchanges. Moreover, party members from the same locality found their fates interwoven. A local party boss’s record would be soiled if local enterprises (also run by party members) failed to meet their plans. Accordingly, regional and industrial elite formed tight-knit cliques, united by common bonds.<sup>10</sup> Those who made troubles for the clique were removed from their posts, thereby losing all the attendant privileges. The presumed independence of KPK from local party organizations made it the sole agency capable of breaking these cliques.

Third, in the absence of market discipline and bankruptcy, there were no automatic penalties for mismanagement; KPK had to take “poor” enterprise managers to task for uneconomical use

8. *Ibid.*, d. 15, l. 37.

9. *Ibid.*, d. 7, l. 62.

10. On this subject see more in James R. Harris, “The Purging of Local Cliques in the Urals Region,” in Sheila Fitzpatrick, ed., *Stalinism: New Directions* (London: Routledge, 1999), pp. 262–85); James R. Harris, *The Great Urals: Regionalism and the Evolution of the Soviet System* (Ithaca, N.Y.: Cornell University Press, 1999).

of resources and for cheating others. In a market economy, courts arbitrate legal disputes and bring violators of economic laws to justice. Soviet legal codes made many offenses that would normally be considered civil violations into criminal offenses. Soviet courts were not the main means of enforcing economic laws. A court system can function effectively only if plaintiffs are prepared to bring their claims for adjudication. Unplanned product exchange or low-quality goods—crimes against the Soviet state and against its main law, the plan—were typically “victimless” crimes; they represented voluntary exchanges in which both parties intended to continue their dealings. When no party to a “crime” is prepared to complain, the state needs an agent as its advocate to uncover economic crimes. Control commissions, with great access to information at any level in the management chain, could detect a broader range of illegal economic activities than could a conventional justice system that relies on signals from disgruntled parties.<sup>11</sup>

Neither the militia nor procurator offices were considered fully reliable, and they were placed under scrutiny by KPK officials. KPK plenipotentiaries from different regions in the third meeting of KPK in 1936 complained of the lack of responsibility and qualification of judges and court members and of excessive red tape, and even of theft of court-case documents: “When we examined the disappearance of files from Bukhara party committee, we found out that files also had been disappearing from the procurator’s office—a total of 16 cases. In the whole, we found no criminal investigation offices where they had no disappearance of documents.”<sup>12</sup> A 1934 report of the transportation group of

11. Disputes between enterprises were handled by a special institution, Arbitration Courts, which had less importance than control commissions; their decisions could be overruled by ministries or local administrative bodies. Arbitration procedure was also determined by plan-law. There was no real contract law; rather, the government would issue each year general directives for contracting, which were supposed to be implemented by actual contracting parties in the course of what was called the “contracting campaign.”

12. RGANI, f. 6, op. 1, d. 13, l. 134.

KPK cites the case of the Poltava transportation procurator, who brought to the court only six cases of theft on the railroads of fifty-three investigated, stating, “The transportation procurator office does not care a lot about theft and embezzlement.”<sup>13</sup> Courts were also criticized for not prosecuting, or even collaborating with private mediators, who assisted enterprise clients in making the railroads pay for the damage and loss of shipped goods.<sup>14</sup> Judges often received reprimands,<sup>15</sup> were expelled from the party, or fired. A KPK plenipotentiary from Uzbekistan reported that the Uzbek party control commission expelled twenty-two district procurators, nine investigators, thirteen judges, and two members of the republican supreme court; the KPK official himself fired three more judges, seven investigators, two members of courts, two regional, and three district procurators.<sup>16</sup> In Kuibyshev region, KPK fired seventy of the total of 120 judges.<sup>17</sup> Also, KPK uncovered a number of cases of “violations of revolutionary legality and overreaching of authority” by the militia, involving misuse of funds and possible embezzlement.<sup>18</sup>

An influential KPK official, Yaroslavsky, worried about the fine line between party disciplinary punishment and court sentences in a KPK meeting in 1936: “Sometimes [KPK] substitutes for Soviet courts. Sometimes [KPK] committees discuss every misdeed by an official, and they feel themselves obliged to levy disciplinary punishments. We must rigorously distinguish between the cases that should be considered as offenses against party and those against state.”<sup>19</sup> In their investigations, KPK staff never referenced what paragraph of the legal code had been violated; if they referred to any “laws” at all, it was to ad hoc party-state decrees, although even those decrees were not necessary justifica-

13. *Ibid.*, d. 36, ll. 62–74.

14. *Ibid.*, d. 37, ll. 22–40.

15. *Ibid.*, d. 40, l. 122.

16. *Ibid.*, d. 13, l. 150.

17. *Ibid.*, d. 14, ll. 138–47.

18. *Ibid.*, d. 38, ll. 152–43.

19. *Ibid.*, d. 15, ll. 88–115.



tions for their cases. More often cases were initiated and treated at the discretion of KPK officials, who had an imprecise understanding of what was legal and illegal.

### **THE HONEST MANAGER'S DILEMMA**

In the Soviet system, even honest and loyal agents could not achieve their goals by obeying rules. To understand the honest manager's dilemma, consider a typical factory director. His factory is part of the industrial ministry system: It receives raw materials from the centralized sources and produces inputs for the other participants of the industrial network. Our manager is seeking only the benefits that accrue legally from plan fulfillment (bonuses, perks, advancement) and is not interested in self-enrichment at the expense of the enterprises. Such a manager could not avoid engaging in "criminal" activities, in spite of the best of intentions.

The manager's first problem is that he can legally obtain the materials needed to meet his targets only through unreliable official supply channels. Either he has been allotted too little or he has been allotted enough by the ministry but the supplies fail to come. Confronted with deficits of raw materials, his "legal" remedy is to complain to his superiors. He bombards his superiors in the ministry and local party officials with requests for assistance, but the answer is: "Make do with less; find internal reserves." The market-economy solution—buy more inputs—is illegal, even if he has the money. Factory funds are limited to use for strictly designated purposes. Our manager can either accept plan failure or try to obtain additional resources through "illegal channels." Our manager dispatches his expeditors (*tolkachi*) to his suppliers, to persuade them to deliver both the planned amounts of materials (which is by no means certain) and supplies in excess of those planned. Good *tolkachi* are costly; our manager has to pay their salaries, travel expenses, and living expenses, and give them incentives to outcompete the *tolkachi* of dozens of other desperate en-

terprises. His staffing plan, which is subject to strict governmental control, does not list supply agents. So, our manager has to manipulate his factory's budget in order to pay *tolkachi*. In addition to violating payroll rules, our manager's use of the *tolkach* embroils him in yet another criminal activity: *Tolkachi* undermine "plan discipline," that is, governmental control over resource distribution, and are outlawed. The *tolkach*'s job is therefore risky, and our manager must offer him a generous contract.<sup>20</sup>

The competition for supplies puts our manager's suppliers in a position to earn extra profits. His suppliers could: (1) ask for a price above the planned price, (2) offer inferior quality materials, or (3) agree to deliver materials in exchange for products from our manager's factory. For our manager (1) and (2) are not crimes per se, but they constitute the crime of speculation for the supplier. The third is a serious crime for both: illegal product exchange. Now, in addition to the main problem of plan fulfillment, our manager has to worry about the consequences of his illegal activities, which may be hard to conceal. If he has to pay more than was planned, his factory's budget has a "hole," which auditors can label a waste of financial resources, mismanagement, or even embezzlement. To cover these unplanned expenses, our manager may have to apply for additional "turnover funds" from the local branch of the state bank. He will probably be told by his bank to do without. If he is successful in obtaining the additional credits, he exposes himself to the jeopardy of an avoidable audit.

Confronted with the need to pay more for his inputs, our manager can obtain unplanned revenues by charging his customers "speculative" prices above the planned price, just as his supplier has done to him. He is officially allowed to sell some small portion

20. For example, the chairman of the Rostov supply agency (Ukrainian branch of the Heavy Industry) proposed the following contract to his *tolkachi*: fixed salary (400 rubles); extra 6 rubles for the shipping/loading of each planned (*po nariadam*) carload of metal if it was above 80 percent of planned amount; an extra 12 rubles for each additional load of low-quality metal (which was also a valuable input); living expenses of an agent are equal to the day-wage paid at the official work place. RGANI, f. 6, op. 1, d. 40, ll. 108–17.

(usually 5 percent) of output at higher-than-planned prices if he exceeds his production target.<sup>21</sup> Given the long line of consumers, our manager can accept the highest offer, which may exceed the official price by several hundred percent. Our manager can also deliver to customers who pay immediately rather than to the planned ones who delay payments.<sup>22</sup> Although it was officially allowed to sell above-plan output at higher prices, it is unclear whether our manager might be accused of speculation if the profit margin is too high.

Suppose that, despite sales at above-plan prices, our manager still does not have enough revenue to buy his needed deficit inputs. To this point, he can only be accused of speculation—that is, of selling at too-high prices; he has not sold any planned output to undesignated customers.<sup>23</sup> To gain enough revenue to buy his inputs, he decides to sell deficit production without authorization—a crime of illegal product exchange because it takes place entirely outside the planning system.

Our honest manager's problems are not over, although he, by this point, has broken the "plan-law" more than five times. He still needs extra cash to provide incentives for his workers, his *tolkach* and for "presents" to local party-state officials, and perhaps for his higher-ups in the ministry to make sure they are on his side in case of trouble. Given the strict controls over his bank accounts, he has two ways to raise this extra cash. He can submit false invoices to the state bank; or he could resubmit bills that

21. In reality, the share of relatively free marketed output was determined by the probability of detection, which varies greatly between industries.

22. For example, directors of furniture factories of Forest Industry had to deliver the majority of the products to the central trading agency. The agency, however, was slow to pay and the factory chose to sell furniture to respectable customers who paid immediately, mostly governmental organizations. RGANI, f. 6, op. 1, d. 27, ll. 87–95.

23. In fact, KPK investigators found that many branches were selling large percentages of their output through this mechanism "without orders" (*bez naryadov*). For example, a Kiev factory sold almost 18 percent of its turnover. Even high-priority coal mines in the Donbass region were able to sell 15 percent of their output without orders. RGANI, f. 6, op. 1, d. 23, l. 272; *ibid.*, d. 34, l. 101.

were paid earlier, and hope that the bank would not notice. Another option is offered by a government decree, permitting the free sale of consumer goods products produced from defective materials through “utilization shops.” In fact, he has a small shop, and he buys some “defective” inputs that have fallen outside the planning system and sells finished products in utilization shops. The manager even classifies normal materials as defective to take advantage of this loophole.

What are our manager’s chances of being caught, and if he is caught, what punishments will he face? What steps can he take to reduce his vulnerability to criminal charges? He must choose a course of action that minimizes the risk of being punished and brings the maximum gain. An adroit manager would be able to judge which “crimes” are more risky than others. The skilled manager would also know approaches that could be taken to reduce the risks of detection and of punishment.

### **KPK’S ADMINISTRATION OF JUSTICE**

KPK had an arsenal of “punitive” (*karatelny*) powers, which it could apply to party members. The most lenient punishment was to “place on notice” (*postavit na vid*). More serious punishments were to issue a reprimand (*vygovor*), or a stern reprimand (*strogy vygovor*). These reprimands would be placed in the member’s party book and would remain on his permanent record unless removed by action of some responsible authority. In some cases, the reprimand would be accompanied by the ban on holding responsible positions for a period of time. The most severe punishment was removal from the party. Or KPK investigators could turn matters over to the prosecutor, and the courts could then sentence party members to jail or even impose the death sentence.

The officials of KPK can be divided into those who insisted on the strict adherence to the law calling for the most severe punishment and those who were prepared to excuse illegal actions depending on their rationale. The latter employed a sort of

psychological analysis to reveal the true reason for illegal actions. Discussions in KPK meetings provide striking evidence of the fuzziness and variations of the controllers' understanding of what was wrong and right, as well as of the imprecision of the dividing line between theft and pragmatic dealings.<sup>24</sup> The KPK officials had to rely upon their subjective understanding of "honesty," which was not uniform, either. A KPK delegate from Kursk, Chubin, took a pragmatic view of honesty concerning opportunities for stealing of grain from warehouses:

*Chubin:* Our inspectors—honest people (laughter in the hall)—together with the grain procurement agency officer decided to check on the warehouses, at night. They approached one storehouse, it was open. They took one sack of grain and took it away. They entered another warehouse, took another sack and took it away. They took a sack from the third one, and nobody even noticed.

*A retort from the hall:* And are they honest people? (Laughter in the hall)

*Chubin:* Yes, they are, because grain is preserved there in such a way that every honest man can take it. (Laughter in the hall).<sup>25</sup>

Stalingrad KPK plenipotentiary Frenkel surprised the same meeting by saying that there were certain cases when appropriation of products could not be considered as a theft and that there were "some authorities in Moscow" who supported this view.<sup>26</sup> The hard-line chairman of KPK, Kaganovich, demanded their names, retorting that there should be no doubts that when workers steal parts it is common theft. Frenkel defended his pragmatist view with the story that he was told by a state farm director. They were usually assigned construction plans without materials being

24. J. Arch Getty, "Pragmatists and Puritans: The Rise and Fall of the Party Control Commission," working paper, CREES, University of Pittsburgh, no. 1208, 1997.

25. RGANI, f. 6, op. 1, d. 13, l. 211.

26. Getty, "Pragmatists and Puritans," discusses this case referring to the archival materials of TsKhSD. RGANI, f. 6, op. 1, d. 5, ll. 5–56.

provided to implement them. The dilemma the managers faced was whether to follow the official path and wait in vain for the supplies and finally fail to complete the task, or to break the law and follow the advice of supply agents to get glass and nails in exchange for meat and bread. Frenkel insisted that the true criminals were the supply agents rather than the farm directors, whereas according to the Soviet law enforcement paradigm, which did not account explicitly for planning errors, the managers were to be held responsible.

The conflict between pragmatic and hard-line views, each extreme of which was criticized by the party and KPK leaders, caused a downward shift of punishment outcomes. Controllers who belonged to the hard-line camp were criticized for overreaction, and the Bureau of KPK, in their final resolutions, applied less strict penalties. However, when “pragmatic” KPK controllers proposed relatively mild punishments, the Bureau of KPK rarely imposed harsher punishments.

Analysis of the large number of criminal cases of managerial abuse handled by KPK during the 1930s bears evidence to the fact that there was no uniform standard of punishment, although KPK officials agreed that standards should be uniform. Internal KPK discussions show that a particular plenipotentiary’s style and quality of work depended on his work environment; plenipotentiaries were known to change their style when transferred.<sup>27</sup> Yet KPK leaders asserted that it was extremely important to strive for the exact implementation of the decrees regardless of the individual temperament of controllers.<sup>28</sup> Uniformity of punishment was hard to achieve not only because of different philosophies within KPK. The main task of KPK was the proper execution of certain party-state decrees rather than punishment of particular offenses, but the decrees hardly ever specified what kind of punishment should be applied for their breach. Moreover, KPK work was

27. RGANI, f. 6, op. 1, d. 14, ll. 79–86.

28. RGANI, f. 6, op. 1, d. 14, ll. 148–17.

often organized as campaigns; immediately after a decree was issued, KPK engaged in hectic activity pursuing its implementation. This effort decayed over time as controllers were given newer assignments.<sup>29</sup> Different punishments for the same offense could be related purely to timing.

### TYPES OF OFFENSES

Files of KPK for this period cover more than three thousand cases of investigations of economic officials. Although there is no simple way to classify these cases, we can single out the most typical types of crimes and misdemeanors: falsification, quality distortion, illegal product exchange, speculation, embezzlement, and bribery.

#### *Falsification and Quality Distortion*

Managers were investigated for providing false information about their enterprises, primarily to planning authorities. The most common offense was for a manager to understate his capacity to receive easier production targets. When such falsifications were unmasked, punishment was usually not severe. For example, the director of Mozherez metal works, as well as his supervisors in the trust and Gosplan, got reprimands for setting an “artificially reduced production program” and for failing to use the full capacity of the equipment of the principal factory’s shop.<sup>30</sup> The director of the Karl Libkhnokht factory was only placed on notice for re-

29. For example, on December 30, 1934, a decree prohibiting any increase of the salaries was issued. The campaign started in January when KPK plenipotentiaries disclosed a number of cases of neglecting the order. They generously gave reprimands and warnings to the managers (RGANI, f. 6, op. 1, d. 41; RGANI, f. 6, op. 1, d. 42). By the spring this campaign was over and the salary issue was dropped from the agenda. Besides, the number of controllers was not sufficient to provide uniform coverage of all fields of economic activities as well as geography. The minutes of the Bureau of KPK (RGANI, f. 6, op. 1) contain numerous campaigns of KPK controllers on their work under permanent stress. They asked for extra persons to be sent into their region or to be added to a group controlling some industry.

30. RGANI, f. 6, op. 1, d. 23, ll. 50–55.

ducing reported productive capacity by more than half, which meant that his factory easily overfulfilled the plan even though it was operating with spare capacity: “He was anyway able to give 307 tons, that is, 50 percent more than was planned,” the KPK report reads in justifying the light sentence.<sup>31</sup> Although easy plans made the manager’s job more secure, negotiations with planning organizations for reduced targets took a long time. Everyday problems demanded immediate actions. Moreover, managers could fail in this “disinformation game.”

Falsification of financial reports and invoices was a more straightforward remedy than target reductions. Managers submitted false and/or duplicate invoices, made forged calculations for construction projects, and engaged in other financial misreporting to receive more cash. The files show that such practices were widespread and that it often took authorities considerable time to detect them. If some pattern of falsification brought positive results and was not uncovered immediately, managers would use it systematically. For example, managers of the Sprinkler Trust, which produced fire extinguishers, submitted invoices for incomplete tasks to the State Bank with impunity and received cash and credits for duplicate bills. The head of the trust and his deputy succeeded in collecting substantial amounts of cash: In April 1934 alone, they submitted seventy-five faulty documents and got 712,000 rubles. After KPK’s investigation, it was resolved to dismiss both managers and reconsider their party status conditional on the court verdict. In addition, KPK decided to publicize this case in the press.<sup>32</sup> Another KPK investigation of several heavy industry plants showed that it was possible to use faulty calculations systematically because banks were not able to uncover deceptions for six to nine months.<sup>33</sup> The directors of the heavy industry plants received party reprimands but remained in their positions: KPK concluded that these directors did not check per-

31. *Ibid.*, d. 34, ll. 168–72.

32. *Ibid.*, d. 34, ll. 190–95.

33. *Ibid.*, d. 40, ll. 179–82.



sonally on the documents and, trusting their subordinates, signed false invoices. In other words, the blame was shifted to subordinates.

A government decree of March 4, 1933, "On the order of sales of consumer goods produced by utilization shops," legalized the use of defective resources as inputs for special shops producing consumer goods. Such production could be sold outside the centralized distribution network; enterprises could market it freely and keep the profits. Producers learned that virtually any material could be declared defective and the reported quality of output decreased. A KPK survey of the wool works in the light industry ministry showed that reported average quality dropped by three times only in four months of late 1933 to early 1934.<sup>34</sup> "Utilization shops" accepted defective items which they easily fixed and then sold as high-quality goods produced in excess of plan.<sup>35</sup> Kuntsevsky works stimulated low-quality production of sewing-machine parts, since it was such a profitable business: In the first quarter of 1934 alone, some thirty state enterprises not eligible to purchase Kuntsevsky's output were served by its "utilization shop."<sup>36</sup> Stalingradsky Tractor Works assembled and marketed tractors using parts marked as defective. Although the manager was warned that further illegal marketing would lead to severe punishment, KPK plenipotentiaries concluded: "It is certainly expedient to continue assembly of tractors from defective parts because it allows production of an extra 600 machines per year. . . . Those tractors could be used under less strained conditions."<sup>37</sup> Again, KPK's remedy was to include such unplanned production in the centralized supply system: Although production of low-quality machines did not have to be reported in planned output, the distribution of these machines was proposed to be done in a planned manner. Similarly, KPK ordered cancellation of the selling by Yaroslavsky tire works of restored tires to un-

34. *Ibid.*, d. 24, l. 89.

35. *Ibid.*, d. 36, ll. 136–40.

36. *Ibid.*, d. 30, ll. 48–52.

37. *Ibid.*, d. 27, ll. 69–73.

planned consumers and placed such tires into Yaroslavsky's general allocation plan, giving some preferences to those consumers who fulfill rubber recycling plans.<sup>38</sup>

### *Illegal Product Exchange*

Illegal product exchange, that is, trading of materials among factories outside normal planned distribution channels, was one of the most frequent economic crimes of the 1930s. Consider the following cases: In 1933–34, Dzerzhinsky works exchanged its product—window glass—for dairy products and fish to supply the workers' canteen.<sup>39</sup> The director of Dzerzhinsky works was brought before the court and expelled from the party. Additionally, the head of the supervising trust and the deputy of the ministry of light industry received stern reprimands because they did not actively fight against such illegal transactions. Coal mines of the Kadievugol trust in Donbass struck deals with a chemical factory to sell twenty carloads of coal in exchange for the sales of eight carloads of roofing felt; two cooperatives were supplied with about ninety tons of coal in exchange for overalls.<sup>40</sup> The Bureau of KPK turned this case over to the Procurator General with a recommendation to prosecute the persons involved.

The above-mentioned case of Yaroslavsky tire works demonstrates the breadth of enterprise connection networks. Requests from “preferred customers” were accepted even for products that were not produced normally: “An order for 10 Buick tires from the administration of the Ivanovo Regional Party committee was found. The factory does not produce tires of this size. However, the management accepted it. A number of organizations were supplied in the manner of direct product exchange.”<sup>41</sup> The managers of Yaroslavsky tire works avoided severe punishment, however,

38. *Ibid.*, d. 32, ll. 137–41.

39. *Ibid.*, d. 23, l. 27.

40. *Ibid.*, ll. 39–48.

41. *Ibid.*, d. 32, ll. 137–41.

because KPK investigators found that the planned targets were met. The director was excused because he had just recently been appointed and his deputies escaped with reprimands. But one of the partners of Yaroslavsky works—Moscow bread trust, which supplied confectionery to the factory's groceries in exchange for the tires—attracted special attention of KPK. All the managers of this trust got reprimands.

Direct product exchange sometimes took on quite sophisticated forms: Managers price-discriminated among consumers according to their ability to supply what the factory needed. Governmental and industrial consumers who could provide needed exchange goods got products at low fixed prices while other consumers bought at higher prices. A sugar factory in Georgia supplied unplanned industrial consumers, who had valuable goods to exchange, at 10 kopecks per ton, while the “population” had to buy it for 10 rubles per ton—100 times higher.<sup>42</sup> The whole sugar factory management was removed from their jobs and a criminal process was initiated.

We cannot tell from KPK records the share of pure barter in illegal product exchange versus the share of monetary transactions between reciprocal “preferred customers.” KPK controllers used “direct product exchange” to denote both “barter” and preferred-customer financial transactions. For KPK controllers, as well as for the enterprises, the monetary component of the transaction was unimportant if low nominal prices were used. Only the fact of unplanned reallocation of resources mattered. Barter was the most inspection-proof method of exchange since it left no traces in accounting records and checking the real physical state of inventories required too much effort.

### *Speculation*

In cases of unplanned production, where the price was not set officially, unusually high profit margins could lead to the accusa-

42. Ibid., d. 36, ll. 141–45.

tion of speculation. The honest manager's dilemma indicated that managers dealt with two different economic paradigms: plan and market. Some inputs were received at fixed prices through official but unreliable channels, while other inputs were bought at higher prices through unplanned transactions. The official prices of producers' goods were based on costs; they did not take demand into account and included high rates of turnover tax. Latent price increases spread across the economy, since partners to transactions were state enterprises. A high degree of specialization, characteristic of the Soviet economy, prevented market-type competition. Nothing, except perhaps severe police controls, could prevent producers from marking up planned prices. Price markups could be interpreted as the crime of speculation. The KPK files reveal that there was enormous variation in the penalties for this sort of crime.

Consider two typical "speculation" cases: Dzerzhinsky works of the light industry ministry sold window glass for 200–250 rubles instead of the official price of 48 rubles.<sup>43</sup> Kuntsevsky tire works's utilization shop bought low-quality semifinished inputs for "0,3 kopeck per kg and sold the final goods at the prices exceeding costs by 300%."<sup>44</sup> KPK turned the first case over to the Procurator's office (as well as the cases of many directors of glass and porcelain enterprises who stepped over the 5 percent threshold for free market sales). In the second case, the director got away with a party reprimand and remained at the same position.

### *Embezzlement and Bribery*

The manager's success in avoiding punishment depended on his connections inside the factory as well as outside. The manager had to be confident that his staff was reliable, since there had

43. Ibid., d. 23, l. 27.

44. Ibid., d. 30, ll. 48–52. Noteworthy, this controller did not provide precise data on sales prices. It looks as if he was just fascinated by the scale of numbers: inconceivable share of kopeck vs. no less fabulous 300 percent.

to be collaboration among the factory's bookkeeper, commercial director, and shop stewards. The manager also had to be able to rely on the support and protection of local party and state authorities, and he had to have good relations with his superiors in the ministry, who might need to look the other way at times. The maintenance of internal and external connections required an incentive system, which could produce loyalty at any level. The manager's "loyalty network" was to some extent automatic, not requiring material incentives ("bribes"). Local party officials wanted to show good performance from their local enterprises, and ministry officials, too, wanted good performance from the enterprises under their supervision. But cover for enterprises engaging in illegal activities could be risky for participants in the manager's loyalty circle. If transgressions were uncovered by an independent authority, such as KPK, external members of the circle could themselves be punished. The benefits for high-ranking officials were provided by the party according to their position in the hierarchy, and these benefits were supposed to be high enough to prevent bribery and self-providing.

In the May 1934 session of the Bureau of KPK, KPK plenipotentiaries presented the case of the East Siberian agency for procurement of exportable furs, Zagotpushnina: "Over a number of years, the disgusting tradition of impudent self-providing and bribery of chief local and party authorities developed." Key members of the regional elite received gifts in the form of food, commodities, expensive hunting rifles, and valuable furs from a special "incentive fund" that was intended to provide rewards for hunters.<sup>45</sup> The director of Zagotpushnina was removed to a lower position, the chairman of the local state office was dismissed, brought before the court, and expelled from the party; other responsible members of staff were punished and arrested. Investigations of Zagotpushnina branches in other regions—Urals, West Siberia, and Kazakhstan—made it apparent that corruption and

45. *Ibid.*, d. 29, ll. 48–82; *ibid.*, d. 38, l. 160.

bribery were not limited to East Siberia. An inspection conducted in 1933 in 27 regional branches of Zagotpushnina resulted in 151 subordinate employees being brought before the court; of these, four were shot. In this case, too, all levels of the loyalty network were punished: from the local party leaders who accepted gifts and bribes to the low-level managers who carried out embezzlements.

Illegal transactions were possible because the whole production unit and its supervisors were involved. Investigations by KPK uncovered many cases of collaboration by heads of trusts, branch administrations, and even ministries, who did not deter their subordinates from illegal activities. On the contrary, enterprise superiors fought for the lower planned targets and low norms of production quality, and they allowed trusts and enterprises to have special “reserve funds” to serve consumers who applied directly to them. Customers in illegal transactions sometimes even included local administrative and party bodies. A KPK report on the illegal product exchange undertaken by the Yaroslavsky tire works reported: “The array of unplanned customers includes local organizations from enterprises to the city party committee and secret police (OGPU) commandant’s office.”<sup>46</sup> A Rostov supply agency bookkeeper explained to a KPK official why he acceded to illegal product exchange: “I know that it was formally a violation of law, but, as long as the state organizations were served, I did not see any damage to the state and therefore did not inform controllers; moreover, in some cases allocations were made on personal orders of the director.” In this case KPK plenipotentiaries considered this justification an example of bureaucratic behavior: Even if the bureaucrat is completely aware of the illegality of a transaction, he will not report it if it is approved by superiors.<sup>47</sup> The case of the Rostov supply agency prompted the punishment of those who were considered responsible at all levels:

46. *Ibid.*, d. 32, ll. 137–41.

47. *Ibid.*, d. 40, ll. 108–17.

The authorities in the ministry and in the local party body received stern reprimands; the deputy director of the Rostov supply agency was dismissed with stern reprimand (although plenipotentiary proposed to expel him from the party); a criminal investigation by Russian Federation procurator was initiated, and KPK also raised the question of dissolving the corrupt Rostov supply agency.

### **PUNISHMENT REVERSAL AND REHABILITATION**

Paradoxically, side by side with broad repression campaigns, KPK rules of punishment introduced patterns of rehabilitation and even impunity for the managers of production as well as for the party-state authorities punished for economic crimes. The most common form of KPK punishment was the party reprimand, which could be a standard reprimand or a severe reprimand. These reprimands were placed in the party member's record, but they could be removed from the record if a manager was able to prove loyalty and collect good references from his party-state supervisors. A KPK official, Bekker, supported the practice of removing reprimands from records in the Third Assembly of KPK in 1936: "If a person corrects himself, we remove the reprimand. It is this that makes an advantage of party control: it removes reprimands after 3–4 inspections."<sup>48</sup> However, Bekker's opinion was not supported by other KPK members, who argued that the party reprimand had lost its power and could not serve as an effective tool of enforcement. Deputy chairman of KPK, Shkiriatov, illustrated his concern with too frequent use of reprimands. He cited the case of a collective farm director who had received eighteen reprimands since becoming a candidate for party membership; Shkiriatov conjectured that this manager had grown accustomed to this penalty and simply expected a new reprimand when his next failure occurred.<sup>49</sup> A number of speakers presented

48. *Ibid.*, d. 13, ll. 109–54.

49. *Ibid.*, d. 15.

similar evidence: Some communists had more than ten reprimands. The KPK secretary, Yaroslavsky, noted sarcastically to rising laughter in the hall: "Sometimes two to four pages are needed to be pasted to a member's card to provide space for recording all punishments."<sup>50</sup> Not only were reprimands becoming accepted as routine; they were routinely reversed, especially for the heads of trusts and enterprises. The chairman of KPK, Ezhov, complained that reprimanded directors were readily excused by local party organizations.<sup>51</sup>

Expulsion from the party was the most severe punishment because expelled party members were deprived of all the benefits of party membership. Expulsion was reserved for obvious and severe offenses. For example, when large amounts of an organization's money were embezzled, the party member must be arrested and prosecuted by the judicial system.<sup>52</sup> However, though expulsion from the party must immediately follow a guilty verdict, this seemingly simple rule was not universally applied. In some cases, KPK, for their own reasons, did not turn cases over to the courts: The chairman of the all-union trading agency, Torgsin, for example, was expelled from the party for self-provision and embezzlement, but the Bureau of KPK specifically noted that "it is not expedient to pass this case to the court."<sup>53</sup>

An extreme case is presented by one Gassan-Ali-Omed, the director of Brynzotrest cheese factory located in Moscow and subordinated to the Ministry of Food Industry, which was then headed by Politburo member A. Mikoyan. Gassan-Ali-Omed oversaw the production of low-quality production, sold at high prices, while decreasing output. An audit revealed financial losses and embezzlements of more than 3 million rubles. In addition, several witnesses reported that Gassan refused to sign a contract with the branch trade union; he blamed Soviet rule for creating

50. *Ibid.*, ll. 88–115.

51. *Ibid.*

52. *Ibid.*, d. 14, ll. 1–13; *ibid.*, d. 15, ll. 88–115.

53. *Ibid.*, d. 53, l. 69.



the poverty of the workers and thus excused thefts by workers.<sup>54</sup> This combination of crimes appeared to qualify Gassan-Ali-Omed for imprisonment. In September of 1934, the Bureau of KPK expelled Gassan-Ali-Omed from the party. One would presume that the career of Gassan was ruined forever, as would have happened to most party members with such a record. The records show that, surprisingly, this was not Gassan-Ali-Omed's first expulsion; he had already been expelled on April 1933 by his local party organization for a similar wrongdoing. Nevertheless just a few months later—September 1933—his party membership was restored, and the expulsion was changed to a stern reprimand by the minister Mikoyan, and he was warned that unless he changed his behavior he would be subject to further punishment. Upon his second expulsion by the Bureau of KPK in September of 1934, he submitted an appeal, and in November 1934, KPK again replaced expulsion by a stern reprimand, exactly as a year earlier.<sup>55</sup> The only plausible explanation for Gassan-Ali-Omed's success in reversing expulsions (and avoiding imprisonment) was that he was not a rank-and-file manager but enjoyed the support of powerful friends, who managed to bring him back to the party and let him keep his managerial position. Probably, they needed him as much as he needed them.

If the clique-based explanation of the punishment reversals implicit in the Gassan-Ali-Omed story is correct, then the all-powerful and supposedly independent KPK was not actually free in its decision making: Only those who were not valuable to the ruling clique or did not belong to it could become real subjects of discipline and law enforcement. Members of the elite, especially those with powerful protectors, received mild punishments.

The records of KPK provide two more apparent patterns for escaping punishment or having punishments reversed: first, creating a perception of no selfish motives in illegal actions was a good

54. *Ibid.*, d. 36, ll. 146–52.

55. *Ibid.*, d. 40, l. 151.

defensive strategy; second, it was advantageous to have a decent biographical record (for example, to come from a poor family, to serve in the Red Army, to be victimized in the past by the “enemy”—tsarist government, White Guards, or a former superior who was uncovered as a “counterrevolutionary”). Observed patterns of KPK punishment reversals imply not only the possibility of reprimand removal but also the restoration to party ranks after some period for virtually all expelled. The repeated catch phrases were “allow to reconsider the case in a year on a petition from the party cell,” or “prohibit to occupy responsible positions for 2 (3) years,” or “taking into account a considerable record of success in the economic front and the lack of selfish motives [and/or sincere penitence] restore party membership.”

## CONCLUSIONS

In market economies, a “good” legal system spells out clearly what is legal and what is illegal and punishes lawbreakers in a systematic and predictable fashion, and all participants understand which crimes are more serious than others. The Soviet planned economy, although there were a constitution and criminal codes, worked under the assumption that the plan was the law. The managers of the economy’s resources faced criminal charges if they failed to fulfill the plan. However, the plan-law was multidimensional and changed frequently. Even an honest manager could not hope to fulfill the plan without breaking rules. Falsification of capacity, charging prices in excess of official prices, declaring inputs defective, and especially unplanned product exchange were all standard managerial tools.

Managers were party members by and large, and only the party could discipline its own. The courts and militia could not be trusted to carry out the party’s business; only the party itself. The party leadership relied on its party control commission, KPK, to dispense “justice.”

This chapter demonstrates that the system’s directors had to

walk a fine line between leniency, which encouraged illegal behavior, and harsh punishments, which might impede the work of the production unit. If hard-line positions within KPK had been allowed to prevail, virtually all managers would have been dismissed, thrown out of the party, and jailed. The growing depreciation of reprimands, which were piling up in personnel records, shows the consequence of a punishment system in which virtually all participants are “guilty” in one way or another. If the pragmatists within KPK had prevailed, virtually all offenders would have gone unpunished because their intentions were “good” or their failure was the fault of others. It is therefore no wonder that KPK justice was dispensed unevenly, subjectively, and arbitrarily.

The Soviet justice system was supposedly based on the precedent principle.<sup>56</sup> Exemplary cases were published in the Soviet press to serve as instructions to others. However, these exemplary cases did not set precedents. They were dictated by the government and party rather than by rulings of an independent court. Precedents were short-lived, since they were frequently overridden by subsequent decrees. It was hard for both controllers and managers to learn rules of behavior from them. This chapter does, however, reveal certain patterns. One is the great willingness of KPK officials to look the other way in the case of managers who fulfilled the production plan, even production plans reduced by falsifications of enterprise capacity. A second feature is the importance of high-level protection, which seemed to overwhelm the purported independence of KPK. A third feature is the surprising willingness to pardon offenders, even in the case of serious crimes.

The Soviet economic system of the 1930s, much like its contemporary successor in modern-day Russia, lacked a conventional “rule of law.” The fact that it survived and functioned for sixty years suggests that it had informal rules and practices that were sufficiently well understood by the participants. No matter how

56. The Criminal Code. Moscow, 1938, p. 174.

well entrenched these informal practices were, the lives of managers must have been subject to enormous uncertainty and arbitrariness and their documented reactions (forming protective networks, striving for economic autonomy, seeking stability outside the formal system) were the consequence.